

ORDINANCE NO. 2014- 013

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA ADOPTING WATER USE REGULATIONS AND RESTRICTIONS TO ADDRESS A WATER SHORTAGE EMERGENCY AND IMPLEMENT REGULATIONS ADOPTED BY THE STATE OF CALIFORNIA

The City Council of the City of San Buenaventura does ordain as follows:

SECTION 1. Findings and Determinations

- A. The State of California is experiencing unprecedented drought conditions with 2014 projected to become the driest year on record.
- B. The U.S. Drought Monitor currently classifies the entire State of California as experiencing severe to exceptional drought conditions.
- C. On January 17, 2014, the Governor of the State of California proclaimed a state of emergency in the State of California due to water supply impacts caused by three consecutive years of drought conditions in the state and called on all Californians to reduce their water usage by 20 percent.
- D. On April 25, 2014, the Governor of the State of California issued an Executive Order proclaiming a continued state of emergency based on continued drought conditions and calling on Californians and California businesses to take specific actions to avoid wasting water, including limiting lawn watering and car washing; recommends that schools, parks and golf courses limit the use of potable water for irrigation; and asks that hotels and restaurants give customers options to conserve water by only serving water upon request and other measures. The order also prevents homeowner associations from fining residents that limit their lawn watering and take other conservation measures.
- E. The Executive Order also directed the State Water Resources Control Board to adopt and implement emergency regulations pursuant to Water Code section 1058.5, as it deems necessary to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation, and to require curtailment of diversions when water is not available under the diverter's priority of right.
- F. On July 15, 2014, the State Water Resources Control Board adopted emergency regulations implementing mandatory statewide water conservation actions that are to remain in effect for 270 days unless extended or repealed.
- G. Section 864 of the State Water Resources Control Board regulations prohibit several activities, including the application of potable water to outdoor landscapes in a manner that causes visible runoff, the use of a hose to wash a motor vehicle except where the hose is equipped with a shut-off nozzle, the

application of water to driveways and sidewalks, and the use of potable water in non-recirculating ornamental fountains.

- H. Section 865 of the State Water Resources Control Board regulations require urban water suppliers to implement the stage of their water shortage contingency plans that impose mandatory restrictions on outdoor irrigation of ornamental landscaping or turf with potable water and report monthly water production information to the State Water Board, and require those urban water suppliers without adequate drought shortage contingency plans to adopt them or other measures to promote conservation within thirty days.
- I. As an urban water supplier, the City of San Buenaventura is required to comply with these State regulations or be subject to penalties.
- J. The City Council of San Buenaventura adopted an Urban Water Management Plan ("UWMP") on June 20, 2011, and amended the Plan to include revisions requested by the State Department of Water Resources ("DWR") on May 7, 2012.
- K. On April 3, 1989, the City Council adopted water waste prohibitions that are codified in the San Buenaventura Municipal Code in Chapter 22.170, "Water Conservation," at Section 22.170.010, "Water waste prohibited." While those prohibitions mirror many of the State Water Resources Control Board emergency regulations, they are updated and included in this ordinance to provide continuity and consistency in implementation of the measures contained in this ordinance.
- L. The UWMP contains the City's Water Shortage Contingency Plan ("WSCP") that contains, among other things, voluntary water conservation measures.
- M. The DWR reviewed the UWMP and, on June 21, 2013, the DWR determined that the UWMP met the requirements of California Water Code, including those pertaining to the WSCP.
- N. Although the WSCP contains comprehensive water conservation measures, the City must make some modifications to the WSCP to comply with the newly adopted State Water Board regulations.
- O. The drought conditions that are the basis of the Governor's emergency proclamations continue to exist throughout the State of California and within the jurisdictional limits of the City of San Buenaventura.
- P. Rainfall, as recorded by the Ventura County Watershed Protection District, was 44% of normal in the last water year (October 1, 2012 through September 30, 2013), rainfall in the current water year (October 1, 2013 through September 30, 2014) is projected to be 42% of normal, and projected rainfall is not expected to resolve this deficiency.
- Q. The deficiency in rainfall, in conjunction with actions of others, has severely impacted the water supply available to the City from its water sources, including the Fox Canyon aquifer, Ventura River, Mound and Santa Paula Basins, and Casitas Municipal Water District.

