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REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

STAFF REPORT
October 20, 2009

Honorable Members of the
Law and Legislation Committee

Title: Amend Chapter 13.04, Article XI of the Sacramento City Code, Relating to Outdoor Water Conservation

Location/Council District: Citywide

Recommendation: (1) Approve amendments to Article XI of Chapter 13.04 of the Sacramento City Code pertaining to outdoor water use requirements to improve implementation of the water conservation program, and 2) forward to the City Council for adoption.

Contact: Michael Malone, Field Services Manager, 808-6226
Terrance Davis, Field Services Program Manager, 808-4929
Julie Friedman, Water Conservation Coordinator, 808-7898

Presenters: Michael Malone, Field Services Manager
Terrance Davis, Field Services Program Manager

Department: Utilities

Division: Field Services Division, Water Conservation

Organization No: 14001441

Description/Analysis

Issue: When the City Council adopted revisions to the City's Outdoor Water Conservation Ordinance on May 12, 2009, the Council requested that staff return after six months with an update on the implementation of the ordinance, including possible amendments.

During the summer of 2009, the Department of Utilities launched a comprehensive customer outreach effort to inform and build awareness about the new ordinance and provide ways to help customers become more water efficient.

During this time, City staff, community groups, regional and statewide agency representatives, and Water Conservation Ambassadors assisted in educating customers about the Water Conservation program and new ordinance requirements, and provided feedback on the effectiveness of the ordinance and program.

Based on comments from customers and community stakeholders and staff's own experience implementing the ordinance, staff recommends amendments that will (1) promote drip irrigation and other low volume irrigation methods that reduce outdoor water use by limiting restrictions on when they can be used, (2) allow for either Saturday or Sunday irrigation after daylight savings time is completed, rather than limiting customers to one specified weekend day based on their address, and (3) add more detail to the penalty provisions. These recommendations and program updates are described in the background section of this report.

Policy Considerations: Over the past eighteen years, the City has been committed to meeting Best Management Practices (BMPs) through the Water Forum and California Urban Water Conservation Council (CUWCC). In order to meet these BMPs it is paramount for the City to have an effective water conservation ordinance and enforcement strategy.

The Outdoor Water Conservation Ordinance is consistent with City Council goals for achieving sustainability and livability and contributes to the City's efforts to reduce water waste. In addition, the ordinance is consistent with the City's approved Sustainability Master Plan (Resolution No. 2007-944).

Environmental Considerations: The California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (CEQA Guidelines § 15061(b)(3)). Adoption of the proposed ordinance to provide the City with better tools to prevent water waste and regulate water use for purposes of water conservation will not cause any significant environmental effects. In addition, under CEQA Guidelines § 15378(b), continuing administrative activities do not constitute a project and are, therefore, exempt from review. The Water Conservation program provides the overall framework to move the City toward sustainability, thereby having a positive impact on the environment.

Rationale for Recommendation: The recommended amendments will improve the Outdoor Water Conservation Ordinance, facilitate implementation of the program, and meet the City's commitments to improved water efficiency.

Financial Considerations: The ordinance institutes fines for violating the ordinance after the second violation in a twelve month time period. These fines would be collected and directed back to the Department of Utilities Water Conservation Office for the purpose of outreach and education activities. The

proposed ordinance includes a new provision that limits application of the penalty waiver provided for attendance of a water conservation class to once in any 24 month period.

Emerging Small Business Development (ESBD): No goods or services will be purchased as a result of the proposed actions in this report. Therefore, there are no Emerging Small Business Development issues.

Respectfully Submitted by: _____
Julie Friedman
Water Conservation Coordinator

Approved by: _____
Marty Hanneman
Director, Department of Utilities

Recommendation Approved:

for Patty Bickerstaff
Ray Kerridge
City Manager

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Attachment 1

BACKGROUND

The recently revised Water Conservation Ordinance establishing outdoor water use requirements was adopted on May 12, 2009 and went into effect on June 12, 2009. Water conservation and prohibiting water waste is important for maintaining and protecting the water supply during dry years and minimizing the City's carbon footprint by reducing the demand for water diversion and treatment. The City's efforts benefit California's river resources by reducing the region's surface water demand. In addition, this ordinance supports water shortage response measures.

As a signatory to the California Urban Water Conservation Council (CUWCC), the City is committed to implementing a comprehensive water conservation plan consisting of a series of Best Management Practices (BMPs). Two categories, Utility Operations and Education, are "Foundational BMPs" because they are considered to be essential water conservation activities for any utility. The City's Water Conservation Ordinance implements these BMPs.

During the summer of 2009, customers, stakeholders, City staff and regional and statewide agency representatives provided their feedback on the effectiveness of the ordinance and water conservation program. These groups provided input which staff has addressed through the proposed amendments to the ordinance.

As requested by City Council on May 12, 2009, staff is reporting back within six months with an update on the ordinance implementation, including proposed amendments.

