

ORDINANCE NO. O-09-1219

**AN ORDINANCE OF THE CITY OF SAN MARINO ADDING
ARTICLE 16 TO CHAPTER XIV OF THE SAN MARINO CITY
CODE ESTABLISHING A WATER CONSERVATION AND
WATER SUPPLY SHORTAGE PROGRAM AND REGULATIONS**

THE CITY COUNCIL OF THE CITY OF SAN MARINO DOES HEREBY ORDAIN
AS FOLLOWS:

Section 1. Findings.

- (a) A reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of the southern California region.
- (b) Southern California is a semi-arid region and is largely dependent upon imported water supplies. A growing population, climate change, environmental concerns, and other factors in other parts of the State and western United States, make the region highly susceptible to water supply reliability issues.
- (c) Careful water management that includes active water conservation measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
- (d) Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.
- (e) Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- (f) The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the City of San Marino's potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City of San Marino. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

Section 2. Chapter XIV of the San Marino City Code is amended by adding Article 16 to read as follows:

Article 16

WATER CONSERVATION AND WATER SUPPLY SHORTAGE PROGRAM AND REGULATIONS

SECTION:

- 14.16.01: Purpose and Intent
- 14.16.02: Definitions
- 14.16.03: Application
- 14.16.04: Voluntary Water Conservation Requirements
- 14.16.05: Water Supply Shortage - Prohibition Against Waste
- 14.16.06: Procedures For Determination/Notification Of Water Supply Shortage
- 16.16.07: Hardship Waiver
- 14.16.08: Penalties and Violations

14.16.01: **PURPOSE AND INTENT:**

- A. The purpose of this chapter is to establish a water conservation and supply shortage program that will reduce water consumption within the City of San Marino through conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the City of San Marino to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.
- B. This chapter establishes voluntary and imposed water conservation standards intended to alter behavior related to water use efficiency at all times. This ordinance may be amended in the future following public hearings to consider increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

14.16.02: **DEFINITIONS:** The following words and phrases, when used in this article, shall have the meaning defined in this section.

PERSON: Any natural person or persons, corporation, public or private entity, governmental agency or institution, including all agencies and departments of City of San Marino, or any other user of water provided by the City of San Marino.

LANDSCAPE IRRIGATION SYSTEM: An irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.

LARGE LANDSCAPE AREAS: A lawn, landscape, or other vegetated area, or combination thereof, equal to more than one (1) acre of irrigable land.

SINGLE PASS COOLING SYSTEMS: Equipment where water is circulated only once to cool equipment before being disposed.

POTABLE WATER: Water which is suitable for drinking.

RECYCLED WATER: The reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.

14.16.03: APPLICATION:

- A. The provisions of this chapter apply to any person in the use of any potable water provided by the City of San Marino.
- B. The provisions of this chapter 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 chapter do not apply to the use of recycled water, with the exception of Section 14.16.04(A).
- D. The provisions of this chapter 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.
- E. This chapter 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. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

14.16.04: VOLUNTARY WATER CONSERVATION REQUIREMENTS – PROHIBITION AGAINST WASTE: The following voluntary water conservation requirements are effective at all times. Actions contrary to this section will be considered waste and an unreasonable use of water.

- A. **Limits on Watering Hours:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. Pacific Standard Time on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

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- B. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.
- 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, 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, 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 seven (7) days of receiving notice from the City of San Marino, 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.
- H. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, cafe, cafeteria, 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.
- I. **Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- J. **Restaurant Use:** Food preparation establishments, such as restaurants or cafes, are required to use water conserving dish wash spray valves.

14.16.05: **MANDATORY WATER CONSERVATION:** A Water Supply Shortage exists when the City of San Marino determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of San Marino of a Water Supply Shortage condition, the City of San Marino will make the voluntary measures outlined in Section 14.16.04 mandatory.

14.16.06: **PROCEDURES FOR DETERMINATION/NOTIFICATION OF WATER SUPPLY SHORTAGE:** The existence of Water Supply Shortage conditions may be declared by resolution of the City of San Marino adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements will take effect on the tenth day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City of San Marino must publish a copy of the resolution in a newspaper used for publication of official notices.

14.16.07: **HARDSHIP WAIVER:** If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person or public entity 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.

- A. **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.
1. **Application:** Application for a waiver must be on a form prescribed by the City of San Marino and accompanied by a non-refundable processing fee in an amount set by City Council resolution.
 2. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
 3. **Required Findings for Waiver:** An application for a waiver will be denied unless the City 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 Marino or its Agent, all of the following:
 - i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;

- ii. 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;
 - iii. 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 of San Marino to effectuate the purpose of this chapter 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 waiver is sought is not common, recurrent or general in nature.
4. Approval Authority: The City Manager must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply too the subject property during the period of the mandatory water supply shortage condition. The decision of the City Manager will be final.

14.16.08: **PENALTIES AND VIOLATIONS:** Any violation of this article shall be enforced as provided in Article 6 of Chapter 1 of this Code.

Section 3. 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 Council of the City of San Marino 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 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2009.

EUGENE SUN,
MAYOR

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ATTEST:

VERONICA RUIZ,
DEPUTY CITY CLERK

I HEREBY CERTIFY that the foregoing Ordinance No. O-09-1219 was introduced at a Regular Meeting of the City Council held on November 12, 2009 and was approved and duly adopted by the City Council of the City of San Marino at a Regular Meeting of the City Council held on the ____ day of _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

VERONICA RUIZ,
DEPUTY CITY CLERK