

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 35, ARTICLE II, DIVISION 3, OF THE MOUNTAIN VIEW CITY CODE RELATING TO WATER CONSERVATION

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 35, Article II, Division 3, is hereby amended to read as follows:

“SEC. 35.28.1. Findings and determinations.

The city council of the City of Mountain View hereby finds and determines that:

(a) The water conservation provisions defined in this division are needed to minimize water waste and conserve the City of Mountain View’s water supply for the greatest public benefit, with particular regard to human consumption, sanitation and fire protection and the health, safety and welfare of the people and economy of the City of Mountain View;

(b) Permanent water conservation ~~efforts~~provisions are necessary to meet the continually changing demands made on the City of Mountain View’s finite water resourceessupply and to prepare for future drought;

(c) More restrictive water conservation provisions are necessary during water shortages to manage the City of Mountain View’s water supply and minimize the effects of drought and shortage;

~~(d) (b)~~ The City of Mountain View’s primary water suppliers, the San Francisco Public Utilities Commission and the Santa Clara Valley Water District ~~and the San Francisco Water Department, continue to urge a reduction in urban water usage through, support~~ efficient water-use practices; during normal supply conditions and water shortages; and

~~(c) The following water use restrictions are needed to continue to minimize water waste and to conserve the water supply of the City of Mountain View for the greatest public benefit, with particular regard to domestic use, sanitation and fire protection;~~

(e) The prohibition of nonessential ~~(d)~~ The restrictions on, and requirements pertaining to, water usage, as contained in this division, as well as the

~~specific~~uses of water ~~prohibited~~imposed by this division ~~as nonessential~~, are needed to prevent waste of the City of Mountain View's water, and are imposed and enforced pursuant to the city's power under Sec.~~tions~~ 5 and 7 of Article 11 of the California Constitution and Sec.~~tions~~ 350 through 359 and 375 through 378 of the California Water Code ~~of the state~~.

~~— (e) The actions taken pursuant to this division are exempt from the provisions of Sections 21000 et seq. of the Public Resources Code (the California Environmental Quality Act) because it can be seen with certainty that these amendments to the city's Water Conservation Ordinance will not have a significant adverse effect on the environment. Due to significantly increased rainfall in the state in recent months, the Governor of the State of California has declared that the drought is over. The amendments to the city's Water Conservation Ordinance will repeal emergency provisions enacted solely because of the drought and permit the citizens of Mountain View to return to a more normal usage of water but will, at the same time retain restrictions on water use necessary to minimize waste and to conserve the water supply for the greatest public benefit.~~

SEC. 35.28.2. Definitions.

(a) "City" means the City of Mountain View, a charter city.

(b) "Director" means the public works director of ~~utilities of~~ the City of Mountain View, or his /her designee or representative.

(c) "~~Person~~Customer" means any individual, firm, partnership, unincorporated association, corporation, company, organization or governmental entity or agency ~~(d)~~ ~~"Customer" means any person~~, whether within or without the geographic boundaries of the City of Mountain View who uses water supplied by the city.

(d) "Irrigation station" means an area of irrigated landscape controlled by a single irrigation valve.

(e) "Hard-surfaced areas" means sidewalks, walkways, driveways, parking areas, tennis courts, patios, alleys or other paved areas.

(f) "Single-pass cooling system" means equipment where water is circulated only once to cool equipment before being disposed.

(g) "Decorative water feature" means a design element where open water performs an aesthetic function, including, but not limited to, ponds, fountains, waterfalls and artificial streams.

SEC. 35.28.3. Prohibition of nonessential water use.

The nonessential water uses defined in Sec. 35.28.4, et seq. are prohibited as set forth below. In the event of a declared water shortage, any prohibited water uses imposed by this division in which two (2) or more prohibitions apply to the same water use, the most restrictive prohibition shall apply.

(a) Normal supply conditions.

Any of the nonessential water uses as defined in ~~Section~~Sec. 35.28.4 are prohibited.1 are prohibited at all times.

(b) Stage 1 water shortage (up to 10 percent reduction).

A Stage 1 water shortage exists when the city council declares that a water supply shortage exists and a demand reduction of up to 10 percent is necessary to appropriately respond to existing supply conditions. Upon declaration of a Stage 1 water shortage by the city council, city staff shall increase public education and outreach efforts to increase public awareness of the prohibited nonessential water uses as defined in Sec. 35.28.4.1 and to encourage voluntary reduction in water use.

(c) Stage 2 water shortage (up to 25 percent reduction).