Update and Program Highlights

The Department of Utilities reached out to its customers by launching a comprehensive outreach effort to inform and build awareness about the ordinance as well as provide ways to help customers become more water efficient (see Attachment 2, Water Conservation Implementation Update, May through September 2009). City staff, community groups and strategic City partners, and Water Conservation Ambassadors helped in communicating the Water Conservation program and new ordinance requirements.

Recommendations for Amendments

As a result of the comments provided by customers, Councilmembers, City staff, community groups, stakeholders, regional and statewide agency representatives, and Ambassadors, ordinance amendments are being recommended to enhance the ordinance's ability to be enforced and to encourage more responsible irrigation behaviors. These recommendations are shown in Table 2 in Attachment 3, Comparison, Current Ordinance and Proposed Amendments (in a side-by-side comparison).

The primary proposed amendment recommendation is the removal of limits to the watering schedule for drip or low volume irrigation. In addition, specific drip irrigation language from the Department of Water Resources' recent model landscape irrigation ordinance was included.

Removal of this provision will allow residents and businesses using low volume irrigation systems to water for as long as they need provided this does not cause any water run-off prohibited by the ordinance. This will allow residents and businesses with plants that require deep and infrequent soaking, typically native or drought tolerant plants, to water their plants as needed for optimal growth.

Additional changes are to the winter watering schedule that limits outside irrigation during cooler and wet winter months and requires the odd/even schedule on the weekend. The recommended change is to allow watering during the wet season (after daylight savings time ends) on Saturday or Sunday. This change is intended to help customers with concerns pertaining to vehicle washing on the weekend.

Staff continues to recommend that the ordinance contain the odd/even watering schedule during daylight savings time, as is provided in the current City Code. This will help to allow for steady water consumption during the six watering days each week, with a low-level consumption day on Monday when there is no watering allowed. If residents were allowed to water as they wished, consumption could vary greatly daily. In addition, the prohibition of watering between 10 a.m. and 6 p.m. will allow for energy savings at the treatment plants and pumping stations as it limits demands for water use during Sacramento Municipal Utility District's peak hours.

Attachment 2

Water Conservation Implementation Update, May through September 2009

- **Three Spare the Water Alerts Issued to Conserve Water and Energy.**
  The City issued three "Spare the Water Alerts" when temperatures were expected to be near or reached 100 degrees for at least three consecutive days and demand for water was projected to be high. On those days, customers were urged to reduce and delay non-essential water use in order to conserve water and energy by delaying landscape irrigation and use of indoor appliances (such as dishwashers and washing machines) until late at night or early morning. Customers were notified of the Alert via the City's web site and news media announcements and provided tips on reducing water use at www.SpareSacWater.org.

- **Provided Free Water Wise House and Business Calls; calls increased by 60 percent.** Water Conservation Specialists received approximately 186 requests for landscape irrigation audits this past season. Specialists visited 166 homes or business by appointment. They assessed customer's current water management in and around their home or business, identified needed repairs, provided suggestions for water efficient systems and instructions on how to use irrigation controllers, and recommended an irrigation schedule appropriate for plants and soils. They additionally qualified requesting customers to receive a rebate for high efficiency toilets or washing machines. These calls increased by approximately 60 percent from the prior year, 2008's season.

- **Utilized 311 for Reports of Water Waste or Run-off and for Enforcement; Water waste calls increased by 133 percent in the past five months.**
  Calls were relayed to 311. The City 311 received 2,970 calls this season. Water Conservation Specialists provided follow up with investigative site visits. Effective this summer, those customers that were reported in a second call following an initial courtesy visit were subject to be fined $25; this fine could be waived by the customer attending an educational seminar at the Water Conservation Office. If a third offense was reported, the fine would increase to $100, and to $500 for the fourth violation. Five Conservation Workshops were held this last summer season, with sixteen (16) people attending.

  Approximately 2,300 water waste calls were addressed by Water Conservation staff during the 5-month period, May through September. Door tag courtesy notices were left with customers (156 notice of violations) when the Water Waste Inspector or Water Conservation Specialist observed a violation. Three second notices of violations were issued: Two were waived after the customer attended a water conservation workshop, and one is pending (awaiting the 60-day period that customers have to waive the fine by attending a workshop).

Customer water waste calls increased 133 percent in the last five months of 2009 as compared to 2008 (see Figure 1 and Table 1 below).

