

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Article I of Chapter XII of the Los Angeles Municipal Code to clarify prohibited uses and modify certain water conservation requirements of the Water Conservation Plan of the City of Los Angeles.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article I of Chapter XII of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**ARTICLE I**

**EMERGENCY WATER CONSERVATION PLAN**

**SEC. 121.00. SCOPE AND TITLE.**

This Article shall be known as The Emergency Water Conservation Plan of the City of Los Angeles.

**SEC. 121.01. DECLARATION OF POLICY.**

It is hereby declared that because of the conditions prevailing in the City of Los Angeles and in the areas of this State and elsewhere from which the City obtains its water supplies, the general welfare requires that the water resources available to the City be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interests of the people of the City and for the public welfare.

**SEC. 121.02. DECLARATION OF PURPOSE.**

The purpose of this Article is to provide a mandatory water conservation plan to minimize the effect of a shortage of water to the Customers of the City and, by means of this Article, to adopt provisions that will significantly reduce the consumption of water over an extended period of time, thereby extending the available water required for the Customers of the City while reducing the hardship of the City and the general public to the greatest extent possible, voluntary conservation efforts having proved to be insufficient.

### SEC. 121.03. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined within individual sections of this Article:

a. **"Article"** means the ordinance providing for **"The Emergency Water Conservation Plan of the City of Los Angeles."**

b. **"Baseline Water Usage"** means the amount of water necessary for existing landscape based on a water budget developed by the Department.

c. **"Billing Unit"** means the unit amount of water used to apply water rates for purposes of calculating commodity charges for Customer water usage and equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.

d. **"City"** means the City of Los Angeles.

e. **"City Council"** means the Council of the City of Los Angeles.

f. **"Conservation Phase"** means that level of mandatory water conservation presently required from Customers pursuant to this Article.

g. **"Customer"** means any person, persons, association, corporation or governmental agency supplied or entitled to be supplied with water service by the Department.

h. **"Department"** means the Los Angeles Department of Water and Power.

i. **"Drip Irrigation"** means an efficient and targeted form of irrigation in which water is delivered in drops directly to the plants roots where no emitter produces more than four (4) gallons of water per hour.

j. **"Even-numbered"** means street addresses ending with the following numerals: 0 (Zero), 2 (Two), 4 (Four), 6 (Six), 8 (Eight). Street addresses ending in  $\frac{1}{2}$  or any fraction shall conform to the permitted uses for the last whole number in the address.

k. **"Gray Water"** means a Customer's second or subsequent use of water supplied by the Department on the Customer's premises, such as the use of laundry or bathing water for other purposes.

l. **"Irrigate"** means any exterior application of water, other than for firefighting purposes, dust control, or as process water, including, but not limited to, the watering of any vegetation whether it be natural or planted.

m. **"Large Landscape Area"** means an area of vegetation at least three acres in size supporting a business necessity or public benefit uses such as parks, golf courses, schools and cemeteries.

n. **"Mayor"** means the Mayor of the City of Los Angeles

o. **"Notice to the Department"** means written communication documenting compliance with all requirements and directed to the Department.

p. **"Odd-numbered"** means street addresses ending with the following numerals: 1 (One), 3 (Three), 5 (Five), 7 (Seven), 9 (Nine). Street addresses ending in ½ or any fraction shall conform to the permitted uses for the last whole number in the address.

q. **"Officer"** means every person designated in Section 200 of the Los Angeles City Charter as an officer of the City of Los Angeles.

r. **"Potable Water"** means water supplied by the Department which is suitable for drinking and excludes recycled water from any source.

s. **"Private Golf Course"** means a facility with a business license where play is restricted to members and their guests, and does not include personal use facilities such as backyard golf greens or courses.

t. **"Process Water"** means water used to manufacture, alter, convert, clean, heat or cool a product, or the equipment used for such purpose; water used for plant and equipment washing and for transporting of raw materials and products; and water used for community gardens, or to grow trees, plants, or turf for sale or installation.

u. **"Recycled Water"** means water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use as approved by the California Department of Public Health.

v. **"Section"** means a section of this Article unless some other ordinance or statute is specifically mentioned.

w. **"Single Family Residential Customer"** means a customer who is currently subject to Rate Schedule A of the LADWP Water Rate Ordinance.

wx. **“Single Pass Cooling Systems”** means equipment where water is circulated only once to cool equipment before being disposed.

xy. **“Sports Field”** means a public or private facility supporting a business necessity or public benefit use that provides turf areas as a playing surface for individual and team sports, and does not include a facility on a residential property.

yz. **“Station”** means those sprinklers or other water-emitting devices controlled by a single valve.

