

City of Los Alamitos

Agenda Report Ordinances

December 7, 2009
Item No: 9A

To: Mayor Troy Edgar & Members of the City Council

Via: Jeffrey L. Stewart, City Manager

From: Steven A. Mendoza, Director of Community Development

Subject: Second Reading of Ordinance No. 09-05 - Water Conservation Ordinance

Summary: At its regular meeting of November 16, 2009, the City Council conducted a first reading of Ordinance No. 09-05, the Water Conservation Ordinance.

Recommendation:

1. Adoption of Ordinance No. 09-05, second reading of an Ordinance, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, AMENDING CHAPTER 13.04, ORDINANCE 538, OF THE LOS ALAMITOS MUNICIPAL CODE RELATING TO WATER CONSERVATION."
2. Adopt Ordinance No. 09-05 by roll call vote.

Background

This item, first presented on August 17, 2009, was postponed to be presented in conjunction with a proposed Landscape Efficiency Ordinance. In response to the State of Emergency declared due to persistent drought conditions, the Metropolitan Water District of Southern California (MWD) has developed a Model Water Conservation Ordinance as a tool to help local jurisdictions adopt and enforce local water conservation measures in hopes of increasing water efficiency. The Model Ordinance can be adopted or revised by member agencies and local government to improve water use efficiency within their jurisdictions.

The Model Ordinance includes permanent water-waste prohibitions, escalating water restrictions to be implemented over three water supply shortage conditions, and penalties and other general provisions for consideration. The permanent water-waste restrictions include behavioral measures such as limiting watering times, prohibiting washing of paved surfaces, and controlling excessive runoff.

The City of Los Alamitos currently has a Water Conservation Ordinance. Ordinance No. 538 was adopted in 1991. It applied conservation guidelines to residential, commercial, industrial and agricultural uses from April to September; wherein the MWD Model Ordinance is year round. Additionally, it provides warnings for 1st and 2nd violations and citations/fines for 3rd, 4th and 5th violations, as well as misdemeanors. The Ordinance was adopted as an Emergency Ordinance. Later in this report, there is a matrix comparing the City's current Ordinance with the MWD Model Ordinance.

As a reminder, the City of Los Alamitos does not operate water service within its boundaries. Water service is provided by Golden State Water. The City of Los Alamitos does not have access to water user records or consumption records.

To qualify under MWD's new policy, a Water Conservation Ordinance must prohibit certain outdoor uses of water, regulate irrigation practices, provide penalties for violators, and include a public communication component for reporting violations. Although MWD has developed the Model, there are no funds provided to cities for a communication component. Communicating with the water user is an important part of water conservation. Staff would recommend information be readily available to users via internet, City publications, cable television and newspapers, along with a brochure series created instead of just publishing the Ordinance.

The proposed changes to the existing ordinance consist of permanent water conservation standards intended to alter behavior related to water use efficiency for non-shortage conditions. In addition, the proposed ordinance establishes four phases of water supply shortage response actions to be implemented during times of a declared water shortage, declared water shortage emergency with increasing restrictions on water use as drought or emergency conditions worsen, or water supplies decrease.

The Model Ordinance from MWD also allows for the local jurisdiction to declare a water conservation phase with a specific start date effective upon publication in a daily newspaper of general circulation within the City. The suggested phases are:

- Phase 1 - City Council determines, at its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions.
- Phase 2 - City Council determines, at its sole discretion, that due to drought or other water supply conditions, a severe water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions.
- Phase 3 - "Emergency Condition" exists when the City Council 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.

Staff has developed an at-a-glance comparison of the City's existing Water Conservation Ordinance with that of the MWD Model Ordinance.

In summary, the MWD Model is a year-round restriction, wherein the City's Ordinance is currently April through September. The Model Ordinance established water conservation measures on restaurants, hotels, and carwashes. The MWD Ordinance recommends higher penalties than Los Alamitos and the MWD Model Ordinance restricts lawn watering to 15 minute intervals. The most substantive difference is the City's Ordinance does not include phasing. The MWD Model introduces three phases of water regulations with separate levels of conservation practices.