Figure 1. Comparison of Water Waste Service Requests, 5-Month Season, 2008 and 2009

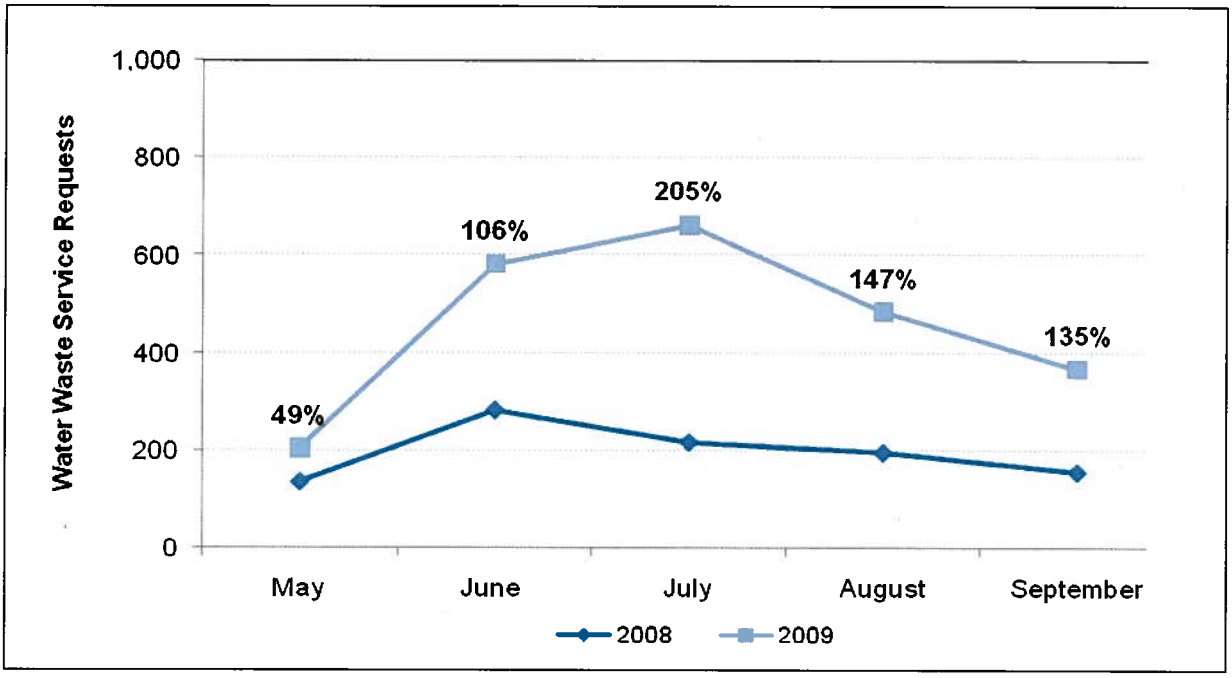

Table 1. Comparison of Water Waste Service Requests, 5-Month Season, 2008 and 2009

Months	Water Waste Calls 2008	Water Waste Calls 2009	Water Waste Calls Percent increase
May	136	203	49%
June	282	581	106%
July	217	661	205%
August	196	484	147%
September	156	366	135%
Total, 5 Months	**987**	**2,295**	**133%**

- **Increased Awareness and Outreach**
  During daylight savings time, customers were made aware of the schedule to water three days per week on an odd/even schedule, before 10 a.m. and after 6 p.m., as follows: Addresses ending in an odd number are on the Tuesday, Thursday and Saturday watering schedule; those ending in an even number are on the Wednesday, Friday and Sunday schedule; Monday watering is not allowed. Vehicle washing was based on the odd/even schedule, and new landscaping may be watered every day for 21 days after installation to allow for plants to root.

  Water Conservation Specialists were available to answer questions and participated in neighborhood or community meetings. A summary of outreach provided in the last five months is described in Table 2 below.

Table 2. Water Conservation Outreach and Education, May-September, 2009

Category	Description
Print	Sacramento Bee, Hai Van News, Sacramento News and Review
Television (stories aired)	News 10 (ABC), KCRA 3 (NBC), Univision
Radio (stories aired)	Radio Disney AM 1470, Capital Public Radio, CBS Radio Stations 1140: AM KHTK (Sports 1140), 100.5 FM KZZO (The Zone), KNCI-FM Country 105.1, KQJK-FM Jack 93.7, KSFM-FM and KYMX-FM 96.1, KFBK AM 1530 KEAR-FM 88.1, KEBR 1210 AM, KHAP 89.1 FM, KPRA 89.5 FM
Web	AP Story, Sacramentopress.com, inourpocket.com, KCRA 3, KGET 17/NBC (Bakersfield): AP Story (Web), CBS 13/CW 31 (Web), CBS 47 TV (Fresno): AP Story (Web); Twitter, NRGideas blog
City Website	Developed www.sparesacwater.org and included FAQs from customer and media comments and questions; added high efficiency toilet and washing machine rebate applications
Media Partnerships (included PSA messaging)	Radio Disney AM1470 and Capital Public Radio
Presentations to Community Groups	Latina Luncheon CAPITAL Organization Pocket Neighborhood
Customer Bill Inserts	3 Utility Bill Stuffers (Landscape Smart (May) , Spare Sacramento Water (July), and Irrigation Reminder (October))
Provided Monthly Educational Workshops	5 Water Conservation Workshops, 16 attendees
Neighborhood Services Workshops	4 Green Gardener Workshops (North, South, East, West)
Events	Zone and Radio Disney Events: REI, Capital Nursery, Home Depot, Arden Fairytale Town Goes Green Pacific Rim Festival Chinese Mall Event