#### **SEC. 121.04. AUTHORIZATION.**

The various officers, boards, departments, bureaus and agencies of the City are hereby authorized and directed to immediately implement the applicable provisions of this Article upon the effective date hereof.

#### **SEC. 121.05. APPLICATION.**

The provisions of this Article shall apply to all Customers and property served by the Department wherever situated, and shall also apply to all property and facilities owned, maintained, operated or under the jurisdiction of the various officers, boards, departments, bureaus or agencies of the City.

#### **SEC. 121.06. WATER CONSERVATION PHASES.**

A. No Customer of the Department shall make, cause, use or permit the use of water from the Department for any residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Article. The waste or unreasonable use of water is prohibited.

B. For the purposes of this Article, a use of water by a tenant or by an employee, agent, contractor or other acting on behalf of a Customer whether with real or ostensible authority shall be imputed to the Customer. Nothing contained in this Article shall limit the remedies available to a Customer under law or equity for the actions of a tenant, agent, contractor or other acting on behalf of a Customer.

#### **SEC. 121.07. CONSERVATION PHASE IMPLEMENTATION.**

A. Notwithstanding any other provisions of this Article, the provisions of Section 121.08A shall take effect immediately upon the effective date of this Article, shall be permanent and shall not be subject to termination pursuant to the provisions of this Article providing for the termination of a conservation phase.

B. The Department shall monitor and evaluate the projected supply and demand for water by its Customers monthly, and shall recommend to the Mayor and Council by concurrent written notice the extent of the conservation required by the Customers of the Department in order for the Department to prudently plan for and supply water to its Customers. The Mayor shall, in turn, independently evaluate such recommendation and notify the Council of the Mayor's determination as to the particular phase of water conservation, Phase II through Phase VI, that should be implemented. Thereafter, the Mayor may, with the concurrence of the Council, order that the appropriate phase of water conservation be implemented in accordance with the applicable provisions of this Article. Said order shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective immediately upon such publication. The prohibited water uses for each phase shall take effect with the first full billing period commencing on or after the effective date of the public proclamation by the Mayor.

In the event the Mayor independently recommends to the Council a phase of conservation different from that recommended by the Department, the Mayor shall include detailed supporting data and the reasons for the independent recommendation in the notification to the Council of the Mayor's determination as to the appropriate phase of conservation to be implemented.

**C. Phase Termination.**

1. At such time as the Department reports an April 1 forecast of annual Owens Valley and Mono Basin Runoff equal to or exceeding 110 percent of normal and the Metropolitan Water District of Southern California officially states that the sum of its Colorado River and State Water Project supplies exceeds 100 percent of projected demand, the Mayor shall forthwith recommend to the Council the termination of any Customer curtailment phase then in effect. Said recommendation to terminate shall take effect upon concurrence of the Council.

2. The provisions of Subsection C1, above, shall not preclude the Department on the basis of information available to it from recommending to the Mayor the termination of a water conservation phase then in effect. The Mayor shall forward said recommendation to the Council, and it shall take effect upon concurrence by the Council.

**SEC. 121.08. WATER CONSERVATION PHASES.**

**A. PHASE I – Prohibited Uses Applicable to All Customers.**

1. No Customer of the Department shall use a water hose to wash any paved surfaces including, but not limited to, sidewalks, walkways, driveways and parking areas, except to alleviate immediate safety or sanitation hazards.

This section shall not apply to Department-approved water-conserving spray cleaning devices. Use of water-pressure devices for graffiti removal is exempt. A simple spray nozzle does not qualify as a water-conserving spray cleaning device.