A Stage 2 water shortage exists when the city council declares that a water supply shortage exists and a demand reduction of up to 25 percent is necessary to appropriately respond to existing supply conditions. Upon declaration of a Stage 2 water shortage by the city council, any of the nonessential water uses defined in Sec. 35.28.4.1 through Sec. 35.28.4.2 are prohibited.

(d) Stage 3 water shortage (up to 40 percent reduction).

A Stage 3 water shortage exists when the city council declares that a water supply shortage exists and a demand reduction of up to 40 percent is necessary to appropriately respond to existing supply conditions. Upon declaration of a Stage 3 water shortage by the city council, any of the nonessential water uses defined in Sec. 35.28.4.1 through Sec. 35.28.4.3 are prohibited.

(e) Stage 4 water shortage (greater than 40 percent reduction).

A Stage 4 water shortage exists when the city council determines that a water supply shortage exists and a demand reduction of greater than 40 percent is necessary to make more efficient use of water and appropriately respond to existing water

conditions. Upon declaration of a Stage 4 water shortage by the city council, any of the nonessential water uses defined in Sec. 35.28.4.1 through Sec. 35.28.4.4 are prohibited.

SEC. 35.28.3.1. Water shortage declaration.

The city manager may recommend the city council adopt a resolution to declare a water shortage when there is a reasonable probability that there will be a supply shortage necessitating a demand reduction in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of a water shortage emergency, the city manager shall take action to implement the prohibitions identified in this division, as applicable to the declared water shortage stage. The declared water shortage shall remain in effect until rescinded or otherwise modified by subsequent resolution of city council.

SEC. 35.28.4. Nonessential water uses defined.

The following uses of potable water are hereby determined to be nonessential, except as further provided herein.

SEC. 35.28.4.1. Normal supply conditions.

The following nonessential water uses are prohibited at all times and in all declared water shortage stages.

(a) Failure to repair broken or defective water systems.

(1) Use of potable water through any meter when the customer has been given ~~ten (10) days'~~ written notice by the director to repair broken or defective plumbing, sprinkler, watering, or irrigation systems and has failed to effect such repairs. The failure of any customer to effect said repairs **within the applicable time period** after said written notification by director shall constitute grounds for immediate discontinuance of water service **pursuant to Sec. 35.28.6.**

(2) The time period within which any customer must repair broken or defective plumbing, sprinkler, watering or irrigation systems after receiving written notice is determined by the water supply condition as follows:

1. A maximum of ten (10) days under normal supply conditions.

2. A maximum of ten (10) days during a Stage 1 water shortage.

3. A maximum of five (5) days during a Stage 2 water shortage.

4. A maximum of three (3) days during a Stage 3 water shortage.

5. A maximum of 24 hours during a Stage 4 water shortage.

(b) Water use that results in flooding or runoff.

~~SEC. 35.28.4.2.~~

Use of potable water which results in flooding or ~~run-offs in~~runoff into gutters, sidewalks, driveways, streets, highways, roads or other hard-surfaced areas.

(c) Cleaning hard-surfaced areas.

Use of potable water through a hose for the cleaning of ~~sidewalks, driveways, patios, parking lots or other paved or~~ hard-surfaced areas ~~and~~without a positive automatic shutoff valve on the outlet end of the hose.

(d) Vehicle washing.

Use of potable water through a hose for washing cars, buses, boats, trailers, or other vehicles without a positive automatic shutoff valve on the outlet end of the hose.

(e) Restaurant water service.

~~SEC. 35.28.4.4.~~

Use of potable water for restaurant water service unless upon request.

(f) Single-pass cooling systems.

~~SEC. 35.28.4.5.~~

Use of potable water in single-pass cooling systems.

SEC. 35.28.4.2. Stage 2 water shortage.

The following nonessential water uses are prohibited during a declared Stage 2, Stage 3 and Stage 4 water shortage.

(a) Cleaning hard-surfaced areas.

Use of potable water for washing down of hard-surfaced areas, except by use of a hand-held bucket or similar container or when necessary to alleviate safety or sanitary hazards.

(b) Vehicle washing.

Use of potable water for washing cars, buses, boats, trailers or other vehicles except by use of a hand-held bucket or similar container. This subsection does not apply to any commercial vehicle washing facility.

(c) Landscape watering and irrigation.