Table 2. Water Conservation Outreach and Education, May-September, 2009 (Continued)

Category	Description
Developed Promotional Items	Tip Cards, Watering Schedule Magnets (4 languages)
City Vehicle Advertising	Truck Magnets (Utility and Solid Waste Vehicles)
Billboards	6 Billboards throughout City
Participation in Regional, Statewide Meetings	RWA, Water Forum, and CUWCC
Community Presentations, Newsletters	Homeowner and Neighborhood Associations The Sacramento Chinese Community Service Center Our Lady of Guadalupe Church La Familia Counseling Center Franklin Center Business Walk (Hispanic Chamber) MAAP, Sacramento Community Health Center

Attachment 3

Comparison, Current Ordinance and Proposed Amendments

Proposed changes are noted in bold.

Revised Ordinance (Effective June 12, 2009)	**Proposed Amendments to Ordinance (October 20, 2009)**
Water run-off prohibited	No change
Odd-Even Watering Schedule: Addresses ending in an ODD number (1,3,5,7,9) may water on Tuesday, Thursday, and Saturday; Addresses ending in an EVEN number (0,2,4,6,8) may water on Wednesday, Friday, and Sunday; There is no watering on Mondays	Added: **Limitations to the watering schedule shall not apply to drip or low volume irrigation.** More specifics are added, using language from DWR's recent model landscape irrigation ordinance on drip irrigation.
No watering between 10 a.m. and 6 p.m. on your watering day	Added: **Limitations to the watering schedule shall not apply to drip or low volume irrigation.**
Seasonal (Winter) watering schedule limits watering to 1 day per week during wet season (after daylight savings time ends) Addresses ending in an ODD number (1,3,5,7,9) may water on Saturday; Addresses ending in an EVEN number (0,2,4,6,8) may water on Sunday. Vehicle washing is limited to Saturday for odd, Sunday for even schedule. Hoses must have an auto-shut off nozzle.	Changed Seasonal (Winter) watering schedule: Limits watering during wet season (after daylight savings time ends) **to Saturday or Sunday.** **Limitations to the watering schedule shall not apply to drip or low volume irrigation.** Vehicle washing is limited in Winter schedule to **Saturday or Sunday**. Hoses must have an auto-shut off nozzle.
1st Violation: Written notification to Property Owner and Tenant. 2nd Violation: Written notification to Owner and Tenant and $25 fine (can be waived by attending a Water Conservation Seminar). 3rd Violation: Written notification to Owner and Tenant and $100 fine. 4th Violation: Written notification to Owner and Tenant and $500 fine.	1st Violation: Written notification to Property Owner and Tenant. 2nd Violation: Written notification to Owner and Tenant and $25 fine (can be waived by attending a Water Conservation Seminar **provided that only one such penalty waiver shall be allowed for the premises within any twenty-four (24) month period.** 3rd Violation: Written notification to Owner and Tenant and $100 fine. 4th Violation: Written notification to Owner and Tenant and $500 fine. **The written notices shall provide notice of the right to appeal;** **The penalties shall be imposed on the owner of the premises where the violation occurs regardless of whether the violation is committed by the owner of the premises or any other person.**

Attachment 4

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING ARTICLE XI
OF CHAPTER 13.04 OF THE SACRAMENTO CITY CODE,
RELATING TO OUTDOOR WATER CONSERVATION

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

SECTION 1

Article XI of Chapter 13.04 of the Sacramento City Code is amended to read as follows:

Article XI Outdoor Water Conservation

13.04.830 Legislative Intent.

The city council finds and determines:

A. To prevent waste and ensure reasonable use of water supplied by the city water distribution system, it is necessary and desirable to enact certain limitations to promote water conservation by city customers.

B. These limitations should be focused on outdoor water use, because the maximum demands for water from the city's water distribution system occur during the summer months, with outdoor irrigation use exceeding all other demands.

C. Water use limitations should be designed to promote the use of drip irrigation and other low volume irrigation methods that reduce outdoor water use by applying water more efficiently than traditional irrigation methods.

D. Reduction of water use through water conservation protects and promotes the public health, safety and welfare by conserving a vital resource that is subject to ever-increasing demands.

E. Reduction of water demands through water conservation will reduce the per capita amount of water used by city customers, and also will reduce the city's

costs for electrical energy, equipment and chemicals utilized to pump and treat water supplied to the city water distribution system.

F. By reducing the use of electrical energy, equipment and chemicals, the reduction of water demands through water conservation also protects and promotes the public health, safety and welfare by reducing greenhouse gas emissions associated with the production and transport of electrical energy, equipment and chemicals.

13.04.840 Definitions.

When used in this article, the following words or phrases shall have the meanings set forth below:

"City water" shall mean any water delivered by the city's water distribution system.

