

ORDINANCE NO. 699

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES, CALIFORNIA, AMENDING AND RESTATING CHAPTER 13.04 OF THE ROLLING HILLS ESTATES MUNICIPAL CODE PERTAINING TO THE CITY'S WATER CONSERVATION MEASURES AND WATER SHORTAGE MANAGEMENT PLAN

The City Council of the City of Rolling Hills Estates ordains as follows:

SECTION 1. Findings.

- A. A reliable supply of potable water is essential to the public health, safety, and welfare of the people and economy of the City of Rolling Hills Estates ("City").
- B. Article X, Section 2 of the California Constitution declares that the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.
- C. Article XI, Section 7 of the California Constitution provides that the City may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws of the State.
- D. In 2009, the City Council adopted Ordinance No. 650 that established a "Water Conservation and Water Shortage Management Plan," which was codified as Chapter 13.04 of the Rolling Hills Estates Municipal Code.
- E. In 2009, following the adoption of Chapter 13.04, the City Council declared a level 1 response under the Water Conservation and Water Shortage Management Plan which resulted in City residents and business and property owners being subject to the level 1 response water conservation measures set forth in Municipal Code Section 13.04.070.
- F. Until recently, the water conservation measures under level 1 have proved adequate with respect to the availability of water supplies to the City. However, the onset of one of the worst drought periods in California history requires the implementation of additional conservation measures.
- G. On January 17, 2014, Governor Edmund G. Brown Jr. issued Governor's Proclamation No. 1-17-2014, declaring a State of Emergency in California due to severe drought conditions. The Proclamation called on all Californians to reduce their water usage by 20 percent.
- H. On April 25, 2014, the Governor issued an executive order to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on all

Californians to redouble their efforts to conserve water.

- I. On July 15, 2014, the California Water Resources Control Board (“State Water Board”) adopted Resolution No. 2014-0038, which made findings that emergency drought conditions existed that warranted the need for emergency regulations to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, and to promote water recycling and water conservation throughout the state.
- J. The resolution added a new Article 22.5, including Sections 863, 864, and 865 to Title 23 of the California Code of Regulations, which established certain emergency water conservation regulations (“Emergency Regulations”).
- K. Among other things, the Emergency Regulations required urban water suppliers to implement a mandatory water conservation measure or measures intended to achieve a reduction in water consumption by persons served relative to the amounts consumed in 2013.
- L. Drought conditions continue to persist in California due to record low snowpack in the Sierra Nevada mountains this past winter, decreased water levels in most of California’s reservoirs, reduced flows in the state’s rivers and shrinking supplies in underground water basins. The area within and surrounding the City has experienced similar limited rainfall over the winter months and is subject to the same or similar drought conditions experienced throughout the state.
- M. On April 1, 2015, Governor Brown issued Executive Order B-29-15 (“Executive Order”), which, among other things, directed the State Water Board to impose additional water conservation measures to achieve an overall 25 percent reduction in potable urban water usage as compared to amounts used in 2013.
- N. On May 5, 2015, the State Water Board approved revisions to the Emergency Regulations (“revised Emergency Regulations”), which are intended to implement Governor Brown’s Executive Order.
- O. The City’s water retailer, California Water Service Company (“CalWater”), has adopted Rule 14.1, which establishes an updated water shortage contingency plan and related conservation measures in response to the Governor’s Executive Order and the revised Emergency Regulations. Rule 14.1 has been approved by the California Public Utilities Commission and went into effect on June 1, 2015. The conservation measures contained in Rule 14.1 apply to all City customers of CalWater.
- P. Under the revised Emergency Regulations, City residents are required to reduce water consumption by 36 percent over comparable periods during 2013.
- Q. In order to meet the conservation mandates imposed under the revised Emergency Regulations and to have conservation measures in place that are generally consistent with those set forth in Rule 14.1, it is necessary that the City Council amend the water conservation measures set forth in Municipal Code Chapter 13.04.