2. No Customer of the Department shall use water to clean, fill or maintain levels in decorative fountains, ponds, lakes or similar structures used for aesthetic purposes unless such water is part of a recirculating system.

3. No restaurant, hotel, café, cafeteria, or other public place where food is sold, served or offered for-sale, shall serve drinking water to any person unless expressly requested.

4. No Customer of the Department shall permit water to leak from any pipe or fixture on the Customer's premises. Failure or refusal to affect a timely repair of any leak of which the Customer knows or has reason to know shall subject said Customer to all penalties provided herein for a prohibited use of water.

5. No Customer of the Department shall wash a vehicle with a hose if the hose does not have a self-closing water shut-off or device attached to it, or otherwise allow a hose to run continuously while washing a vehicle.

6. No Customer of the Department shall irrigate during periods of rain and within 48 hours after a measurable rain event.

7. No Customer of the Department shall water or irrigate lawn, landscape or other vegetated areas between the hours of 9:00 a.m. and 4:00 p.m. During these hours, public and private golf course greens and tees and professional Sports Fields may be irrigated in order to maintain play areas and accommodate event schedules. Supervised testing or repairing of irrigation systems is allowed anytime with proper signage.

8. All irrigating of landscape with potable water using spray head sprinklers and bubblers shall be limited to no more than ten (10) minutes per watering day per station. All irrigating of landscape with potable water using standard rotors and multi-stream rotary heads shall be limited to no more than fifteen (15) minutes per cycle and up to two (2) cycles per watering day per station. Exempt from these landscape irrigation restrictions are irrigation systems using very low-flow drip-type irrigation when no emitter produces more than four (4) gallons of water per hour and micro-sprinklers using less than fourteen (14) gallons per hour.

9. No Customer of the Department shall use water in a manner that causes or allows excess or continuous water flow or runoff onto an adjoining sidewalk, driveway, street, gutter or ditch.

10. No installation of single pass cooling systems shall be permitted in buildings requesting new water service.

11. No installation of non-recirculating systems shall be permitted in new conveyor car wash and new commercial laundry systems.

12. 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 bathroom using clear and easily understood language. The Department shall make suitable displays available.

13. No Large Landscape Areas shall have irrigation systems without rain sensors that shut off the irrigation systems. Large Landscape Areas with approved weather-based irrigation controllers registered with the Department are in compliance with this requirement.

## **B. PHASE II**

1. **Prohibited Uses Applicable to All Customers.** Should Phase II be implemented, uses applicable to Phase I of this section shall continue to be applicable, except as specifically provided below.

2. **Non-Watering Days.** No landscape irrigation shall be permitted on any day other than Monday, Wednesday or Friday for odd-numbered street addresses, and Tuesday, Thursday or Sunday for even-numbered street addresses. Street addresses ending in  $\frac{1}{2}$  or any fraction shall conform to the permitted uses for the last whole number in the address. Watering times shall be limited to:

(a) Non-conserving nozzles (spray head sprinklers and bubblers) – no more than eight (8) minutes per watering day per station for a total of 24 minutes per week.

(b) Conserving nozzles (standard rotors and multi-stream rotary heads) – no more than fifteen (15) minutes per cycle and up to two (2) cycles per watering day per station for a total of 90 minutes per week.

(With the above watering times, water consumption used for both types of nozzles is essentially equal.)

3. Upon written Notice to the Department, irrigation of Sports Fields may deviate from the non-watering days to maintain play areas and accommodate event schedules; however, to be eligible for this means of compliance, a Customer must reduce their overall monthly water use by the Department's Board of Water and Power Commissioners (Board)-adopted degree of shortage plus an additional five percent from the Customer Baseline Water Usage within 30 days.

4. Upon written Notice to the Department, Large Landscape Areas may deviate from the non-watering days by meeting the following requirements: 1) must have approved weather-based irrigation controllers registered with the Department (eligible weather-based irrigation controllers are those approved by the Metropolitan Water District of Southern California or the Irrigation Association Smart Water Application Technologies [SWAT] initiative); 2) must reduce overall monthly water use by the Department's Board-adopted degree of shortage plus an additional five percent from the Customer Baseline Water Usage within 30 days; and 3) must use recycled water if it is available from the Department.