Neighboring Cities

Seal Beach - The City of Seal Beach adopted an Ordinance in May 2009 that mimics the MWD, including the phasing (Attachment No. 3). They have included a section wherein a user may apply for relief from water conservation measures. They have also included some changes from the MWD Model that allows a Second Violation to become a surcharge equal to 15% of the water bill. The City of Seal Beach is the purveyor of its own water system.

Cypress – A conversation with Cypress staff indicated that they have yet to take anything to Council.

La Palma – The La Palma City Council reviewed a version of the Ordinance on July 7, 2009. They continued the item to a future council meeting to gather more detail on historic usage on water bills (City of La Palma is the water purveyor). The issue has not been placed on their agenda as of August 11, 2009.

Golden State Water – On July 27, 2009, staff met with Golden State Water Company, the City's water purveyor, to gain its perspective on the MWD Model Ordinance and to determine the level of assistance available to inform the public. Golden State Water has offered its assistance in using its billings for outreach to the customer, if so desired by the City of Los Alamitos.

Other Cities – Other MWD cities have adopted the MWD model ordinance, variations of the model, or modified their existing Ordinance to mimic the MWD Model Ordinance. There are a few cities that have been resistant to such an Ordinance. Attached is an article from the Whittier Daily News (Attachment No. 5) explaining the participation, or hesitation to participate, of some Los Angeles County Cities.

Some cities, who also are water purveyors, have established a surcharge onto water bills for fines and infractions. Los Alamitos does not have that opportunity. The MWD Water Conservation Ordinance states that irrigation systems may not be operated between the hours of 9 a.m. and 5 p.m. and may not exceed 15 minutes. Irrigation systems may operate no more than once a day and not in a manner that creates runoff.

WATER CONSERVATION ORDINANCE COMPARISON TABLE

Regulations	MWD Model	1991 Los Alamitos Ordinance
On-Going	No watering 9 a.m. to 5 p.m.	No Water 9am - 6pm April – Sept.
	Watering Limit of 15 minutes	Does not currently apply
	No Excessive runoff	
	No washing down of hard or paved surfaces	
	Obligated to fix leaks within 7 days of notice	
	Fountains allowed only with recirculating water	
	Wash vehicles only with bucket or shut off nozzle	
	Restaurants only serve water on request	
	Hotels must provide option to decline linen service	
	No installation of single pass cooling systems	
	No installation of non-recirculation car wash systems	
	Restaurants must use conserving nozzles	
	Carwash use recirculating water Jan 1, 2011.	
Water rules apply to all users	Agriculture users/Nurseries shall water between 6pm & 11am April – Sept.	
Water Conservation Phases		
Level 1 Phasing	Watering limited to 3 days a week	Does not currently apply
	Fix leaks within 72 hrs.	
Level 2 Phasing	Watering limited to 2 days per week	
	Fix leaks within 48 hours	
	No filling of lakes/ponds	
	Wash vehicles only at car wash system	
Level 3 Emergency	No watering or irrigating with certain exceptions	
	Fix Leaks within 24 hours	
	No new potable water service	
	No new annexation to service areas	
	Limit or withhold building permits	
No new annexations.		
Other Provisions	Water allocation penalties for exceeding allotments	Does not currently apply
	Mandatory % reduction and penalties for overage	
	Large landscape areas must have rain sensors	
	Recycled or non-potable water used for construction	
	Must use recycled water if entity shows cost effective alternative	
	Recycled water must be used for new water connection if feasible	
	City prepares water recycling plan. Reports progress	
	Department prepare annual conservation reports	
Penalties	1. Warning	1. Warning
	2. Citation/\$100 fine	2. Warning
	3. Citation/\$250 fine	3. Citation/\$50 fine
	4. Citation/\$500 fine	4. Citation/\$100 fine
	5. Misdemeanor \$1,000 and/or 30 days in jail	5. Citation/\$200
	6. May force water flow restrictor	6. Misdemeanor \$1,000 and/or 30 days in jail
	7. Discontinue Service	