- R. The City Council held a duly noticed public hearing on this ordinance at a regular meeting held on June 14, 2015, and at such meeting considered all public comments and evidence submitted regarding the proposed ordinance.
- S. This ordinance is being adopted as an urgency measure under Water Code sections 375 and 376 to ensure that the City has water conservation regulations in place that are consistent with and will help fulfill the water conservation obligations imposed by the State under the revised Emergency Regulations and .
- T. It is necessary for the proper functioning of the City and therefore necessary for the protection and preservation of the public peace, health, safety, and general welfare that this ordinance be adopted as an urgency ordinance and that the ordinance take effect immediately upon its adoption.

SECTION 2. Environmental Findings. The City Council exercises its independent judgment and finds that the enactment of this ordinance is exempt from the California Environmental Quality Act (“CEQA”) under the CEQA Guidelines (Chapter 3 of Title 14 of the California Code of Regulations beginning at Section 15000), specifically, Section 15306, which exempts “action taken by regulatory agencies ... to assure the maintenance, restoration, and enhancement of a natural resource,” because the action taken in adopting this ordinance will help maintain water resources; Section 15061(b)(3), because the adoption of this ordinance will implement a regulatory process that will not foreseeably result in construction or other physical activities, either directly or indirectly, and that therefore the enactment of this ordinance does not have the potential to result in any significant effects on the environment; and Section 15269(c), as an action necessary to mitigate the State’s drought emergency.

SECTION 3. Amendment to Municipal Code Chapter 13.04. Chapter 13.04 (WATER CONSERVATION AND WATER SHORTAGE MANAGEMENT PLAN) of Title 13 (PUBLIC SERVICES) of the Rolling Hills Estates Municipal Code is amended and restated as set forth in the attached Exhibit A.

SECTION 4. 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 5. Effective Date. This ordinance is an urgency ordinance enacted under California Water Code section 375. This urgency ordinance is effective upon adoption by a majority vote of the City Council under Water Code section 376.

SECTION 6. Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by Water Code section 376.

ADOPTED this _____ day of _____, 2015.

JOHN C. ADDLEMAN, MAYOR

ATTEST:

DOUGLAS R. PRICHARD, CITY CLERK

I HEREBY CERTIFY that the foregoing Ordinance No. ____ was adopted by the City Council of the City of Rolling Hills Estates at a regular meeting held on the ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DOUGLAS R. PRICHARD, CITY CLERK

Exhibit A

Amended and Restated Chapter 13.04

Chapter 13.04 - WATER CONSERVATION AND WATER SHORTAGE MANAGEMENT PLAN

Sections:

13.04.010 Title.

This chapter is known as the City of Rolling Hills Estates Water Conservation and Water Shortage Management Plan.

13.04.020 Declaration of policy.

The city declares that because of frequent water shortage conditions prevailing in the city 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's water customers be put to the maximum beneficial use, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such water is to be exercised with a view towards reasonable and beneficial uses that are in the best interests of the city's residents, businesses and visitors.

13.04.030 Declaration of purpose.

The purpose of this chapter is to enhance water conservation planning, maximize the use of recycled water and provide a water shortage management plan that maximizes the efficient use of potable and recycled water to minimize the effects of a shortage of water within the city and reduce the consumption of water provided by the city's water retailer, California Water Service Company, thereby extending available water supplies, while reducing the hardships on the city and the general public to the greatest extent possible.

13.04.040 Water conservation and water shortage management plan establishment and application.

A. This chapter establishes regulations related to water use efficiency to be implemented during times of declared water shortages or declared water shortage emergencies. The chapter provides four levels of water shortage response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening water shortage conditions and decreasing available supplies.

B. The provisions of this chapter apply to any person or business in the use of any water provided by the city's water retailer.

C. 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.

D. Nothing in this chapter applies to the use of water that is subject to a special supply program, if applicable.

- E. The provisions of this chapter do not apply to the use of water from private wells.