5. These provisions do not apply to drip irrigation supplying water to a food source or to hand-held hose watering of vegetation, if the hose is equipped with a self-closing water shut-off device, which is allowed everyday during Phase II except between the hours of 9:00 am and 4:00 pm.

### C. PHASE III

1. **Prohibited Uses Applicable to All Customers.** Should Phase III be implemented, uses applicable to Phases I and II of this section shall continue to be applicable, except as specifically provided below.

2. **Non-Watering Days.** No landscape irrigation shall be permitted on any day other than Monday or Friday for odd-numbered street addresses, and Sunday or Thursday for even-numbered street addresses. Street addresses ending in  $\frac{1}{2}$  or any fraction shall conform to the permitted uses for the last whole number in the address. Watering times shall be limited to:

(a) Non-conserving nozzles (spray head sprinklers and bubblers) – no more than eight (8) minutes per watering day per station for a total of 16 minutes per week.

(b) Conserving nozzles (standard rotors and multi-stream rotary heads) – no more than fifteen (15) minutes per cycle and up to two (2) cycles per watering day per station for a total of 60 minutes per week.

(With the above watering times, water consumption used for both types of nozzles is essentially equal.)

3. Recommend use of pool covers to decrease water loss from evaporation.
4. Recommend washing of vehicles at commercial car wash facilities.
5. Upon written Notice to the Department, irrigation of Sports Fields may deviate from the non-watering days to maintain play areas and accommodate event schedules; however, to be eligible for this means of compliance, a Customer must reduce their overall monthly water use by the Department's Board-adopted degree of shortage plus an additional five percent from the Customer Baseline Water Usage within 30 days.
6. Upon written Notice to the Department, Large Landscape Areas may deviate from the non-watering days by meeting the following requirements: 1) must have approved weather-based irrigation controllers registered with the Department (eligible weather-based irrigation controllers are those approved by the Metropolitan Water District of Southern California or the Irrigation Association Smart Water Application Technologies [SWAT] initiative); 2) must reduce overall monthly water use by the Department's Board-adopted degree of shortage plus an additional five percent from the Customer Baseline Water Usage within 30 days; and 3) must use recycled water if it is available from the Department.
7. These provisions do not apply to drip irrigation supplying water to a food source or to hand-held hose watering of vegetation, if the hose is equipped with a self-closing water shut-off device, which is allowed every day during Phase III except between the hours of 9:00 am and 4:00 pm.

#### **D. PHASE IV**

1. **Prohibited Uses Applicable to All Customers.** Should Phase IV be implemented, uses applicable to Phase I, II, and III of this Section shall continue to be applicable, except as specifically provided below.

2. **Non-Watering Days.** No landscape irrigation shall be permitted on any day other than Monday for odd-numbered street addresses and Tuesday for even-numbered street addresses. Street addresses ending in  $\frac{1}{2}$  or any fraction shall conform to the permitted uses for the last whole number in the address. Watering times shall be limited to:

- (a) Non-conserving nozzles (spray head sprinklers and bubblers) – no more than eight (8) minutes per watering day per station for a total of 8 minutes per week.

(b) Conserving nozzles (standard rotors and multi-stream rotary heads) – no more than fifteen (15) minutes per cycle and up to two (2) cycles per watering day per station for a total of 30 minutes per week.

3. Mandate use of pool covers on all residential swimming pools when not in use.

4. No washing of vehicles allowed except at commercial car wash facilities.

5. No filling of decorative fountains, ponds, lakes, or similar structures used for aesthetic purposes, with potable water.

6. Upon written Notice to the Department, irrigation of Sports Fields may deviate from the specific non-watering days. To be eligible for this means of compliance, a Customer must reduce overall monthly water use by the Department's Board-adopted degree of shortage plus an additional ten percent from the Customer Baseline Water Usage within 30 days.