- R. Water supply available to the City of San Buenaventura from its water sources, including the Fox Canyon aquifer, the Ventura River, and the Casitas Municipal Water District has decreased and is projected to decrease further in the near future. It is anticipated that the level of Lake Casitas will drop below 50% by fall 2014, causing the Casitas Municipal Water District to impose an allocation program that will reduce water available to the City. Surface water flows in the Ventura River at Foster Park have ceased, preventing the City from obtaining water from the river. The City's ability to obtain water from the Oxnard Plain Groundwater Basin has been reduced because the Fox Canyon Groundwater Management Agency recently passed an emergency ordinance reducing the City's water allocation and eliminating the use of credits that the City had accumulated to obtain water in dry years.
- S. There is a direct nexus between the availability of water supply and the immediate preservation of the public health and safety.
- T. Immediate action is needed to effectively increase water conservation so that remaining supplies are maintained to address water availability and the related preservation of the public health and safety of the residents of the City of San Buenaventura.
- U. Immediate action is also needed to ensure compliance with the regulations adopted by the State Water Board.
- V. Based upon the foregoing, the City Council has found and declared by Resolution that a water shortage emergency condition exists by reason of the fact that the ordinary demands and requirements of the water consumers served by the City of San Buenaventura cannot be met by the water supplies now available to the City without depleting the water supply or diminishing its quality to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.
- W. Based upon the foregoing, the City Council finds that this Ordinance should be adopted on an emergency basis pursuant to the authority in Charter Section 706.

SECTION 2. Purpose and Authority

The purpose of this Ordinance is to conserve the water supply of the City for the greatest public benefit with particular regard to public health, fire protection and domestic use; to conserve water by reducing and restricting nonessential water use that, if continued, would constitute waste; and to the extent necessary by reason of drought and the existing water shortage emergency to reduce water use fairly and equitably. This ordinance also implements State requirements to address drought conditions and measures to address the water shortage emergency that exists within the area presently served by the City of San Buenaventura. This ordinance also implements Stage III of the City's Water Shortage Contingency Plan as modified below to implement State requirements to address drought conditions. This Ordinance is adopted pursuant to the City's authority under Sections 350 et seq. of the California Water Code and City of San Buenaventura Charter Section 706.

SECTION 3. Effect of Ordinance

This Ordinance shall take effect immediately and shall remain in effect until the City Council declares that the water shortage emergency has ended. The water conservation measures and water use restrictions described below are in addition to the existing provisions of Section 22.170.010 of the City of San Buenaventura Municipal Code and the Water Shortage Contingency Plan contained in the City's Urban Water Management Plan. In the event of any conflict between this ordinance and Section 22.170.010 or the Water Shortage Contingency Plan, the provisions of this ordinance shall govern while this ordinance remains in effect.

SECTION 4. Definitions

The following words and phrases whenever used in this ordinance have the meaning defined in this section:

- A. **"Customer"** means any person, partnership, business, corporation or governmental agency that receives water from the City of San Buenaventura (hereinafter "City") water system.
- B. **"Applicant"** means any person, partnership, business, corporation or governmental agency that requests water service from the City
- C. **"Landscape irrigation system"** means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.
- D. **"Potable water"** means water which is suitable for drinking.
- E. **"Recycled water"** means the reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.
- F. **"Billing unit"** means the unit of water (measured in hundred cubic feet (HCF)) used to apply water rates for purposes of calculating water charges for a person's water usage. A billing unit equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.

SECTION 5. Application

- A. The provisions of this ordinance apply to any person in the use of any potable water provided by the City water system.
- B. The provisions of this ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services.
- C. The provisions of this ordinance do not apply to uses of water necessary to maintain safe conditions of sports fields.
- D. The provisions of this ordinance chapter do not apply to the use of recycled water.
- E. The provisions of this ordinance do not apply to the use of water by commercial nurseries and commercial growers to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.

- F. The provisions of this ordinance do not apply to low-flow drip irrigation systems.
- G. This ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff.

SECTION 6. Water Use Restrictions

The following water conservation requirements are effective at all times and are permanent. Violations of this section will be considered waste and an unreasonable use of water.

- A. **Limits on Watering Hours:** Outdoor irrigation of ornamental landscape or turf with potable water through an irrigation system is prohibited between the hours of 9:00 a.m. and 6:00 p.m. except for the express purpose of adjusting or repairing an irrigation system.
- B. **Limits on Watering Days:** Outdoor irrigation of ornamental landscape or turf with potable water through an irrigation system is restricted to two days a week, a week being defined as a Sunday through a Saturday.
- C. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- D. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.
- E. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than 48 hours of receiving notice from the City of San Buenaventura, is prohibited.
- F. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- G. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-

closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

- H. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

SECTION 7. Hardship Waiver

- A. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this Ordinance would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.
- B. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.
- C. **Application:** Application for a waiver must be written and addressed to the General Manager of Ventura Water.
- D. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
- E. **Required Findings for Waiver:** An application for a waiver will be denied unless the Ventura Water General Manager 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 Buenaventura or its Agent, all of the following:
 - 1. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
 - 2. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
 - 3. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and
 - 4. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.

- F. **Approval Authority:** The City's Ventura Water General Manager shall act upon any completed application and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver will be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply to the subject property during the period this Ordinance is in effect. The decision of the Ventura Water General Manager will be final.