"Integrated pest management" shall mean a pest control methodology that utilizes a variety of complementary strategies to significantly reduce or eliminate the use of pesticides while at the same time managing pest populations at an acceptable level.

"Low volume irrigation system" shall mean any irrigation system that applies irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers with a flow rate measured in gallons per hour, and that is designed to apply small volumes of water slowly at or near the root zone of plants. This includes but is not limited to properly functioning drip irrigation systems and soaker hoses.

"New landscaping" shall mean any lawn, plants or other landscaping planted after the effective date of the ordinance adopting this section.

"Water waste runoff" shall mean water flowing away from property in any gutter, ditch or other manner over the surface of the ground due to excessive application of city water.

13.04.850 Substandard water fixtures prohibited.

No person shall cause or allow any city water to be wasted due to leaky or faulty water lines, hoses, fixtures or other water using or distributing devices, unless such person shall have first obtained the written consent of the director to do so.

13.04.860 Water runoff prohibited.

No person shall knowingly or willingly cause or allow any city water applied to any landscaping, including new landscaping, or used for any other irrigation purposes, to flow away as water waste runoff from property owned or occupied by such person.

13.04.870 Outdoor conservation of water.

A. No person shall use, or cause to be used, any city water for the purpose of washing down sidewalks, driveways, or parking areas except to alleviate immediate fire, health or sanitation hazards, or to implement an integrated pest management program, unless the director provides prior written consent.

B. No person shall use, or cause to be used, any city water through a hose for the purpose of washing a vehicle unless:

1. The hose is equipped with an automatic shut-off nozzle attachment, and the attachment is being used to shut off the flow of water at all times when the hose is not being used to wash the vehicle; and

2. The vehicle washing is conducted on a day of the week when outdoor irrigation is permitted for the street address where the vehicle is being washed, as specified in this section.

This subsection shall not apply to commercial car washing businesses.

C. Beginning on the day that daylight savings time begins, and extending until the day before daylight savings time ends:

1. No person shall use, or cause to be used, any city water for landscape irrigation between the hours of ten a.m. and six p.m., unless the director provides prior written consent to a different time limitation.

2. Residential and commercial locations bearing a street address ending in an odd number shall be permitted to irrigate with city water only on Tuesday, Thursday and Saturday, and locations bearing a street address ending in an even number shall be permitted to irrigate with city water only on Wednesday, Friday and Sunday, unless the director provides prior written consent to a different irrigation pattern.

3. No landscape irrigation shall be allowed on Mondays.

D. Beginning on the day that daylight savings time ends, and extending until the day before daylight savings time begins, all residential and commercial locations shall be permitted to irrigate with city water only on Saturday and Sunday, and

landscape irrigation shall be prohibited on any other days of the week, unless the director provides prior written consent to a different irrigation pattern.

E. The limitations specified in subsections C and D shall not apply to landscape irrigation using a low volume irrigation system, nor to the irrigation of container plants, nor to the irrigation of new landscaping that is subject to the provisions of section 13.04.880.

F. References in this article to any day of the week shall mean the period beginning at twelve a.m. on that day and ending twenty-four (24) hours later.

G. Upon declaration of a water shortage, the city council may impose revised and/or additional limitations on outdoor water use, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of such limitations while the water shortage remains in effect.

13.04.880 New landscaping.

The following regulations shall apply to the use of city water to irrigate new landscaping:

A. Irrigation of new landscaping shall be allowed on any day of the week for a period of twenty-one (21) days after the new landscaping is planted, unless the director provides prior written consent to extend this time period based on plant type and the season when the new landscaping is planted.

B. Any irrigation of new landscaping after expiration of the time period specified in subsection A, and any irrigation of existing landscaping adjacent to the new landscaping, shall be subject to the limitations specified in section 13.04.870.

C. Upon declaration of a water shortage, the city council may impose revised and/or additional limitations on the irrigation of new landscaping, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of such limitations while the water shortage remains in effect.

13.04.890 Penalties for violation.

A. The following penalties shall be imposed for violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive. Any violations occurring on separate calendar days shall be considered separate violations.

1. First violation during any twelve (12) month period: No penalty shall be imposed, but a written notice describing the violation and the penalties for subsequent violations shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred.

2. Second violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of twenty-five dollars ($25.00) shall be imposed, but this penalty shall be waived if the owner of the premises where the violation occurred, or the occupant (if different than the owner, and the occupant committed the violation), attends a water conservation seminar offered by the department within sixty (60) days after the date of the penalty notice; provided that only one such penalty waiver shall be allowed for the premises within any twenty-four (24) month period.

3. Third violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of one hundred dollars ($100) shall be imposed.

4. Fourth violation and any successive violations during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of five hundred dollars ($500) shall be imposed.

B. The written notices specified in subsection A also shall provide notice of the right to appeal pursuant to section 13.04.900 and shall specify the address where the notice of appeal shall be filed.