7. Upon written Notice to the Department, Large Landscape Areas may deviate from the specific non-watering days by meeting the following requirements: 1) must have approved weather-based irrigation controllers registered with the Department (eligible weather-based irrigation controllers are those approved by the Metropolitan Water District of Southern California or the Irrigation Association Smart Water Application Technologies [SWAT] initiative); 2) must reduce overall monthly water use by the Department's Board-adopted degree of shortage plus an additional ten percent from the Customer Baseline Water Usage within 30 days; and 3) must use recycled water if it is available from the Department.

8. These provisions do not apply to drip irrigation supplying water to a food source or to hand-held hose watering of vegetation, if the hose is equipped with a self-closing water shut-off device, which is allowed everyday during Phase IV except between the hours of 9:00 a.m. and 4:00 p.m.

#### **E. PHASE V**

1. **Prohibited Uses Applicable to All Customers.** Should Phase V be implemented, uses applicable to Phases I, II, III and IV of this section shall continue to be applicable, except as specifically provided below.

2. **Non-Watering Days.** No landscape irrigation allowed.

3. No filling of residential swimming pools and spas with potable water.

4. Upon written notice to the Department, golf courses and professional Sports Fields may apply water to sensitive areas, such as greens and tees, during non-daylight hours and only to the extent necessary to maintain minimum levels of biological viability.

**F. PHASE VI**

1. **Prohibited Uses Applicable to All Customers.** Phases I, II, III, IV and V of Section 121.08 shall continue to remain in effect.

2. **Additional Prohibited Uses.** The Board is hereby authorized to implement additional prohibited uses of water based on the water supply situation. Any additional prohibition shall be published at least once in a daily newspaper of general circulation and shall become effective immediately upon such publication and shall remain in effect until cancelled.

3. **Penalty Authority.** The Board is hereby authorized to establish appropriate penalties for this phase.

G. **EXCEPTION.** The prohibited uses of water provided for by Subsections A, B, C, D, E and F of this section are not applicable to the uses of water necessary for public health and safety, or for essential government services such as police, fire and other similar emergency services.

H. **VARIANCE.** If, due to unique circumstances, a specific requirement of this Section would result in undue hardship to a Customer 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 uses, then the Customer may apply for a variance from the requirements. Unique circumstances include, but are not limited to, physical disabilities which prevent compliance with the Water Conservation Plan. The Department shall adopt procedures for variance applications, review and decision.

**Sec. 121.09. UNREASONABLE USE OF WATER.**

It shall be unlawful for any Customer to waste, or engage in the unreasonable use of water. If any Single Family Residential Customer enters the Department's highest rate tier during Phase II-VI, that Customer may be subject to a Water Use Analysis performed by the Department. Department will use available resources, including, but not limited to, water consumption history, land use data, and aerial photographs, to analyze the reasonableness of a Customer's water use.

A. **Notification.** Department may issue a notification to a Customer requesting access to the property for purposes of completing a Water Use Analysis. Within thirty (30) days following written notification by the Department, to the

Customer's billing address, the Customer shall provide the Department reasonable access to the property for purposes of completing a Water Use Analysis and for verifying compliance with any existing Customer Conservation Plan.

B. **Cooperation.** Customer, or his designated representative, shall be present and fully cooperate with the Department in the Water Use Analysis, including, but not limited to providing water use information relating to landscaping, agriculture, fixtures, ponds, cooling towers, and other water features and uses located on the property.

C. **Customer Conservation Plan.** Upon completion of the Water Use Analysis, Department may prepare a Customer Conservation Plan that includes an evaluation of all water uses on the property, directions to reduce waste and unreasonable use of water, and a water budget based on the reasonable use of water on the property. Department will discuss with the Customer the findings of the Water Use Analysis and explain the Customer Conservation Plan.

D. The Department shall adopt criteria and process for implementing the Water Use Analysis. When possible the Department will use approved industry standards and methodologies to calculate indoor and outdoor water use.

E. Customer shall comply with all terms of the Department's Customer Conservation Plan, including any water budget provided by Department, and failure to comply shall be deemed an unreasonable use of water that is a threat to public health, safety and welfare and is deemed a nuisance pursuant to Government Code § 38771.

