

ORDINANCE NO. 2009-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAREMONT, CALIFORNIA, AMENDING TITLE 8 OF THE CLAREMONT MUNICIPAL CODE ADDING A NEW CHAPTER 8.30 TO ESTABLISH A WATER CONSERVATION AND WATER SUPPLY SHORTAGE PROGRAM AND REGULATIONS

WHEREAS, the City has established policies of sustainability and addressed these issues as part of the City's General Plan; and

WHEREAS, as set forth in the Open Space, Parkland, Conservation, and Air Quality Element of the General Plan, the City encourages sustainable practices including achieving the highest level of water conservation possible; and

WHEREAS, as set forth in the Claremont Sustainable City Plan which was adopted by the City Council in October 2008 and calls for the City to adopt a water conservation ordinance and work to reduce the water consumption in our City to sustainable levels; and

WHEREAS, 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; and

WHEREAS, Southern California is a semi-arid region that 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; and

WHEREAS, from time to time drought conditions in the state of California have resulted in reduced supplies of imported water and/or local groundwater; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, Golden State Water Company, the privately-owned retail water provider for the City of Claremont, has requested the City's assistance in enforcing water conservation restrictions even in times when mandatory water conservation measures are not in effect in the City; and

WHEREAS, The City of Claremont will work with partners to improve the water efficiency and drought tolerance of municipal landscaping.

WHEREAS, on May 12, 2009, the City Council studied potential water conservation measures and provided direction to staff as to what regulations were appropriate for Claremont; and

WHEREAS, on June 11, 2009, the Community Services Commission of the City of Claremont held a duly noticed public hearing on this Ordinance, at which time all persons wishing to testify in connection with this Ordinance were heard, and after considering all public comments recommended that the City Council adopt this Ordinance; and

WHEREAS, on July 28, 2009, the City Council of the City of Claremont held a duly noticed public hearing at which time all persons wishing to testify in connection with this Ordinance were heard; and

WHEREAS, after considering all public comments, the City Council determined that this Ordinance is in the best interest of the City; and

WHEREAS, the adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15307 and 15308 of the CEQA Guidelines as these sections exempt actions taken by regulatory agencies for the protection of natural resources and/or the environment; and

WHEREAS, this Ordinance is in the best interest of the City for the following reasons:

- (a) The provisions contained in this Ordinance are necessary for the health, safety, and general welfare of the community.
- (b) The water conservation regulations in this Ordinance are consistent with the General Plan and further the implementation of the General Plan.
- (c) The water conservation regulations in this ordinance promote the following goals and policies of the City.

General Plan Goal 5-15: Achieve the highest level of water conservation possible.

General Plan Policy 5-15.2: Educate the public about the importance of water conservation and avoiding wasteful water habits.

General Plan Policy 5-15.3: Work with the City water provider in exploring water conservation programs, and encourage the water provider to offer incentives for water conservation.

Claremont Sustainable City Plan Goal 1.2: Minimize waste of water resources by advocating and implementing wise use and conservation measures.

- (d) This ordinance satisfies Action 1.2.6 of the Claremont Sustainable City Plan, which calls for adoption of a water efficiency ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 8 of the Claremont Municipal Code of the City of Claremont, is hereby amended to add a new chapter 8.30 to read as follows:

“Chapter 8.30

Water Conservation

Sections:

- 8.30.010 Purpose**
- 8.30.020 Definitions**
- 8.30.030 Application**
- 8.30.040 Permanent Water Conservation Requirements**
- 8.30.050 Level 1 Water Supply Shortage**
- 8.30.060 Level 2 Water Supply Shortage**
- 8.30.070 Level 3 Water Supply Shortage – Emergency Condition**
- 8.30.080 Procedures for Determination/Notification of Water Supply Shortage**
- 8.30.090 Hardship Waiver**
- 8.30.100 Penalties and Violations**

8.30.010 PURPOSE

The purpose of this Chapter is to establish a water conservation and supply shortage program that will reduce water consumption within the City of Claremont through conservation, assist in 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 to avoid and minimize the effect and hardship of water shortages to the greatest extent possible.