C. The penalties specified in subsection A shall be imposed on the owner of the premises where the violation occurs regardless of whether the violation is committed by the owner of the premises or any other person.

D. Upon declaration of a water shortage by the city council, as specified in section 13.04.910, the penalty amounts specified in subsection A shall be doubled while the water shortage remains in effect.

E. The violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive, also shall be deemed to constitute a public nuisance, subject to abatement in accordance with the provisions of chapter 8.04 of this code, as applicable.

F. The foregoing provisions are cumulative and in addition to any other remedies or penalties authorized or imposed under any other provision of this code, including but not limited to section 13.04.270, or any other applicable law or regulation. The provisions of this article may be enforced by the department or by the department of code enforcement.

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) to the director for review and determination, by filing a written notice of appeal with the director not later than thirty (30) days after the notice of violation is issued. Such notice of appeal shall specify the grounds for appeal and shall provide the appellant's address and telephone number, with a statement that the appellant agrees to accept service at such address of the written notice of the time and place of the appeal hearing and the determination of the director or the director's designee.

B. Upon receipt of a timely notice of appeal, the director or the director's designee shall set the matter for an informal hearing at the earliest practical date. Not less than seven (7) days prior to the date of hearing, the director or the director's designee shall provide written notice of the hearing to the appellant. At the hearing, the director or the director's designee 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 person filing the appeal shall be provided written notice of the determination of the director or the director's designee, which shall be the city's final administrative determination of the matter.

C. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to appeal and a failure to exhaust the owner's and occupant's administrative remedies with regard to the notice of violation.

D. Upon determination after appeal by the director or the director's designee that a penalty shall be imposed, or upon issuance of a notice of violation and penalty and expiration of the appeal period specified in subsection A with no notice of appeal being filed, the penalty amount shall be included on the bill for water service provided to the premises where the violation occurred and shall be collected in accordance with the provisions of chapter 13.12 of this code. Any penalties collected shall be used by the department to fund water conservation programs.

13.04.910 Declaration of water shortage.

In response to any condition necessitating increased water conservation, such as a water shortage due to drought, natural disaster or other reduction of water supply availability, or as may otherwise be required to protect the public health, safety and welfare, the city council may by resolution declare the existence of a water shortage and impose revised and/or additional limitations and time restrictions on outdoor water use while the water shortage remains in effect, and no person shall use, or cause to be used, city water in violation of such limitations or restrictions while the water shortage

remains in effect. Unless the resolution specifies an ending date, the declaration of water shortage shall remain in effect until rescinded or otherwise modified by subsequent resolution of the city council.

13.04.920 Access to customer premises; compliance.

A. A customer receiving city water service shall provide the department's employees and/or contractors access to and use of the premises where city water service is received as may be required by the city's employees or contractors to determine whether there is any violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive, or to abate any violation thereof. If the customer refuses to allow such access, the city may seek authorization from any court of competent jurisdiction for such access and abatement.

B. Compliance with the provisions of this article shall be a condition of the customer receiving or continuing to receive city water service.

13.04.930 Fire and other emergencies.

Nothing in this article shall be construed to apply to the use of city water for purposes of extinguishing fire or any other similar emergency.

13.04.940 Consent of director.

Whenever in this article a person is authorized to obtain the consent of the director to perform an act otherwise prohibited, the director may give consent on such conditions as the director may specify, and the director shall give such consent only where the director determines:

A. There is no practical alternative manner in which the person may accomplish the desired result; and

B. The desired result is of substantial importance when compared with the importance of conserving water resources as set forth in this article.

13.04.950 City water use.

The city of Sacramento, and its officers, employees, and agents when acting in the course and scope of their employment, shall be exempt from the provisions of this article; provided, however, that the city manager shall promulgate administrative regulations governing water use by the city, and its officers, employees, and agents, as may be necessary for the city to achieve the conservation of water resources equal to or greater than the level of conservation achieved by the city's water service customers.

SECTION 2

The adoption of this ordinance amending Article XI of Chapter 13.04 of the Sacramento City Code is not intended to and does not affect any administrative, civil, or criminal actions or proceedings brought or to be brought to enforce the provisions of Article XI of Chapter 13.04 of the Sacramento City Code, as they existed prior to the effective date of this ordinance. The provisions of Article XI of Chapter 13.04 of the Sacramento City Code as they exist prior to the effective date of this ordinance shall continue to be operative and effective with regard to any violations or acts occurring prior to the effective date of this ordinance.

Attachment 5

REDLINE DRAFT

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

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Article XI Outdoor Water Conservation

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The city council finds and determines:

A. To prevent waste and ensure reasonable use of water supplied by the city water distribution system, it is necessary and desirable to enact certain limitations to promote water conservation by city customers.

B. These limitations should be focused on outdoor water use, because the maximum demands for water from the city's water distribution system occur during the summer months, with outdoor irrigation use exceeding all other demands.