F. **Violation.** Customer failure to (1) provide reasonable access to property following notice, (2) cooperate with Department in the development of a Customer Conservation Plan, or (3) comply with Customer Conservation Plan shall be deemed a new violation of this section, and shall be noticed by the Department by written citation. Violation of this section shall subject Customer to penalties as described in section 121.10(A)(3).

#### **SEC. 121.1009. FAILURE TO COMPLY.**

**A. Penalties. – water meters smaller than two inches (2").** It shall be unlawful for any Customer of the Department to fail to comply with any of the provisions of this Article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this Article shall be as follows:

1. For the first violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08, the Department shall issue a written notice of the fact of such violation to the Customer.

1. Violations of any of the provisions of Subsection A, B, C, D, E, and F of Section 121.08 during the preceding twelve (12) calendar months, shall result in imposition of an administrative civil penalty pursuant to Penalty Schedule A and shall be included on the Customer's regular water bill issued by the Department.

**Penalty Schedule A**

<b><u>Water meter smaller than two (2") inches</u></b>						
	<b><u>Phase 1</u></b>	<b><u>Phase 2</u></b>	<b><u>Phase 3</u></b>	<b><u>Phase 4</u></b>	<b><u>Phase 5</u></b>	<b><u>Phase 6</u></b>
<b><u>1<sup>st</sup></u></b> <b><u>Written Warning</u></b>	\$0	\$0	\$0	\$0	\$0	<u>Board Authority</u>
<b><u>2<sup>nd</sup></u></b> <b><u>Written Violation</u></b>	\$50	\$100	\$200	\$300	\$400	<u>Board Authority</u>
<b><u>3<sup>rd</sup></u></b> <b><u>Written Violation</u></b>	\$100	\$200	\$400	\$600	\$800	<u>Board Authority</u>
<b><u>4<sup>th</sup></u></b> <b><u>Written Violation</u></b>	\$150	\$300	\$600	\$900	\$1200	<u>Board Authority</u>

<b><u>Water meter two (2") inches and larger</u></b>						
	<b><u>Phase 1</u></b>	<b><u>Phase 2</u></b>	<b><u>Phase 3</u></b>	<b><u>Phase 4</u></b>	<b><u>Phase 5</u></b>	<b><u>Phase 6</u></b>
<b><u>1<sup>st</sup></u></b> <b><u>Written Warning</u></b>	\$0	\$0	\$0	\$0	\$0	<u>Board Authority</u>
<b><u>2<sup>nd</sup></u></b> <b><u>Written Violation</u></b>	\$100	\$200	\$400	\$600	\$800	<u>Board Authority</u>
<b><u>3<sup>rd</sup></u></b> <b><u>Written Violation</u></b>	\$200	\$400	\$800	\$1200	\$1600	<u>Board Authority</u>
<b><u>4<sup>th</sup></u></b> <b><u>Written Violation</u></b>	\$300	\$600	\$1200	\$1800	\$2400	<u>Board Authority</u>

For a second violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$100 shall be added to the Customer's water bill.

3. For a third violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$200 shall be added to the Customer's water bill.

4. — For a fourth and any subsequent violation by a Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$300 shall be added to the Customer's water bill.

(a) 5. After a fifth or subsequent violation, the Department may install a flow-restricting device of one-gallon-per-minute (1 GPM) capacity for services up to one and one-half inch (1-1/2") size and comparatively sized restrictors for larger services or terminate a Customer's service, in addition to the financial surcharges provided for herein. Such action shall be taken only after a hearing held by the Department where the Customer has an opportunity to respond to the Department's information or evidence that the Customer has repeatedly violated this Article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this Article and Department rules regarding the conservation of water.

Any such restricted or terminated service may be restored upon application of the Customer made not less than 48 hours after the implementation of the action restricting or terminating service and only upon a showing by the Customer that the Customer is ready, willing and able to comply with the provisions of this Article and Department rules regarding the conservation of water. Prior to any restoration of service, the Customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including, but not limited to, payment of all past due bills and fines.