This chapter establishes water conservation restrictions intended to alter behavior related to water use efficiency at all times and further establishes three levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

8.30.020 DEFINITIONS

The following definitions shall apply to this Chapter:

1. **"Person"** means any natural person or persons, corporation, public or private entity, governmental agency or institution, or any other user of water in the City of Claremont.
2. **"Landscape irrigation system"** means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.
3. **"Large landscape areas"** means a lawn, landscape, or other vegetated area, or combination thereof, equal to more than one (1) acre of irrigable land.
4. **"Lawn, landscape or other vegetated area"** means any plant material.
5. **"Local Retail Water Agency"** means any agency or privately-owned company that provides water to residents, businesses and other water users in the City of Claremont.
6. **"Single pass cooling systems"** means equipment where water is circulated only once to cool equipment before being disposed.
7. **"Potable water"** means water which is suitable for drinking.
8. **"Recycled water"** means the reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.

8.30.030. Application

- a. The provisions of this chapter apply to any person in the use of any potable water in the City.
- 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 8.30.040(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.

- f. Where any provision of the Claremont Municipal Code is in conflict with this chapter, the provision of this Chapter shall take precedence.

8.30.040: Permanent Water Conservation Requirements

The following water conservation requirements are effective at all times. Any person who violates this section shall be subject to the penalties for violation as set forth in Section 8.30.100 and this Code.

- a. **Limits on Watering Hours:** Outdoor watering or irrigating of lawn, landscape or any other vegetated area with potable water is prohibited between the hours of 9 a.m. and 5 p.m. Pacific Standard Time (PST) 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. 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.
- 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 sidewalk, driveway, 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 equipped to recycle any water used, 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 five (5) business days of the property owner receiving notice from Local Retail Water Agency or the City of Claremont, 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. This subsection does not apply to any commercial car washing facility.
- h. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, 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. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.
- j. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- k. **No Installation of Non-recirculating Commercial Car Wash and Laundry Systems:** Installation of non-recirculating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
- l. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

8.30.050: Level 1 Water Supply Shortage

- a. Upon the declaration by the city manager of a Level 1 Water Supply Shortage condition, the City will implement the mandatory Level 1 conservation measures identified in this section. Following the City Manager's declaration, he or she shall agendize before the City Council an item for the council to affirm the declaration.

Generally, a Level 1 Water Supply Shortage is warranted when a reduction in consumer demand of up to 10 percent is needed to respond to existing water conditions. Conditions to be considered by the city manager and City Council in declaring a water supply shortage include, but are not limited to: time of year, local rainfall totals, regional/subregional water district's Water Supply Allocation Plans, groundwater use programs, State Water Project allocations or anticipated allocations, local or regional water system emergencies, or natural disasters that cause damage to water supplies or water distribution system.

- b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 8.30.40, the following water conservation requirements apply during a declared Level 1 Water Supply Shortage. Any person in violation of this Subsection shall be subject to the penalties for violation as set forth in Section 8.30.100 and this Code.
1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three (3) days per week on a schedule established and posted by the City of Claremont. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City of Claremont. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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.
 2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours of notification of the property owner by the City of Claremont or a Local Retail Water Agency unless other arrangements are made with the City or Local Retail Water Agency.

8.30.060. Level 2 Water Supply Shortage

- a. Upon the declaration by the city manager of a Level 2 Water Supply Shortage condition, the City will implement the mandatory Level 2 conservation measures identified in this section. Following the city manager's declaration, he or she shall agendize before the City Council an item for the council to affirm the declaration. Generally, a Level 2 Water Supply Shortage is warranted when a reduction in consumer demand of 11 to 30 percent is needed to respond to existing water conditions.

- b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 8.30.040 and 8.30.050, the following additional water conservation requirements apply during a declared Level 2 Water Supply Shortage.
1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two (2) days per week on a schedule established and posted by the City of Claremont. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City of Claremont. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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.
 2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty-eight (48) hours of notification of the property owner by the City of Claremont or the Local Retail Water Agency unless other arrangements are made with either the City or Local Retail Water Agency.
 3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling 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 supply shortage level under this ordinance.
 4. **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, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, by high pressure/low volume wash systems, or at a commercial car washing facility that utilizes a re-circulating water system to capture or reuse water.
 5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