13.04.050 Permanent water conservation measures.

The following water conservation measures are in effect at all times:

A. Excessive Water Flow or Runoff. Watering in a manner that results in overspray or excessive runoff onto paved or hardscaped areas is prohibited.

B. Water Fountains and Decorative Water Features. Water fountains and decorative water features must have a water recirculation system.

C. No Watering After Measurable Rainfall. Watering any lawn or landscape area at any time within 48 hours after a measurable rainfall is prohibited. For the purposes of this regulation, a "measurable rainfall" means at least .25 inches of rainfall over a 24-hour period based on the rainfall precipitation map maintained by the Los County Department of Public Works, Water Resource Division, for the monitoring location listed as "Rolling Hills" or if such station is eliminated, then the monitoring station closest to the city's boundary will be used. These measurements can be accessed at the following website: <http://www.ladpw.org/wrd/storms/index.cfm>.

D. Repair of Leaks. No person may permit or cause to permit the excess 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 or corrected. All leaks must be repaired upon discovery, but no later than within 72 hours of notification by the city or the city's water retailer unless other arrangements are made with the city or the city's water retailer.

E. Washing Vehicles. Washing any automobile, truck, van, bus, motorcycle, boat or any other vehicle is restricted to the use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This provision does not apply to a commercial car washing facility.

F. Washing Hard or Paved Surfaces. Washing of hard or paved surfaces, including sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards or as surface preparation for the application of any architectural coating or painting. All such permitted washing must be done 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.

13.04.060 Water shortage response level 1 measures.

In addition to all permanent measures, the following additional water conservation measures apply during a declared level 1 condition:

A. Drinking Water Served on Request. All eating and drinking establishments of any kind including any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, may only provide drinking water to any person upon an express request.

B. Restaurants Required to Use Water Conserving Technology. All eating and drinking establishments that require washing or cleaning of kitchen or dining room area flooring must do so using a hand-held bucket or similar container, a mop using bucket or similar container, or "waterbroom" technologies. Such establishments must also utilize water conserving nozzles on pre-rinse spray valves.

C. Commercial Lodging Establishment Linen Service. All hotels, motels, or bed and breakfasts must provide customers with an option of choosing to have towels and linens laundered daily. The establishment must prominently display notice of this option in each bathroom and sleeping room using clear and easily understood language.

D. Commercial Car Wash Businesses. On or after January 1, 2012, all "conveyor" style car wash systems must have and maintain water recycling systems.

13.04.070 Water shortage response level 2.

In addition to all permanent measures and all measures listed under response level 1, the following additional water conservation measures apply during a declared level 2 condition:

A. Watering Limited to Three Days a Week. Residential and commercial landscape irrigation is limited to no more than three assigned days per week based on a schedule established by the city's water retailer. This section does not apply to commercial growers or nurseries.

13.04.080 Water shortage response level 3.

In addition to all permanent measures and all measures listed under response levels 1 and 2, the following additional water conservation measures apply during a declared level 3 condition:

A. Watering Limited to Two Days a Week. Residential and commercial landscape irrigation is limited to no more than two assigned days per week on a schedule established by the city's water retailer. This section does not apply to commercial growers or nurseries.

B. Filling or Re-filling Ornamental Lakes or Ponds. The filling or re-filling of ornamental lakes or ponds is prohibited except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water shortage response level under this chapter. The city may also implement a moratorium on building permits issued for such ornamental lakes or ponds.

C. Washing Vehicles. The washing of vehicles is prohibited except at commercial car washes.

D. Repair of Water Leaks. All water leaks must be repaired upon discovery but no later than within 48 hours of notification by the city or the city's water retailer unless other arrangements are made with the city or the water retailer.

E. Use of Water for Construction Purposes. The use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses is prohibited unless the city is provided with substantial evidence that no other source of water or other method can be used.

F. Filling or Re-filling of Pools. The re-filling and initial filling of single-family residential swimming pools or outdoor spas with potable water is prohibited.