The Model Ordinance bans using water to wash down sidewalks and driveways, and requires people to inspect any accessible plumbing under their control for leaks, as well as repair any leaks as soon as reasonably practicable. The Model Ordinance requires that decorative fountains have a recycle/recirculation system. It also requires use of automatic shut-off nozzles for washing vehicles. The Ordinance prohibits restaurants, cafes, and other eateries from serving water unless requested by the customer. The enforcement component of the Ordinance provides for a written warning to be issued for an initial violation and implements a \$100 fine for subsequent violations.

By adopting such an Ordinance, the City of Los Alamitos would have the legal authority to enforce all components through Code Enforcement in the same manner as any other City Codes. City staff will not make changes from its current enforcement procedures. The enforcement of water conservation issues will remain reactive as it has been previously. Historically, Code Enforcement has responded to reports of overflowing sprinklers and overwatering in response to concerns of neighbors. MWD has stated the goal of the Water Conservation Ordinance is to discourage wasteful practices, not to obligate municipalities to enforce the elements of the Ordinance. The proposed Ordinance will be segmented between permanent measures and Stage 1, Stage 2, and Stage 3 measures.

MWD targeted municipalities specifically with the Conservation Ordinance requirement because private utilities lack the legal authority to adopt ordinances. Local water purveyors are required to take action in times of severe water shortages. Water purveyors like Golden State Water Company must develop and adopt a contingency plan to address water shortages. This plan must have stages to respond to a worsening shortage, an action plan for emergency response, and consumption reduction methods. Purveyors may also introduce charges and penalties for excessive use. This plan can be used to help coordinate water needs. The Model Ordinance poses no obligations upon the water purveyors because it only applies to "persons" using water. Ideally, the Ordinance may lead to conservation and ease the demand on water utilities.

In order to comply with MWD requirements, the City needs to amend previously adopted codes. By adopting the Model Ordinance the City would remain eligible to receive funding from MWD. Program funds could be used to offset costs for upgrading appliances and fixtures with water efficient models, conducting public information campaigns, complying with new regulations, and for large scale water conservation projects. Cities that do not adopt a MWD-approved Water Conservation Ordinance will be ineligible to receive funds through MWD's Public Sector Program and the Enhanced Conservation Program. The Program funds retrofit of community parks and buildings with water conservation devices, while the Enhanced Conservation Program funds innovative water conservation programs in the public sector. These two programs have a combined total of \$5.25 million in grant funding available, and will receive an additional \$10 million over the next two years. The MWD's Public Sector and Enhanced Conservation Programs include rebates to public agencies, businesses, and private individuals who buy and install approved water conservation devices. This Model

Ordinance would also be another tool available to the City of Los Alamitos to encourage conservation and better stewardship of water resources.

As a point of clarification, there are two water issues being suggested to jurisdictions this year. In addition to the Water Conservation Ordinance, California Department of Water Resources is enforcing AB 1881. AB 1881 requires local jurisdictions adopt the updated Model Water Efficient Landscape Ordinance, or adopt its own Local Landscape Ordinance by January 1, 2010.

Fiscal Impact

The adoption itself does not have a fiscal impact. The development of an appropriate public outreach program including mailings, advertisements, and postage could run into the thousands of dollars which is unbudgeted. Golden State Water has agreed to make its mailings usable for this purpose. The enforcement of the Ordinance will involve the participation of Code Enforcement staff, the Community Development Director and, in some very rare instances, the prosecuting attorney for enforcement purposes.

Submitted By:

Approved By:

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Director of Community Development

Jeffrey L. Stewart
City Manager

Attachments: 1) Ordinance No. 09-05