

ORDINANCE NO. 1383

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
RE: ESTABLISHING RULES AND REGULATIONS FOR RATIONING OUTDOOR WATER
USE DURING A WATER SHORTAGE EMERGENCY AND ESTABLISHING PENALTIES
FOR VIOLATIONS THEREOF

BE IT ORDAINED by the City Council of the City of Daly City, as follows:

SECTION 1. Daly City Urgency Ordinance No. 1125 is hereby repealed in its entirety and replaced to read as follows:

SECTION 2. **Findings and Determinations.**

A. A water shortage emergency condition prevails within the area served by the City of Daly City.

B. The State Water Resources Control Board “(State Water Board”) adopted emergency regulations requiring all urban water suppliers, including the City of Daly City, to immediately implement a water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water and establish penalties for violations.

C. In accordance with the State Water Board Resolution No. 2014-0038, the City of Daly City shall impose mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water and establish penalties for violations.

D. The actions taken hereinafter are exempt from the provisions of Section 21000 et. seq., of the Public Resources Code as a project undertaken as immediate action necessary to prevent or mitigate an emergency pursuant to Title 14, California Administrative Code Section 15269.

E. The City Council of the City of Daly City further finds and determines that because of the drought conditions prevailing, it would be in the best interests of the citizens of Daly City and for the immediate preservation of the peace, health or safety that this Ordinance takes effect immediately.

SECTION 3. **Definitions.**

A. 'City' shall mean the City of Daly City.

B. 'City Manager' shall mean the City Manager of the City of Daly City, his or her designated representative.

C. 'Person' means any person, firm, partnership, association, corporation, company, organization or governmental entity.

D. 'Customer' means any person, whether within or without the geographic boundaries of City who uses water supplied by City.

SECTION 4. Prohibition of Nonessential Water use.

It shall be unlawful for any person, firm, partnership, association, corporation or political entity to use water obtained from the water system of City for nonessential uses as hereinafter defined.

SECTION 5. Nonessential Uses Defined.

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

A. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots or structures.

B. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.

C. The application of potable water to driveways and sidewalks.

D. The application of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

SECTION 6. Outdoor Water Restrictions.

Outdoor water irrigation of ornamental landscapes or turf with potable water by the persons it serves shall be prohibited from the hours of 11:00 A.M. to 6:00 P.M. and limited to no more than two days per week.

SECTION 7. Exceptions.

Written application for an exception, adjustment or appeal of any action, notice or citation by City under this Ordinance may be made to the City Manager or his or her designee within ten (10) days after receipt.

The City Manager, or his or her designee, may:

A. Grant permits for the uses of water otherwise prohibited; or

B. Any customer may appeal the determination of the City Manager or his or her designee to the City Council by filing a written notice of the appeal within seven (7) days after receipt of the Notice of Determination. The City Council may reverse, modify or uphold the determination of the City Manager, or his or her designee if it determines that a water customer would otherwise experience extreme financial hardship that cannot be mitigated.

SECTION 8. **Enforcement.**

A. The Director of Water and Wastewater Resources, or his or her designee, is authorized to enforce all provisions of this Ordinance and has authority to issue a Warning Notice of Nonessential Water use and subsequent Water Waste Citation for any violation of any provision of this Ordinance.

SECTION 9. **Violations, Notices and Remedies.**

Violation of any provision of this Ordinance will result in the following course of enforcement actions:

A. Written Warning Notice of Nonessential Water Use documenting first violation(s).

B. Written Water Waste Citation of documented non-compliance and imposition of a fine not to exceed two-hundred fifty dollars (\$250) for the second violation.

C. Written Water Waste Citation of documented non-compliance and imposition of a fine not to exceed five-hundred dollars (\$500) for the third violation

D. Written Water Waste Citation of documented non-compliance and imposition of a fine not to exceed one-thousand dollars (\$1,000) for the fourth violation and each subsequent violation thereafter, not to exceed ten thousand dollars (\$10,000) within the calendar year.

E. Installation, at actual cost, of a flow restricting device upon posting advance notice on the property within 24 hours of such action. Posting of such notice shall be made upon the front entrance of the property and upon the garage door.

The City Attorney is authorized to enforce civil and administrative remedies imposed pursuant to this Section.

SECTION 10 **Civil Actions.**

A. In addition to any other remedies provided in the Code, any violation of this Code may be enforced by civil action brought by the City Attorney's Office.

B. In any such action, the City Attorney's Office may seek, and the court may grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, which led to the establishment of the violation, and for the reasonable costs of preparing and bring legal action under this section; and
3. Any other costs incurred in enforcing the provisions of this chapter.

SECTION 11. This Ordinance is hereby declared to be an urgency Ordinance and is adopted under the provisions of the Government Code of the State of California, Section 36937, subsection (b) thereof, and is to take effect immediately.

SECTION 12. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Daly City declares that it would have adopted each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 13. The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption Classes 1, 4, 5, 7, 8, 9, and or 21 of the CEQA Guidelines (Title 14, *California Code of Regulations*, Sections 15301-15329).

SECTION 14. **Effective Date.** This ordinance is an urgency ordinance enacted under California Government Code sections 36934 and 36937(b). This urgency ordinance is effective upon adoption by a four-fifths (4/5) vote of the City Council.

SECTION 15. Publication.

This 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 once in a newspaper of general circulation circulated within the City of Daly City. The City Clerk shall post at City Hall a copy of the full text of this Ordinance in accordance with Government Code Section 65858 and 75090.

The foregoing urgency ordinance was introduced and duly adopted by a four-fifths vote of the City Council of the City of Daly City at a special meeting of the City Council, held on the _

_____ 11th day of _____ August _____, 2014, by the following vote:

AYES, Councilmembers: _____ Buenaventura, Guingona, Klatt
_____ Torres, Canepa

NOES, Councilmembers: _____ None

Absent, Councilmembers: _____ None



CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

DAVID J. CANEPA
MAYOR OF THE CITY OF DALY CITY