13.04.090 Water shortage response level 4.

In addition to all permanent measures and all measures listed under response levels 1, 2 and 3, the following additional water conservation measures apply during a declared level 4 condition:

A. Landscape Irrigation. Landscape irrigation is prohibited, except crops and landscape products of commercial growers and nurseries. If the city determines that recycled water is available, it may be applied for the following uses:

1. Maintenance of trees and shrubs that are watered by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.
2. Maintenance of existing landscaping necessary for fire protection as specified by the fire marshal of the local fire protection agency having jurisdiction over the property to be irrigated.
3. Maintenance of existing landscaping for erosion control.
4. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals.
5. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two days per week.
6. Public works projects and actively irrigated environmental mitigation projects.

B. Leaks. All water leaks must be repaired within 24 hours of detection or notification by the city or the city's water retailer unless other arrangements are made with the city or the water retailer.

C. No New Potable Water Service. No new potable water service will be provided, no new temporary meters or permanent meters will be provided, and no statements of immediate ability to serve or provide potable water service (such as will-serve letters, certificates, or letters of availability) will be issued, except under any of the following circumstances:

1. A valid, unexpired building permit has been issued for the project.
2. The project is necessary to protect the public health, safety, and welfare.
3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter to the satisfaction of city.

This provision will not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

D. Limits on Building Permits. The city will withhold the issuance of any new building permit that requires new or expanded water service, except to protect the public health, safety and welfare, or in situations that satisfy the city's adopted water conservation offset requirements.

E. No New Annexations. The city will suspend consideration of annexations to its service area. This provision does not apply to boundary corrections and annexations that will not result in any increased use of water.

13.04.0100 Procedures for determination and notification of water shortage response level.

A. The existence of water shortage response level 1, level 2, level 3 or level 4 condition may be declared by resolution of the city council adopted at a regular or special public meeting held in accordance with state law and with consultation from the city's water retailer and wholesaler. The mandatory conservation measures applicable to water shortage response level 1, level 2, level 3 or level 4 conditions will take effect on the tenth day after the date the response level is declared. The city will publish a copy of the resolution in a newspaper used for publication of official notices.

B. The city may declare an end to a water shortage response level by the adoption of a city council resolution at any regular or special meeting held in accordance with state law.

13.04.0110 Hardship exemption.

A. If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water uses, then the person may apply for an exemption to the requirements of this chapter.

B. The exemption 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. An application for an exemption must be in a form prescribed by the city and must be 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 Exemption. An application for an exemption will be denied unless the approving authority 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 or the city's water retailer, all of the following:

(a) That the exemption does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;

(b) 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;

(c) That the authorizing of an exemption will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the city to effectuate the purpose of this chapter and will not be detrimental to the public interest; and

(d) That the condition or situation of the subject property or the intended use of the property for which the exemption is sought is not common, recurrent or general in nature.

4. Approval Authority. The city manager or designee may exercise approval authority and act upon any completed application for an exemption no later than ten days after submittal and may approve, conditionally approve, or deny the exemption request. The applicant requesting the exemption will be promptly notified in writing of any action taken. Unless specified otherwise at the time an exemption is approved, the exemption applies to the subject property during the term of the applicable mandatory water shortage response declaration.

5. Appeals to City Council. An applicant for an exemption may appeal a decision or condition of the city on an application to the city council within ten days of the decision upon written request for a hearing. The request must state the grounds for the appeal. At a public meeting, the city council will act as the approval authority and review the appeal de novo by following the procedure utilized for applications for variances. The decision of the city council is final.

13.04.0120 Penalties and remedies.

A. Any person who uses, causes to be used, or permits the use of water in violation of this chapter is guilty of an offense punishable as follows:

1. The first violation of any provision of this chapter will constitute an infraction whereby a written warning will be issued to the party or parties that committed the infraction.

2. The second violation of any provision of this chapter will constitute an infraction punishable by a fine not to exceed \$100. Each day that a violation occurs will constitute a separate offense.