(1) Watering or irrigation of lawn, landscape or other vegetated area with potable water between the hours of 9:00 a.m. and 5:00 p.m. 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 shutoff nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

(2) Watering or irrigation of lawn, landscape or other vegetated area with potable water for more than one (1) to three (3) days per week, as determined by the director, depending on the circumstances, to achieve the targeted demand reduction pursuant to a schedule established and posted by the city. This subsection does not apply to watering or irrigating for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

(3) Watering or irrigation of lawn, landscape or other vegetated area with potable water for more than 15 minutes per day per irrigation station. This subsection does not apply to irrigation stations that exclusively use very low-flow, drip-type systems when no emitter produces more than two (2) gallons of water per hour, or watering or irrigating for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

(4) Watering or irrigation of lawn, landscape or other vegetated area with potable water during a rain event.

(d) Decorative water features.

Use of potable water in decorative water features except as needed to maintain aquatic life.

(e) Prerinse spray valves.

Use of potable water through a non-low-flow prerinse spray valve for restaurant dishwashing.

(f) Hotel linens.

Providing hotel guests with new towels and bed linens daily, without offering the option to reuse said towels and bed linens.

(g) New commercial car washes.

Construction or installation and operation of a new commercial conveyor car wash system that does not utilize water-recirculation technologies.

(h) New commercial laundry systems.

Construction or installation and operation of a new commercial laundry system that does not utilize water-recirculation technologies.

(i) Construction.

Use of potable water for construction purposes, including, but not limited to, dust control, when recycled water is readily available.

SEC. 35.28.4.3. Stage 3 water shortage.

The following nonessential water uses are prohibited during a declared Stage 3 and Stage 4 water shortage.

(a) Commercial car washes.

Operating a commercial car wash system that does not utilize water-recirculation technologies.

(b) Filling swimming pools.

Filling swimming pools or spas with potable water.

SEC. 35.28.4.4. Stage 4 water shortage.

The following nonessential water uses are prohibited during a declared Stage 4 water shortage.

(a) Landscape watering or irrigation.

Watering or irrigating of lawn, landscape or other vegetated area with potable water, except for the following uses:

(1) Maintenance of existing landscape necessary for fire protection.

(2) Maintenance of existing landscape for soil erosion control.

(3) Maintenance of plant materials identified to be rare or essential to the well-being of protected species.

(4) Maintenance of landscape within active public parks and playing fields, day-care centers, golf course greens and school grounds, provided that such irrigation does not exceed one (1) day per week and does not occur between 9:00 a.m. and 5:00 p.m.

(5) Actively irrigated environmental mitigation projects.

~~SEC. 35.28.5~~ ~~SEC. 35.28.5.~~ **Exceptions; Hearing; Appeal, and appeals.**

The procedures for exceptions, ~~hearings~~ and appeals shall be as set forth below.

SEC. 35.28.5.1. Exceptions.

Written applications for an exception ~~or adjustment~~ to the provisions of this division shall be made to the director. ~~Within ten (10) days after receiving~~ A written determination will be made on all requests for exceptions within ten (10) business days from receipt of an application for an exception ~~or adjustment, the director shall hold a hearing with and mailed to~~ the applicant.

~~SEC. 35.28.5.2. Hearing.~~

~~The applicant shall be notified of the date and time of said hearing. At the hearing, the director~~ The director's determination shall consider the following criteria:

(a) Whether the customer had previously adopted all practical water conservation measures;

(b) Whether failure to grant the application would cause an emergency condition adversely affecting the health, sanitation, fire protection or safety of the customer or the public; or

(c) Whether undue hardship would result to the applicant if the application were denied or the flow-restricting device were installed, including adverse economic impact such as loss of production or loss of jobs. ~~Within ten (10) days after the hearing, the director shall notify the applicant in writing of his decision by certified mail.~~

SEC. 35.28.5.3. ~~Appeal. 2.~~ Appeals.

Denials of any application for an ~~adjustment or~~ exception or a decision of the director to install a flow-restricting device or discontinue water service may be appealed to the city ~~council manager, or his/her designee~~, whose decision shall be final. An application for an appeal shall be filed with the city clerk in writing within ~~ten (10)~~ seven (7) calendar days after the director's decision and shall state the specific grounds for the appeal. The city ~~council manager~~ shall ~~hear the appeal~~ issue a written decision within ~~thirty (30) calendar~~ fifteen (15) calendar days after the appeal has been filed with the city clerk. ~~In considering said appeal, the council shall be governed by the same criteria as set forth in subsections (a), (b) and (c) of Section 35.28.5.2 hereinabove.~~

SEC. 35.28.6. Enforcement.

The enforcement of the water conservation provisions of this division shall be as set forth below.