SECTION 8. Violations

Penalties and water service actions may be levied and applied for each violation of a provision of the Ordinance as follows:

- A. **First Violation:** For the first violation of any of the provisions of this ordinance a written notice is to be given.
- B. **Second Violation:** For the second violation of any of the provisions of this ordinance a penalty is hereby imposed in an amount equal to 50 percent of the most recent bimonthly water bill (exclusive of the sewer portion of the bill), or \$25.00, whichever is less, payable as part of the water bill, by the customer at the premises at which the violation occurred.
- C. **Third Violation:** For the third violation of any of the provisions of this ordinance a penalty is hereby imposed in an amount equal to 25 percent of the most recent bimonthly water bill (exclusive of the sewer portion of the bill), or \$50.00, whichever is greater, up to a maximum of \$500.00. This penalty is payable as part of the water bill, by the customer at the premises at which the violation occurred.
- D. **Fourth Violation:** For a fourth violation of any of the provisions of this ordinance within 12 calendar months, the city will install a flow restricting device of one GPM capacity for services up to 1½ inch size, and comparatively sized restrictors for larger services, on the service of the customer at the premises at which the violation occurred for a period of not less than 48 hours. The charge for installing such a flow restricting device will be based upon the size of the meter and the actual cost of installation. The charge for removal of the flow restricting device and restoration of normal service shall be based on the actual cost involved. Said charges shall be payable by said customer as part of the water bill. Restoration of normal service will be performed during the hours of 8:00 a.m. to 4:00 p.m. on regular working days. In addition, a penalty of 50 percent of the most recent water bill, up to a maximum of \$500.00, shall be imposed for restoration of normal service, payable by said customer as part of the water bill.
- E. **Fifth and Subsequent Violations:** For any subsequent violation after the fourth violation of any of the provisions of this ordinance within 12 calendar months, the City may discontinue water service to the customer at the premises at which the violation occurred.

SECTION 9. Payment of Penalty Fines

The water customer is responsible for the full payment of penalty fines. Each penalty fine will be applied in the customer's regular water billing. Payment of the

penalty fine will be the final responsibility of the individual named on the water account. Non-payment of fines will be subject to the same remedies as non-payment of basic water rates, in accordance with Section 22.160.030 of the San Buenaventura Municipal Code. The above fines shall be included in the next monthly water bill and must be paid in accordance with normal bill paying processes or the water service will be subject to being turned off. Failure to make corrections or pay a charge within the allotted time may also result in restriction of service.

SECTION 10. Appeals

Any customer against whom an administrative fine or water service action is levied pursuant to this Ordinance shall have the right to appeal as follows:

- A. The appeal must be in writing, legible, and received by the Water Resources Account Supervisor within fifteen (15) calendar days of the issuance of the notice of violation to the customer. The written request for appeal consideration shall include:
 1. A description of the issue,
 2. Evidence supporting the appeal, and
 3. A suggestion for resolution of the dispute, if any.
- B. The Water Resources Account Supervisor will review the material submitted and make an independent determination of the issue.
- C. The Water Resources Account Supervisor's determination may be appealed in writing within fifteen (15) calendar days of the mailing of the notice of determination. The appeal of the Water Resources Account Supervisor's determination shall be heard and considered by the General Manager. The General Manager may, in his or her discretion, affirm, reverse, or modify the determination.

SECTION 11. Severability

If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City of San Buenaventura hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

SECTION 12. CEQA Findings

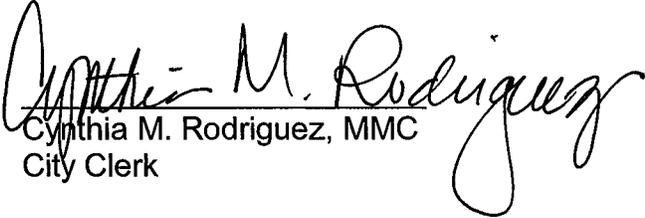
The City Council finds that this Ordinance is exempt under Section 15307 of Title 14 of the California Code of Regulations ("CEQA Guidelines"), which exempts "actions taken by regulatory agencies . . . to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment" because this action is taken to maintain water resources. The City Council finds that the implementation of this Ordinance is also exempt under CEQA Guidelines Section 15061(b)(3) because the adoption of these regulations implements a regulatory process that will not foreseeably result in

construction or other physical activities, either directly or indirectly. It can therefore be foreseen that the enactment of this ordinance does not have the potential to result in significant effects on the environment.

PASSED AND ADOPTED this 22 day of September, 2014.


Cheryl Holtmann, Mayor

ATTEST:


Cynthia M. Rodriguez, MMC
City Clerk

APPROVED AS TO FORM
Gregory Diaz
City Attorney


By: Keith Bauerle
Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss
CITY OF SAN BUENAVENTURA)

I, ROXANNE FIORILLO, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Ordinance was passed and adopted by the City Council of the City of San Buenaventura at a regular meeting on September 22, 2014, by the following vote:

AYES: Councilmembers Morehouse, Weir, Andrews, Tracy,
 Monahan, Deputy Mayor Nasarenko, and Mayor Heitmann.

NOES: None.

ABSENT: None.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on September 23, 2014.


Deputy City Clerk

