

ORDINANCE NO. 885

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK, CALIFORNIA, AS AN URBAN WATER SUPPLIER, PROHIBITING CERTAIN ACTIVITIES THAT WASTE WATER AND IMPLEMENTING MANDATORY RESTRICTIONS ON OUTDOOR IRRIGATION TO PROMOTE WATER CONSERVATION, TO BECOME EFFECTIVE IMMEDIATELY

THE CITY COUNCIL OF THE CITY OF ROHNERT PARK HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Authority. This Ordinance is adopted pursuant to the provisions set forth in Government Code Section 36937(b) and pursuant to other applicable law.

SECTION 2. Findings.

- A. On January 17, 2014 Governor Brown issued Governor's Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions.
- B. On February 11, 2014, and in support of the Governor's Proclamation, the City adopted its Resolution Number 2014-12 calling for a voluntary 20% reduction in water use.
- C. On April 25, 2014, Governor Brown issued an executive order to strengthen the state's ability to manage water and habitat effectively in a drought.
- D. On July 15, 2014, the State Water Resources Control Board approved its Resolution No. 2014-0032 To Adopt an Emergency Regulation for Statewide Water Conservation and this emergency regulation includes new California Code of Regulations Title 23, Sections 863, 864 and 865 (hereinafter collectively, "Emergency Regulation"). The Emergency Regulation became effective as of August 1, 2014.
- E. On August 26, 2014, to comply with the Emergency Regulation, the City adopted an Interim Urgency Ordinance Prohibiting Certain Activities that Waste Water and Implementing Mandatory Restrictions on Outdoor Irrigation to Promote Water Conservation and to become Effective Immediately.
- F. On March 17, 2015, the State Water Resources Control Board amended and re-adopted the Emergency Regulation by Resolution No. 2015-0013.
- G. The amended Emergency Regulation prohibits each of the following actions, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:
 - The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

- The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
 - The application of potable water to driveways and sidewalks;
 - The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
 - The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
 - The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased; and
- H. The amended Emergency Regulation requires operators of hotels and motels to provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
- I. The amended Emergency Regulation requires that within 45 days of the adoption of the amended Emergency Regulation each urban water supplier must either: 1) implement all requirements and actions of the stage of its Water Shortage Contingency Plan that include mandatory restrictions on number of days that outdoor irrigation of ornamental landscapes and turf with potable water is allowed; or 2) amend its Water Shortage Contingency Plan to include a mandatory restriction on outdoor irrigation of ornamental landscapes and turf to two days per week; or 3) if it has an allocation based rate structure, request approval from the State Water Resources Control Board of an alternate plan that achieves a specified level of conservation.
- J. The amended Emergency Regulation requires that each urban water supplier provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-users exclusive control.
- K. The amended Emergency Regulation requires that urban water supplier prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board that includes the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, and the number of days that outdoor irrigation is allowed. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.
- L. The City of Rohnert Park (City) is an urban water supplier, as that term is defined in Water Code Section 10617.

- M. The City's Water Waste Regulations (Municipal Code Section 13.62) and Water Shortage Emergency Plan (Municipal Code Section 13.66) contain prohibitions and mandatory restrictions to reduce water waste and control outdoor water use.
- N. The City has adopted an allocation based rate structure that satisfies the requirements of Chapter 3.4 (commencing with Section 370) of Division 1 of the Water Code.
- O. By adopting this ordinance, the City will both implement the amended Emergency Regulation and provide clarity to its customers on prohibitions and restrictions that are in effect.
- P. In light of the declaration of a State of Emergency by the Governor and the obligation to implement the amended Emergency Regulations in a short timeframe, the City considered the adoption of this interim urgency ordinance in accordance with Government Code § 36937 at a duly noticed public meeting on April 28, 2015, at which time it received and considered testimony from members of the public.
- Q. Pursuant to Article XI, Section 7 of the California Constitution, the City may make and enforce all regulations and ordinances using its police powers.

SECTION 3. IMPOSITION OF INTERM URGENCY ORDINANCE.

In accordance with the authority granted the City under Government Code section 36937(b), and pursuant to the findings stated herein, the City Council: (1) hereby finds that there exists a current and immediate threat to the public health, safety, and welfare requiring immediate implementation of the amended Emergency Regulations to promote water conservation during the drought, (2) further finds that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and (3) hereby declares and imposes the prohibitions on wasting water and restrictions on water use as set forth below.