C. Water use limitations should be designed to promote the use of drip irrigation and other low volume irrigation methods that reduce outdoor water use by applying water more efficiently than traditional irrigation methods.

D~~C~~. Reduction of water use through water conservation protects and promotes the public health, safety and welfare by conserving a vital resource that is subject to ever-increasing demands.

E~~D~~. Reduction of water demands through water conservation will reduce the per capita amount of water used by city customers, and also will reduce the city's costs for electrical energy, equipment and chemicals utilized to pump and treat water supplied to the city water distribution system.

F~~E~~. By reducing the use of electrical energy, equipment and chemicals, the reduction of water demands through water conservation also protects and promotes the public health, safety and welfare by reducing greenhouse gas emissions associated with the production and transport of electrical energy, equipment and chemicals.

13.04.840 Definitions.

When used in this article, the following words or phrases shall have the meanings set forth below:

"City water" shall mean any water delivered by the city's water distribution system.

"Integrated pest management" shall mean a pest control methodology that utilizes a variety of complementary strategies to significantly reduce or eliminate the use of pesticides while at the same time managing pest populations at an acceptable level.

"Low volume irrigation system" shall mean any irrigation system that applies irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers with a flow rate measured in gallons per hour, and that is designed to apply small volumes of water slowly at or near the root zone of plants. This includes but is not limited to properly functioning drip irrigation systems and soaker hoses.

"New landscaping" shall mean any lawn, plants or other landscaping planted after the effective date of the ordinance adopting this section.

"Water waste runoff" shall mean water flowing away from property in any gutter, ditch or other manner over the surface of the ground due to excessive application of city water.

13.04.850 Substandard water fixtures prohibited.

No person shall cause or allow any city water to be wasted due to leaky or faulty water lines, hoses, fixtures or other water using or distributing devices, unless such person shall have first obtained the written consent of the director to do so.

13.04.860 Water runoff prohibited.

No person shall knowingly or willingly cause or allow any city water applied to any landscaping, including new landscaping, or used for any other irrigation purposes, to flow away as water waste runoff from property owned or occupied by such person.

13.04.870 Outdoor conservation of water.

A. No person shall use, or cause to be used, any city water for the purpose of washing down sidewalks, driveways, or parking areas except to alleviate immediate fire, health or sanitation hazards, or to implement an integrated pest management program, unless the director provides prior written consent.

B. No person shall use, or cause to be used, any city water through a hose for the purpose of washing a vehicle unless:

1. The hose is equipped with an automatic shut-off nozzle attachment, and the attachment is being used to shut off the flow of water at all times when the hose is not being used to wash the vehicle; and

2. The vehicle washing is conducted on a day of the week when outdoor irrigation is permitted for the street address where the vehicle is being washed, as specified in this section.

This subsection shall not apply to commercial car washing businesses.

C. Beginning on the day that daylight savings time begins, and extending until the day before daylight savings time ends:

1. No person shall use, or cause to be used, any city water for landscape irrigation between the hours of ten a.m. and six p.m., unless the director provides prior written consent to a different time limitation.

2. Residential and commercial locations bearing a street address ending in an odd number shall be permitted to irrigate with city water only on Tuesday, Thursday~~,~~ and Saturday, and locations bearing a street address ending in an even number shall be permitted to irrigate with city water only on Wednesday, Friday and Sunday, unless the director provides prior written consent to a different irrigation pattern.

3. No landscape irrigation shall be allowed on Mondays.

D. Beginning on the day that daylight savings time ends, and extending until the day before daylight savings time begins, all residential and commercial locations ~~bearing a street address ending in an odd number~~ shall be permitted to irrigate with city water only on Saturday and ~~, and locations bearing a street address ending in an even number shall be permitted to irrigate with city water only on~~ Sunday, and landscape irrigation shall be prohibited on any other days of the

week, unless the director provides prior written consent to a different irrigation pattern.

E. The limitations specified in subsections C and D shall not apply to landscape irrigation using a low volume irrigation system, nor to the irrigation of container plants, nor to the irrigation of new landscaping that is subject to the provisions of section 13.04.880.

F. References in this article to any day of the week shall mean the period beginning at twelve a.m. on that day and ending twenty-four (24) hours later.

G. Upon declaration of a water shortage, the city council may impose revised and/or additional limitations on outdoor water use, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of such limitations while the water shortage remains in effect.

13.04.880 New landscaping.

The following regulations shall apply to the use of city water to irrigate new landscaping:

A. Irrigation of new landscaping shall be allowed on any day of the week for a period of twenty-one (21) days after the new landscaping is planted, unless the director provides prior written consent to extend this time period based on plant type and the season when the new landscaping is planted.

B. Any irrigation of new landscaping after expiration of the time period specified in subsection A, and any irrigation of existing landscaping adjacent to the new landscaping, shall be subject to the limitations specified in section 13.04.870.

C. Upon declaration of a water shortage, the city council may impose revised and/or additional limitations on the irrigation of new landscaping, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of such limitations while the water shortage remains in effect.