2. Violations of Section 121.09 et. al., shall result in imposition of administrative civil penalties pursuant to Penalty Schedule B and shall be included on the Customer's regular water bill issued by the Department:

**Penalty Schedule B**

<u>Number of Consecutive Months with Violation</u>	<u>Phase 1</u>	<u>Phase 2</u>	<u>Phase 3</u>	<u>Phase 4</u>	<u>Phase 5</u>	<u>Phase 6</u>
<u>Violation during months 1-5</u>	<u>N/A</u>	<u>\$1,000</u>	<u>\$2,000</u>	<u>\$5,000</u>	<u>\$10,000</u>	<u>Board Authority</u>
<u>Violation during months 6-11</u>	<u>N/A</u>	<u>\$2,000</u>	<u>\$4,000</u>	<u>\$10,000</u>	<u>\$20,000</u>	<u>Board Authority</u>
<u>Violation during months 12-17</u>	<u>N/A</u>	<u>\$3,000</u>	<u>\$6,000</u>	<u>\$15,000</u>	<u>\$30,000</u>	<u>Board Authority</u>
<u>Violation during months 18-23</u>	<u>N/A</u>	<u>\$4,000</u>	<u>\$8,000</u>	<u>\$20,000</u>	<u>\$40,000</u>	<u>Board Authority</u>

(a) Customers continuing to violate Section 121.09 beyond 24 months will be referred to the Board for consideration of flow restrictors or other actions.

~~B. — Penalties — water meters two inches (2") and larger. It shall be unlawful for any Customer of the Department to fail to comply with any of the provisions of this Article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this Article shall be as follows:~~

~~1. — For the first violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08, the Department shall issue a written notice of the fact of such violation to the commercial or industrial Customer.~~

~~2. — For a second violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$200 shall be added to the Customer's water bill.~~

~~3. — For a third violation by any Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$400 shall be added to the Customer's water bill.~~

~~4. — For a fourth and any subsequent violation by a Customer of any of the provisions of Subsection A, B, C, D and E of Section 121.08 within the preceding 12 calendar months, a surcharge in the amount of \$600 shall be added to the Customer's water bill.~~

~~5. — After a fifth or subsequent violation, the Department may install a flow restricting device or terminate a Customer's service, in addition to the financial surcharges provided for herein. Such action shall be taken only after a hearing held by the Department where the Customer has an opportunity to respond to the Department's information or evidence that the Customer has repeatedly violated this Article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this Article and Department rules regarding the conservation of water.~~

~~Any such restricted or terminated service may be restored upon application of the Customer made not less than 48 hours after the implementation of the action restricting or terminating service and only upon a showing by the Customer that the Customer is ready, willing and able to comply with the provisions of this Article and Department rules regarding the conservation of water. Prior to any restoration of service, the Customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including, but not limited to, payment of all past due bills and fines.~~

C. **Notice.** The Department shall give notice of each violation to the Customer committing such violation as follows:

1. For any violation of the provisions of Section 121.08 and 121.09, the Department may give written notice of the fact of such violation to the Customer personally, by posting a notice at a conspicuous place on the Customer's premises or by United States mail, First-Class, postage prepaid, addressed to the Customer's billing address.

2. If the penalty assessed is, or includes, the installation of a flow restrictor or the termination of water service to the Customer, notice of the violation shall be given in the following manner:

(a) By giving written notice thereof to the Customer personally;  
or

(b) If the Customer is absent from or unavailable at either their place of residence or place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the United States mail, First-Class postage prepaid, addressed to the Customer at their place of business, residence or such other address provided by the Customer for bills for water or electric service if such can be ascertained; or

(c) If such place of residence, business or other address cannot be ascertained, or a person of suitable age or discretion at any such place cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring, and also by delivering a copy to a person of suitable age and discretion there residing or employed, if such person can be found, and also sending a copy through the United States mail, First-Class, postage prepaid, addressed to the Customer at the place where the property is situated, as well as such other address provided by the Customer for bills for water or electric service if such can be ascertained.

Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and statement informing the Customer of their right to a hearing on the violation.