SEC. 35.28.6.1. Installation of flow-restricting devices as enforcement.

(a) Upon the receipt of reliable information confirming an alleged violation of this division, the director shall issue a written warning to the suspected violator. The director may, after ~~sending one (1) or more written warnings by certified mail, provided ten (10) days' written notice by certified mail to a suspected violator of a hearing to be held pursuant to the provisions of Section 35.28.5.2 to,~~ determine whether to ~~install~~ require installation of a flow-restricting device on the service line of any customer violating any of the provisions of this division.

(b) If the director determines installation of a flow-restricting device is necessary, written notification of the director's decision shall be mailed to the customer. The customer shall have ten (10) calendar days from the decision to contest the director's decision by submitting written documentation to the director. If the customer does not contest the decision, the decision will become final without further notification. If the customer contests the director's decision, the director shall have ten (10) business days to issue a final written decision considering the criteria set forth in Sec. 38.28.5.1. If the customer contested the director's decision, he/she may appeal the director's decision pursuant to Sec. 38.28.5.2.

SEC. 35.28.6.2. Charges for installation and removal of flow-restricting devices.

The charges for the installation and removal of flow-restricting devices shall be as follows:

Meter size (in inches)	Installation Cost	Removal Cost
5/8—1	\$87.50	\$87.50
1-1/2—2	100.00	100.00
3 and larger	City's actual cost	City's actual cost

~~City's actual cost, as used in this section, shall mean that cost fixed by resolution of the city council based on the furnishing of city's costs for labor, equipment, materials and city's overhead charges.~~

SEC. 35.28.6.3. Installation of flow-restricting devices – Time periods.

The first installation of a flow-restricting device shall remain in place for a minimum of three (3) days. The second installation of a flow-restricting device shall remain in place for a minimum period of ten (10) days. Normal water service shall not be restored until all installation and removal costs of flow-restricting devices have been paid.

SEC. 35.28.7. Discontinuance of water service.

Continued water ~~consumption~~ use in ~~excess~~ violation of any of the provisions of this division, after written warning ~~or warnings~~ by the director and installation of flow-restricting devices, may result in the discontinuation of water service by the City of Mountain View ~~following a noticed hearing as set forth in Section 35.28.5.2. A charge of thirty dollars (\$30) shall be paid prior to the reactivating or restoration of water service. The director shall mail a written notice of discontinuation of water service. A customer may appeal pursuant to Sec. 38.28.5.2. The charge for reactivating or restoring water service shall be fixed by resolution of the city council, based on the city's cost for labor, equipment, materials and overhead.~~

SEC. 35.28.8. Penalties.

~~Penalties for violation of this division shall be as set out below.~~

~~SEC. 35.28.8.1. — Violations as an infraction.~~

~~— Violation by any person of any provision set forth. The remedies provided in this division is an infraction, punishable by a fine not exceeding one hundred dollars (\$100) for the first violation are cumulative and a fine not exceeding one hundred fifty dollars (\$150) for the second and any subsequent violation within any one (1) year from the first violation.~~

~~SEC. 35.28.8.2. Administrative penalties. — In addition to any other legal remedies available at law or in equity, including enforcement pursuant to Chapter 1 of this Code. Any violation of this division may be remedied by an enforcement action brought by the city, including, but not limited to, administrative or traditional nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief. to the city, the city may impose administrative penalties on customers for violations of this division in the following amounts:~~

~~One hundred dollars (\$100) — first violation in one year.~~

~~Two hundred fifty dollars (\$250) — second violation in one year.~~

~~Five hundred dollars (\$500) — third and subsequent violation in one year.~~

~~Administrative penalties may be imposed through the following procedure:~~

~~— (a) **Notice of Violation.** The utilities director shall send to a customer who has allegedly violated any provision(s) of this division a notice of violation at the customer's last address on file with the city's utilities department by certified mail. The notice shall state the date and nature of the alleged violation(s), the section(s) of the Mountain View City Code allegedly violated by the customer, and the maximum administrative penalty which could be imposed by the city for the violation. The notice shall also inform the customer of his or her right to request a hearing prior to the imposition of administrative penalties by submitting a written request to the utilities department within ten (10) days of the date of the notice of violation."~~

Section 2. The provisions of this ordinance shall be effective upon adoption pursuant to Water Code Section 375 and shall be published in conformance with Water Code Section 376(a).

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments to the City's water conservation and shortage provisions will not have a significant adverse effect on the environment.

EF/5/ORD
703-04-01-14o-E-so