8.30.070. Level 3 Water Supply Shortage Emergency

- a. A Level 3 Water Supply Shortage condition is also referred to as an "Emergency" condition. A Level 3 condition exists when the city manager declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the City will implement the mandatory Level 3 conservation measures identified in this section. Following the city manager's declaration, he or she shall agendize before the City Council an item for the council to affirm the declaration. Generally, a Level 3 Water Supply Emergency is warranted when a reduction in consumer demand of more than 30 percent is needed to respond to existing water conditions.
- b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 8.30.040, 8.30.050 and 8.30.060, the following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency.
 1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use, unless the City has determined that recycled water is available and may be applied to the use:
 - i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;
 - ii. Maintenance of existing landscape necessary for fire protection;
 - iii. Maintenance of existing landscape for soil erosion control;
 - iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;
 - v. 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 two (2) days per week according to the schedule established in Section 8.30.060 (b)(1) and time restrictions in Section 8.30.040 (a) and (b);
 - vi. Actively irrigated environmental mitigation projects.
 2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in any plumbing or water distribution system must be repaired within twenty four (24) hours of notification of the property owner

by the City or Local Retail Water Agency unless other arrangements are made with the City or Local Retail Water Agency.

8.30.080. Procedures for Determination/Notification of Water Supply Shortage

- a. **Declaration and Notification of Water Supply Shortage:** The existence of Level 1, Level 2 or Level 3 Water Supply Shortage conditions may be declared by the city manager and affirmed by resolution of the City Council adopted at a regular or special public meeting held in accordance with state law. The mandatory conservation requirements applicable to Level 1, Level 2 or Level 3 conditions will take effect ten (10) days after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City Council must publish a copy of the resolution in a newspaper used for publication of official notices.
- b. **Declaration and Notification that a Water Supply Shortage Has Ended:** The City Council may declare an end to a water supply shortage situation upon recommendation from the city manager, or designee, by approval of a resolution at a regular or special public meeting of the City Council.

8.30.090. Hardship Waiver

- a. **Undue and Disproportionate Hardship:** 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 users, then the person may apply for a waiver to the requirements as provided in this section.
- b. **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 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 Community Development Director 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 Local Retail Water Agency 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 Council 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, or his designee, 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 to the subject property during the period of the mandatory water supply shortage condition. The decision of the city manager, or his designee, will be final.

8.30.100. Penalties and Violations

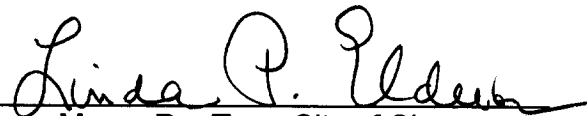
- a. **Misdemeanor:** Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.
- b. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:
 1. **First Violation:** The City may issue a written warning and deliver a copy of this ordinance by mail to a violator.
 2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars (\$100).

3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred and fifty dollars (\$250).
 4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation is punishable by a fine not to exceed five hundred dollars (\$500).
- c. **Separate Offenses:** Each day that a violation of this chapter occurs is a separate offense."

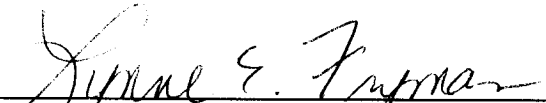
SECTION 2. Severability: If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City Council hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is declared invalid.

SECTION 3. The mayor shall sign this ordinance and the city clerk shall attest and certify to the passage and adoption of it, and within fifteen (15) days, publish in the Claremont Courier, a semi-weekly newspaper of general circulation, printed, published, and circulated in the City of Claremont and thirty (30) days thereafter it shall take effect and be in force.

PASSED, APPROVED, AND ADOPTED this 28th day of July, 2009.


Mayor Pro Tem, City of Claremont

ATTEST:


City Clerk, City of Claremont

APPROVED AS TO FORM:


City Attorney, City of Claremont

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CLAREMONT)

I, Lynne Fryman, City Clerk of the City of Claremont, County of Los Angeles, State of California, hereby certify that the foregoing Ordinance No. 2009-10 was introduced at a regular meeting of said council held on the 14th day of July, 2009, that it was regularly passed and adopted by said city council, signed by the mayor pro tem, and attested by the city clerk of said city, all at a regular meeting of said council held on the 28th day of July, 2009, and that the same was passed and adopted by the following vote:

AYES: COUNCILMEMBERS: PEDROZA, YAO, ELDERKIN, SCHROEDER

NOES: COUNCILMEMBERS: MAYOR CALAYCAY

ABSTAINED: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

Executed this 28th day of July, 2009 at Claremont, California.



City Clerk of the City of Claremont