

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 7, DIVISION 38 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 67.3802, 67.3805, 67.3806, AND 67.3810, RELATING TO EMERGENCY WATER REGULATIONS.

WHEREAS, article 10, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, improvements in technology and management practices offer the potential for increasing water conservation in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provides an effective and immediately available means of conserving water; and

WHEREAS, on December 2, 2008, the San Diego City Council officially approved an ordinance revising the City's Emergency Water Regulations, which were designed to improve the City's response in the event of a water supply shortage and to provide greater consistency with the Model Drought Response Conservation Program Ordinance approved last year by the San Diego County Water Authority; and

WHEREAS, the City of San Diego Public Utilities Department is recommending amendments to the City's Municipal Code, sections 67.3801 – 67.3811, Emergency Water Regulations, based on feedback from constituents and from operational experience in implementing Drought Response Level 1 – Drought Watch Condition from July 27, 2008 to

May 31, 2009, and Drought Response Level 2 – Drought Alert Condition since June 1, 2009 to improve the overall program; and

WHEREAS, the abovementioned amendments to the City’s Municipal Code and improvements to the comprehensive drought response program will continue to allow the City of San Diego to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code sections 350 *et seq.*; and

WHEREAS, the abovementioned amendments to the City’s Municipal Code and improvements to the comprehensive drought response program identified by this ordinance provide certainty to water users and enable City of San Diego to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 7, Division 38, of the San Diego Municipal Code is hereby amended by amending Sections 67.3802, 67.3805, 67.3806, and 67.3810, to read as follows:

§ 67.3802 Definitions

The following words and phrases whenever used in this Division in italics will have the meaning defined in this section:

Customer through *Days* [No change in text.]

Disaster means a catastrophic, naturally occurring or man-made event, including earthquake, flood, fire, riot, or storm, for which a state of emergency has been declared by the President of the United States, the Governor of

California, or the executive officer or legislative body of the City or County of San Diego.

Drought through Metropolitan [No change in text.]

Potted Plant means any plant or group of plants contained in a pot or other receptacle that can be moved, including plants on boards, bark, driftwood or airplants (epiphytes).

Water Authority through Water Conservation [No change in text.]

§ 67.3803 Water Waste Prohibitions

[No change in text.]

§ 67.3804 Application

[No change in text.]

§ 67.3805 Drought Response Level 1 – Drought Watch Condition

(a) [No change in text.]

(b) [No change in text.]

(1) Irrigate *potted plants*, non-commercial vegetable gardens and fruit trees, residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10:00 a.m. and after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May, except for renovation or repair of the irrigation system with an operator present.

(2) [No change in text.]

- (3) Irrigate nursery and commercial *grower's* products only before 10:00 a.m. and after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.
- (4) The washing of automobiles, trucks, trailers, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May, with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Boats and boat engines are permitted to be washed down after use. Washing is permitted at any time on the immediate premises of a commercial car wash. The use of water by all types of commercial car washes which do not use partially recirculated water will be reduced in volume by an amount determined by resolution of the City Council. Mobile equipment washings are exempt from these regulations where the health, safety and welfare of the public are contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food products, livestock and perishables.

- (5) through (7) [No change in text.]
- (8) Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 67.3803 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation hours of only before 10:00 a.m. and after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May.
- (9) Irrigation is not permitted during a rain event.

§ 67.3806 Drought Response Level 2 – Drought Alert Condition

- (a) [No change in text.]
- (b) [No change in text.]
 - (1) Limit all landscape irrigation to no more than three assigned *Days* per week on a schedule established and posted by the City Manager. This provision does not apply to commercial *growers* or nurseries, nor to the irrigation of golf course greens and tees.
 - (2) Limit lawn watering and landscape irrigation using sprinklers to no more than ten minutes maximum per watering station per assigned *Day* during the months of June through October and no more than seven minutes maximum per watering station per assigned *Day* during the months of November through May. This provision does not apply to landscape irrigation systems using water efficient

devices, including drip/micro-irrigation systems and stream rotor sprinklers.

(3) through (5) [No change in text.]

(6) *Potted plants*, non-commercial vegetable gardens and fruit trees may be irrigated on any *day*, but must be irrigated only before 10:00 a.m. or after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May.

(7) Irrigation is permitted any *day* at any time, as follows:

- (A) as required by a landscape permit;
- (B) for erosion control;
- (C) for establishment, repair or renovation of public use fields for schools and parks; or
- (D) for landscape establishment following a *disaster*.

Such irrigation is permitted for a period of up to two months, after which a hardship variance is required in accordance with Section 67.3810.

(c) [No change in text.]

§ 67.3807 Drought Response Level 3 – Drought Critical Condition

[No change in text.]

§ 67.3808 Drought Response Level 4 – Drought Emergency

[No change in text.]

§ 67.3809 Procedures for Determination and Notification of Drought Response Level

[No change in text.]

§ 67.3810 Hardship Variance

(a) [No change in text.]

(b) [No change in text.]

(1) through (3) [No change in text.]

(4) Required Findings for Variance.

(A) Except as set forth in Section 67.3810(B), an application for a variance will be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City of San Diego, all of the following:

- (i) that the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego *customers*; and
- (ii) that because of special circumstances applicable to the property or its use, the strict application of this Division would have a disproportionate impact on

the property or use that exceeds the impacts to
customers generally; and

- (iii) that the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City of San Diego to effectuate the purpose of this Division and will not be detrimental to the public interest; and
- (iv) that the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

(B) An application for a variance will be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City of San Diego, either of the following:

- (i) that the property has been adversely impacted by a *disaster*; or
- (ii) that proposed alternative water use restrictions for the property would result in greater water savings than the existing water use restrictions.

(5) [No change in text.]

Section 2. This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Raymond C. Palmucci
Deputy City Attorney

RCP:amt
09/28/09
Or.Dept:Water
O-2010-24

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor