

Eff.: 7/3/09

ORDINANCE NO. 3761

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF
BURBANK AMENDING ARTICLE 3 OF TITLE 8, CHAPTER 2 OF
THE BURBANK MUNICIPAL CODE RELATING TO
SUSTAINABLE WATER USE PRACTICES.**

1564

City Attorney's Synopsis

This ordinance amends Article 3 of Title 8, Chapter 2 of the Burbank Municipal Code (formerly Article 3 of Chapter 30) which establishes procedures for implementing and enforcing sustainable water use practices. The ordinance applies to all users of potable water service and prescribes mandatory water use practices related to outdoor uses such as irrigation of outdoor landscaped areas, washing down of driveways and walkways, and use of evaporative coolers (mistlers). The ordinance also establishes mandatory restrictions on service of drinking water at restaurants, hotels and eating establishments if not requested by customers. Implementation of Stages II, III, IV, V or VI requires future action of the Council. Enforcement of restrictions of Stages II, III, IV, V or VI, if ever adopted, would be by issuance of administrative citations pursuant to section 1-1-108.1 of the Burbank Municipal Code

THE COUNCIL OF THE CITY OF BURBANK FINDS:

- A. The City of Burbank (City) owns and operates a municipal water system that provides potable water to retail customers in the community through its municipal utility department known as Burbank Water and Power.
- B. The City's primary sources of water are locally produced ground water, and water imported from the State Water Project and the Colorado River by the Metropolitan Water District.
- C. It is desirable and in the best interests of the water users within Burbank's City limits to conserve and protect existing water supplies against waste and unreasonable uses.
- D. Water supply conditions exist from time to time that may require the reduction of the community's consumption of water.
- E. A Sustainable Water Use Ordinance encompassing mandatory conservation measures to reduce water use will best achieve the goals of conserving the water supply and avoiding wasteful uses, without unnecessary adverse economic consequences.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. Article 3 of Title 8, Chapter 2 of the Burbank Municipal Code is amended in its entirety to read as follows:

Sec. 8-2-301. Short Title.

This article shall be known and may be cited as the "Sustainable Water Use Ordinance."

Sec. 8-2-302. Statement of Policy and Purpose

(a) **Policy.** It is desirable and in the general welfare of the City that the water resources available to the City be put to maximum beneficial use to the extent possible and that waste, unreasonable use or unreasonable method of use be prevented, and that conservation of such water resources be exercised in a reasonable and beneficial manner for the residents and businesses of Burbank.

(b) **Purpose.** Conditions may arise from time to time that will limit the water supply to the City. This article provides procedures to reduce water use citywide and thereby mitigate the effect of a shortage of water resources. Through the use of incremental stages, as appropriate for prevailing conditions, this article provides for increasing levels of water use restrictions and penalties in order to discourage wasteful water use practices and achieve reduced water consumption.

Sec. 8-2-303. Application.

(a) The provisions of this article shall apply to all users of potable water service in the City, with the exceptions set forth in subsections (b) and (c) of this section.

(b) This article shall not apply to uses of water necessary to protect public health and safety or for essential public services such as police, fire, or sanitation

(c) This article shall not apply to use of recycled water.

Sec. 8-2-304. Sustainable Water Use Stages.

The water use restrictions imposed by this article shall be implemented in six stages. Stage I, consisting of sustainable water use measures that will be in place at all times, shall take effect immediately on the effective date of the ordinance enacting this article. Stages II, III, IV, V and VI shall require subsequent action of the City Council pursuant to section 8-2-305. The six stages are as follows:

(a) **Stage I.** In Stage I, water users shall follow these sustainable water use practices:

- (1) Do not water outdoor landscaped areas on rainy days and at least two days thereafter.
- (2) Do not water outdoor landscaped areas between the hours of 9:00 a.m. to 6:00 p.m. except by use of attended hand-watering, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system
- (3) Adjust sprinklers and irrigation systems to eliminate overspray and avoid run-off into streets, sidewalks, parking lots, alleys or other paved surfaces.
- (4) Do not hose or wash driveways, patios, sidewalks, or other hard or paved surfaces 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, or a low-volume, high-pressure cleaning machine equipped to recycle any water used.
- (5) Promptly repair all leaks from plumbing fixtures and irrigation systems, including but not limited to sprinkler systems.
- (6) When washing vehicles, use a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off device. This subsection does not apply to any commercial car washing facility.
- (7) Do not serve drinking water, unless specifically requested by the customer, in all restaurants, hotels, cafes, cafeterias or other public places where food is sold, served, or offered for sale.
- (8) 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.
- (9) Food preparation establishments such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves
- (10) Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- (11) Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- (12) Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
- (13) Effective January 1, 2010, all commercial conveyor car wash systems and commercial laundry systems must have installed operational re-circulating water systems.

- (b) Stage II. In Stage II, the conservation measures applicable in Stage I shall be augmented with the following additional mandatory measures:

- (1) Do not water outdoor landscaped areas more than fifteen (15) minutes per day per station and no more than three (3) days per week during the months of April through October. Do not water outdoor landscaped areas more than fifteen (15) minutes per day per station and no more than one (1) day per week during the months of November through March. Regardless of month, areas watered with drip irrigation systems or with low-flow sprinkler heads that require additional spray time are exempt from the 15-minute time restriction of this requirement, but must comply with the number of days per week watering limit
 - (2) During the months of April through October, the three allowable irrigation days are Tuesdays, Thursdays and Saturdays. During the months of November through March, the one allowable irrigation day is Saturday. Irrigation will not be allowed any day outside of the requirement listed here.
- (c) Stage III. In Stage III, all conservation measures applicable in Stage II shall apply, along with the following additional measures:
- (1) During the months of April through October do not water outdoor landscaped areas more than fifteen (15) minutes per station and no more than two (2) days per week. Areas watered with drip irrigation systems or with low-flow sprinkler heads that require additional spray time are exempt from the 15-minute time restriction of this requirement, but must comply with the limit of two days per week watering requirement. The two allowable irrigation days are Tuesdays and Saturdays. Irrigation will not be allowed any day outside of Tuesday or Saturday.
 - (2) Do not use outdoor evaporative cooling devices (for example, misters).
 - (3) The prohibition on watering outdoor landscaped areas between the hours of 9:00 a.m. to 6:00 p.m. extends to include attended hand-watering
 - (4) Cover all swimming pools, wading pools, or spas when not in use with acceptable protection designed to decrease water evaporation
- (d) Stage IV. In Stage IV, all conservation measures applicable in Stage III shall apply, along with the following additional measures:
- (1) Do not water outdoor landscaped areas more than fifteen (15) minutes per station and no more than one (1) day per week. Areas watered with drip irrigation systems or with low-flow sprinkler heads that require additional spray time are exempt from the 15-minute time restriction of

this requirement, but must comply with the limit of one day per week watering requirement. The one allowable irrigation day is Saturday. Irrigation will not be allowed any day outside of Saturday.

- (e) Stage V. In Stage V, all conservation measures applicable in Stage IV shall apply, along with the following additional measures:
 - (1) Deep irrigation of trees and shrubs only, two (2) days per month, 20 minutes per watering station. The two allowable deep irrigation days are the first and third Saturdays of each calendar month. Irrigation will not be allowed any day outside of these two Saturdays.
 - (2) No new or upgraded potable water service will be permitted, excepting R-1 and R-2 zones, unless a building permit has already been issued.
- (f) Stage VI. In Stage VI, all conservation measures applicable in Stage V shall apply, along with the following additional measures:
 - (1) Do not water outdoor landscaped areas at any time.

Sec. 8-2-305. Implementation of Sustainable Water Use Stages.

The sustainable water use practices provided for in section 8-2-304 shall be declared by resolution of the City Council. Before adopting any such resolution, the City Council shall hold a public hearing when required by Water Code section 350 or other applicable law. Any such resolution shall contain findings in support of the City Council's decision to impose any sustainable water use practices, and such findings or other determinations as may be required to comply with the California Environmental Quality Act.

Sec. 8-2-306. Enforcement

Any violation of this article shall be subject to enforcement by issuance of an administrative citation pursuant to section 1-1-108.1 of this Code. Prior to issuance of an administrative citation, the City shall give one courtesy notice requesting voluntary correction of the violation. The General Manager of Burbank Water and Power, or his or her designee, may enter into a written agreement with a customer to resolve any violation provided that such agreement is consistent with the purpose and intent of this article.

2. If any phrase, section, sentence, or word of this Ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other phrase, section, sentence, or word of the Ordinance that can be given effect without the invalid phrase, section, sentence, or word, and to this end each phrase, section, sentence, or word of this Ordinance is declared to be severable.

3. The proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) as it can be seen with certainty that there is no possibility that the proposed project would have an environmental impact. The proposed practices would conserve and protect existing water supplies through small-scale improvements and efforts that would not result in any environmental impacts. The project is further exempt from environmental review pursuant to State CEQA Guidelines Section 15301 relating to the repair, maintenance, or minor alteration of existing public and private structures or facilities involving negligible or no expansion of use and Section 15304 relating to the minor public or private alterations in the condition of land, water, and/or vegetation. Water conservation practices No. 1-8 would conserve and protect existing water supplies by regulating the time and manner of certain water use and methods of application of water for certain uses, require that plumbing fixtures and irrigation systems be in working order to avoid the unnecessary use of water, and provide the general public with opportunities to conserve at local businesses. Water conservation practices No. 9-13 involve minor alterations to existing buildings and facilities, with no expansion of structures or uses, that would conserve and protect existing water supplies. The Community Development Director or her designee, shall execute and cause a Notice of Exemption to be filed with the County Clerk of the County of Los Angeles pursuant to the California Environmental Quality Act.

4. The City Clerk shall certify to the passage of this Ordinance and cause it to be published once in a newspaper of general circulation, published and circulated within (14) days of adoption, in the City of Burbank, California.

5. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after adoption.

PASSED AND ADOPTED this 2nd day of June, 2009.



Gary Bric
Mayor of the City of Burbank

Attest



Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content
Dennis A Barlow, City Attorney

By: 
Richard J. Morillo
Senior Assistant City Attorney

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

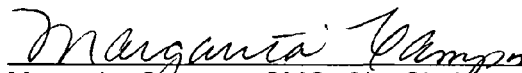
I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3761 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 2nd day of June, 2009, by the following vote:

AYES: **Council Members Golonski, Reinke, Talamantes and Bric.**

NOES: **Council Member Gordon.**

ABSENT: **Council Members None.**

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 10th day of June, 2009.


Margarita Campos, CMC, City Clerk