D. **Hearing and Appeal.** Any Customer who disputes any penalty levied pursuant to this Section shall have a right to a dispute determination conducted pursuant to the Department's Rules Governing Water and Electric Service. Any Customer dissatisfied with the Department's dispute determination may appeal that determination within 15 days of issuance to the Board or to a designated hearing officer

at the election of the Board. The provisions of Sections 19.24, 19.25, 19.26 and Sections 19.29 through 19.39 of the Los Angeles Administrative Code shall apply to such appeals. All defenses, both equitable and legal, may be asserted by a Customer in the appeal process. The decisions of the Board shall become final at the expiration of 45 calendar days, unless the Council acts within that time by a majority vote to bring the action before it or to waive review of the action. If the Council timely asserts jurisdiction, the Council may, by a majority vote, amend, veto or approve the action of the Board within 21 calendar days of voting to bring the matter before it, or the action of the Board shall become final. If the City Council asserts jurisdiction over the matter and acts within 21 calendar days of voting to bring the matter before it, the City Council's action shall be the final decision.

E. **Public Disclosure.** Any violation of any section of this Ordinance shall be subject to disclosure under the California Public Records Act.

F. **Reservation of Rights.** The rights of the Department hereunder shall be cumulative to any other right of the Department to discontinue service. All monies collected by the Department pursuant to any of the surcharge provisions of this Article shall be collected for water conservation purposes consistent with this Ordinance. ~~deposited in the Water Revenue Fund as reimbursement for the Department's costs and expenses of administering and enforcing this Article.~~

#### **SEC. 121.110. GENERAL PROVISIONS.**

A. **Enforcement.** The Department of Water and Power, through a designee of the General Manager, shall enforce the provisions of this Article. At any time, Department may use technology that will assist staff in observing water use of customers and enforcing the Ordinance. Technology may be used for, but not limited to, evidence of an Ordinance violation and as justification for issuing any penalties.

**B. Department to Give Effect to Legislative Intent.** The Department shall provide water to its Customers in accordance with the provisions of this Article and in a manner reasonably calculated to effectuate the intent hereof.

**C. Public Health and Safety Not to be Affected.** Nothing contained in this Article shall be construed to require the Department to curtail the supply of water to any Customer when, in the discretion of the Department, such water is required by that Customer to maintain an adequate level of public health and safety; provided further that a Customer's use of water to wash the Customer's property immediately following the aerial application of a pesticide, such as Malathion, shall not constitute a violation of this Article.

**D. Recycled Water and Gray Water.** The provisions of this Article shall not apply to the use of Recycled Water or Gray Water, provided that such use does not

result in excess water flow or runoff onto the adjoining sidewalk, driveway, street, gutter or ditch. This provision shall not be construed to authorize the use of Gray Water if such use is otherwise prohibited by law.

E. **Large Landscape Areas.** Large Landscape Areas that have multiple irrigation system stations can deviate from prescribed non-watering days if their systems include weather-based irrigation controllers, and each irrigation station is limited to the number of days prescribed in Section 121.08.

F. **Hillside Burn Areas.** The provisions of this Article shall not apply to hillside areas recovering from fire that have been replanted for erosion control. To qualify for this exemption, a Customer must obtain verification from the agency requiring erosion control measures. The duration of the exemption is limited to, either, one growing cycle, one year, or establishment of the vegetation, whichever is the lesser time period.

#### **SEC. 121.124. SEVERABILITY.**

If any section, subsection, clause or phrase in this Article or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of the Article or the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Article and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

Sec. 2. **URGENCY CLAUSE.** The Council of the City of Los Angeles hereby finds and declares that there exists within this City a current water shortage and the likelihood of a continuing water shortage into the immediate future and that as a result there is an urgent necessity to take legislative action through the exercise of the police power to protect the public peace, health, and safety of this City from a public disaster or calamity. Therefore, this ordinance shall take effect immediately upon publication.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of \_\_\_\_\_.

HOLLY L. WOLCOTT, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By \_\_\_\_\_  
DAVID EDWARDS  
Deputy City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_