Meeting Date: **9/15/2015**

Report Type: Consent

Report ID: 2015-00743

City of SACRAMENTO 16

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: (Pass for Publication) Ordinance Amending Sacramento City Code 13.04.900 Relating to Outdoor Water Conservation

Location: Citywide

Recommendation: 1) Review an Ordinance amending Sacramento City Code section 13.04.900, relating to Outdoor Water Conservation, to incorporate an administrative review step into the notice of violation appeal process; and 2) pass for publication the Ordinance title as required by Sacramento City Charter 32(c) to be adopted on September 24, 2015.

Contact: William Granger, Water Conservation Administrator, (916) 808-1417; Bill Busath, Director, (916) 808-1434, Department of Utilities

Presenter: None

Department: Department Of Utilities
Division: Water Conservation & Mgmt
Dept ID: 14001031
Attachments:
1-Description/Analysis
2-Background
3-Ordinance (Clean)
4-Ordinance (Redline)

City Attorney Review

Approved as to Form
Joe Robinson
9/5/2015 5:18:09 PM

Approvals/Acknowledgements

Department Director or Designee: Bill Busath - 8/28/2015 12:08:08 PM

Description/Analysis

Issue Detail: A City Code amendment is recommended to revise the process followed when a utility customer appeals a Notice of Violation (NOV) issued for violation of the City's outdoor water use requirements.

Policy Considerations: The City's Outdoor Water Conservation ordinance provides an administrative appeal process when the NOV is issued. A code amendment is recommended to incorporate an administrative review step to improve communication with customers who file appeals and reduce the need for administrative hearings.

Economic Impacts: None.

Environmental Considerations: This report concerns administrative activities that will not have any significant effect on the environment, and do not constitute a "project" as defined by CEQA [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

Sustainability: Article XI (Outdoor Water Conservation) of Chapter 13 of the City Code supports the City's sustainability goals of reducing greenhouse gases by conserving water resources.

Commission/Committee Action: The proposed ordinance was approved and forwarded for City Council consideration by the Law and Legislation Committee on September 8, 2015.

Financial Considerations: Not Applicable

Rationale for Recommendation: The ongoing drought and State-mandated water use reductions have resulted in a sharp increase in the issuance of NOVs of the City's Outdoor Water Conservation ordinance. The number of property owner appeals of the NOVs has also increased. The Department is proposing improvements to the appeal process to incorporate an administrative review step to make the appeal process more efficient and better serve City utility customers. A detailed summary of the proposed changes is provided in the Background section of this report.

Local Business Enterprise (LBE): Not applicable.

Background

The proposed ordinance revision updates City Code section 13.04.900, which governs appeals of NOVs issued for violation of the City's outdoor water conservation requirements. Existing code provides the owner or occupant of the premises where the violation occurred the opportunity to appeal the NOV, and requires the Utilities Director or the Director's designee to hold a hearing on the appeal. The proposed amendment to the Code adds in an administrative review by Department staff after an appeal is filed. This provides an opportunity for staff to review the NOV, request additional information, or provide additional information to the appellant, prior to scheduling an appeal hearing.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 13.04.900
OF THE SACRAMENTO CITY CODE, RELATING
TO OUTDOOR WATER CONSERVATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 13.04.900 of the Sacramento City Code is amended to read as follows:

13.04.900 Appeal.

A. The owner or occupant of the premises where the violation occurred may appeal a notice of violation issued under section 13.04.890.A by filing a written notice of appeal with the director not later than 30 days after the notice of violation is issued. The notice of appeal shall specify the grounds for appeal, and shall provide the appellant's telephone number and address for receipt of the city's written notices relating to the appeal.

B. Upon receipt of a timely notice of appeal, department staff will review the notice of violation and the appellant's grounds for appeal. Department staff may request additional information from, or provide additional information to, the appellant. At the conclusion of this administrative review process, department staff will notify the appellant if the notice of violation will be dismissed or department staff finds a sufficient basis for the notice of violation. If department staff finds a sufficient basis for the notice of violation, department staff also will notify the appellant that appellant may request a hearing on the appeal and how to make the request.

C. If the appellant requests a hearing on the appeal not later than five days after receiving the department staff notification described in subsection B of this section, the director shall set the matter for an informal hearing at the earliest practical date. Not less than seven days prior to the hearing date, the director shall provide written notice of the hearing to the appellant. At the hearing, the director shall hear any relevant evidence presented by the appellant or department staff, and may uphold, modify, or rescind the notice of violation, including the penalty imposed by the notice of violation, if any. The appellant shall be provided written notice of the determination of the director that sets

forth findings in support of the determination. The determination of the director is the city's final administrative determination of the matter.

D. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal or to request and attend a hearing in accordance with the provisions of this section constitutes an irrevocable waiver of the right to appeal and a failure to exhaust administrative remedies with regard to the notice of violation.

E. If department staff dismisses the notice of violation or the director determines that a penalty shall not be imposed, the penalty shall be removed from the water service bill for the premises where the violation occurred.

F. The director may designate one or more employees of the department to hear and determine appeals of any notice of violation, provided that the designated employee(s) shall not be employed within the section issuing the notice of violation or performing the administrative review described in subsection B of this section.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 13.04.900 OF THE SACRAMENTO CITY CODE, RELATING TO OUTDOOR WATER CONSERVATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 13.04.900 of the Sacramento City Code is amended to read as follows:

13.04.900 Appeal.

A. The owner or occupant of the premises where the violation occurred may appeal a notice of violation issued under section 13.04.890.A by filing a written notice of appeal with the director not later than 30 days after the notice of violation is issued. The notice of appeal shall specify the grounds for appeal, and shall provide the appellant's telephone number and address for receipt of the city's written notices relating to the appeal.

B. Upon receipt of a timely notice of appeal, department staff will review the notice of violation and the appellant's grounds for appeal. Department staff may request additional information from, or provide additional information to, the appellant. At the conclusion of this administrative review process, department staff will notify the appellant if the notice of violation will be dismissed or department staff finds a sufficient basis for the notice of violation. If department staff finds a sufficient basis for the notice of violation, department staff also will notify the appellant that appellant may request a hearing on the appeal and how to make the request.

C. If the appellant requests a hearing on the appeal not later than five days after receiving the department staff notification described in subsection B of this section, the director shall set the matter for an informal hearing at the earliest practical date. Not less than seven days prior to the hearing date, the director shall provide written notice of the hearing to the appellant. At the hearing, the director shall hear any relevant evidence presented by the appellant or department staff, and may uphold, modify, or rescind the notice of violation, including the penalty imposed by the

notice of violation, if any. The appellant shall be provided written notice of the determination of the director that sets forth findings in support of the determination. The determination of the director is the city's final administrative determination of the matter.

~~C~~D. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal or to request and attend a hearing in accordance with the provisions of this section constitutes an irrevocable waiver of the right to appeal and a failure to exhaust administrative remedies with regard to the notice of violation.

~~D~~E. If department staff dismisses the notice of violation or the director determines that a penalty shall not be imposed, the penalty shall be removed from the water service bill for the premises where the violation occurred.

~~E~~F. The director may designate one or more employees of the department to hear and determine appeals of any notice of violation, provided that the designated employee(s) shall not be employed within the section issuing the notice of violation or performing the administrative review described in subsection B of this section.