The City Council of the City of Rohnert Park hereby ordains as follows:

- 1. To promote water conservation, each of the following actions shall be prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:
 - A. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
 - B. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
 - C. The application of potable water to driveways and sidewalks;
 - D. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;

- E. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
 - F. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;
2. To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
3. In addition, the prohibitions against nonessential uses of water outlined in Chapter 13.62.030 of the Municipal Code remain in effect, except to the extent that those provisions conflict with the prohibitions described in Sections 1 and 2 above. In the event of a conflict, the prohibitions described above shall govern.
4. To promote conservation, all potable water customers of the city shall comply with the following mandatory restrictions:
- A. Restrict irrigation with potable water to between the hours of six p.m. and eight a.m. and for no more than three (3) days per week.
 - B. Inspect all irrigation systems, repair leaks, and adjust spray heads to provide optimum coverage and eliminate avoidable over-spray.
 - C. When irrigation control valves are used, vary the sprinkler system run times consistent with fluctuations in weather.
 - D. Reduce minutes of run-time for each irrigation cycle if water begins to run-off to gutters and ditches before the irrigation cycle is completed.
5. To promote conservation, all potable water customers of the city are requested to undertake the following voluntary activities:
- A. Utilize water conservation incentive, rebate and giveaway programs to replace plumbing fixtures and appliances with more water efficient models.
 - B. Utilize city information regarding water efficient landscapes.
6. Any customer of the city may make written application for an exception to this Ordinance. Said application shall describe in detail why applicant believes an exception is justified. The application shall be processed in accordance with the Section 13.66.060 of the Municipal Code.
7. The violation of each provision of this Ordinance, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced as an infraction in accordance with Chapter 1.24 of the Municipal Code. When undertaking enforcement, the city may take any or all of the actions necessary and proper to ensure compliance, including but not limited to imposing any or all of the fees and charges described in Section 13.66.070 of the Municipal Code. When undertaking enforcement, the city shall comply with the notice and hearing process described in Section 13.66.080 of the Municipal Code.

8. As a remedy, the violation of any provision of this Ordinance by any person who has received more than one written warning to refrain from the same or any other violation under this Ordinance, in one calendar year, shall be deemed and is declared to be a public nuisance and may be subject to abatement in accordance with Chapter 1.24 of the Municipal Code.
9. As an additional remedy and in accordance with the Emergency Regulation, the taking of any prohibited action, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

SECTION 9. Environmental Review.

The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the statutory exemption set forth in Section 15269(c) (specific actions necessary to prevent or mitigate an emergency) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this ordinance is a direct response to the State's Emergency Regulation, and pursuant to the categorical exemption set forth in Section 15307 (actions by regulatory agencies for protection of natural resources) because the State Water Resources Control Board has mandated that Rohnert Park, as an urban water supplier, protect and conserve the natural resource of water during the severe drought.

SECTION 10. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

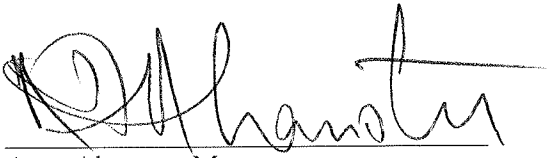
SECTION 11. Effective Date and Duration. This ordinance is an urgency ordinance enacted under California Government Code sections 36934 and 36937(b). This urgency ordinance is effective upon adoption by a four-fifths (4/5) vote of the City Council. This Ordinance shall remain in full force and effect until December 23, 2015, at which time it will automatically expire, unless it is earlier repealed by the enactment of a new regulatory scheme or extended by the City Council in accordance with applicable law.

SECTION 12. Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

This ordinance was introduced and duly adopted by the City Council of the City of Rohnert Park at the regular meeting held this 28th day of April 2015 by a four-fifths vote of the City Council as follows:

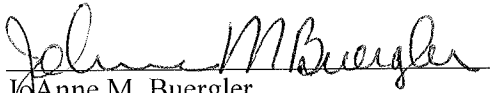
AYES: Five (5) Councilmembers Callinan, Stafford, Mackenzie, Belforte
 NOES: None (0) and Mayor Ahanotu
 ABSENT: None (0)
 ABSTAIN: None (0)

CITY OF ROHNERT PARK



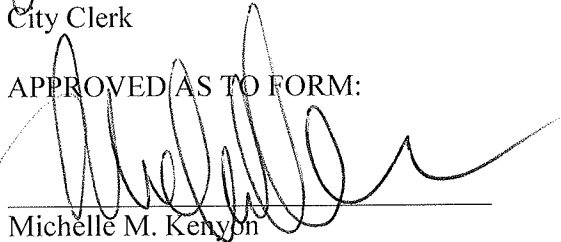
Amy Ahanotu, Mayor

ATTEST:



JoAnne M. Buergler
City Clerk

APPROVED AS TO FORM:



Michelle M. Kenyon
City Attorney