13.04.890 Penalties for violation.

A. The following penalties shall be imposed for violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive. Any violations occurring on separate calendar days shall be considered separate violations.

1. First violation during any twelve (12) month period: No penalty shall be imposed, but a written notice describing the violation and the penalties for subsequent violations shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred.

2. Second violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of twenty-five dollars ($25.00) shall be imposed, but this penalty shall be waived if the owner of the premises where the violation occurred, or the occupant (if different than the owner, and the occupant committed the violation), attends a water conservation seminar offered by the department within sixty (60) days after the date of the penalty notice; provided that only one such penalty waiver shall be allowed for the premises within any twenty-four (24) month period.

3. Third violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of one hundred dollars ($100) shall be imposed.

4. Fourth violation and any successive violations during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of five hundred dollars ($500) shall be imposed.

B. The written notices specified in subsection A also shall provide notice of the right to appeal pursuant to section 13.04.900 and shall specify the address where the notice of appeal shall be filed.

C. The penalties specified in subsection A shall be imposed on the owner of the premises where the violation occurs regardless of whether the violation is committed by the owner of the premises or any other person.

D~~B~~. Upon declaration of a water shortage by the city council, as specified in section 13.04.910, the penalty amounts specified in subsection A shall be doubled while the water shortage remains in effect.

E~~C~~. The violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive, also shall be deemed to constitute a public nuisance, subject to abatement in accordance with the provisions of chapter 8.04 of this code, as applicable.

F~~D~~. The foregoing provisions are cumulative and in addition to any other remedies or penalties authorized or imposed under any other provision of this code, including but not limited to section 13.04.270, or any other applicable law or regulation. The provisions of this article may be enforced by the department or by the department of code enforcement.

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) to the director for review and determination, by filing a written notice of appeal with the director not later than thirty (30) days after the notice of violation is issued. Such notice of appeal shall specify the grounds for appeal and shall provide the appellant's address and telephone number, with a statement that the appellant agrees to accept service at such address of the written notice of the time and place of the appeal hearing and the determination of the director or the director's designee.

B. Upon receipt of a timely notice of appeal, the director or the director's designee shall set the matter for an informal hearing at the earliest practical date. Not less than seven (7) days prior to the date of hearing, the director or the director's designee shall provide written notice of the hearing to the appellant. At the hearing, the director or the director's designee 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 person filing the appeal shall be provided written notice of the determination of the director or the director's designee, which shall be the city's final administrative determination of the matter.

C. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to appeal and a failure to exhaust the owner's and occupant's administrative remedies with regard to the notice of violation.

D. Upon determination after appeal by the director or the director's designee that a penalty shall be imposed, or upon issuance of a notice of violation and penalty and expiration of the appeal period specified in subsection A with no notice of appeal being filed, the penalty amount shall be included on the bill for water service provided to the premises where the violation occurred and shall be collected in accordance with the provisions of chapter 13.12 of this code. Any penalties collected shall be used by the department to fund water conservation programs.

13.04.910 Declaration of water shortage.

In response to any condition necessitating increased water conservation, such as a water shortage due to drought, natural disaster or other reduction of water supply availability, or as may otherwise be required to protect the public health, safety and welfare, the city council may by resolution declare the existence of a water shortage and impose revised and/or additional limitations and time restrictions on outdoor water use while the water shortage remains in effect, and no person shall use, or cause to be used, city water in violation of such limitations or restrictions while the water shortage

remains in effect. Unless the resolution specifies an ending date, the declaration of water shortage shall remain in effect until rescinded or otherwise modified by subsequent resolution of the city council.

13.04.920 Access to customer premises; compliance.

A. Customer receiving city water service shall provide the department's employees and/or contractors access to and use of the premises where city water service is received as may be required by the city's employees or contractors to determine whether there is any violation of any of the provisions of sections 13.04.850 through 13.04.880, inclusive, or to abate any violation thereof. If the customer refuses to allow such access, the city ~~also~~ may seek authorization from any court of competent jurisdiction for such access and abatement.

B. Compliance with the provisions of this article shall be a condition of the customer receiving or continuing to receive city water service.

13.04.930 Fire and other emergencies.

Nothing in this article shall be construed to apply to the use of city water for purposes of extinguishing fire or any other similar emergency.

13.04.940 Consent of director.

Whenever in this article a person is authorized to obtain the consent of the director to perform~~do~~ an act otherwise prohibited, the director may give consent on such conditions as the director may specify, and the director shall give such consent only where the director determines:

A. There is no practical alternative manner in which the person may accomplish the desired result; and

B. The desired result is of substantial importance when compared with the importance of conserving water resources as set forth in this article.

13.04.950 City water use.

The city of Sacramento, and its officers, employees, and agents when acting in the course and scope of their employment, shall be exempt from the provisions of this article; provided, however, that the city manager shall promulgate administrative regulations governing water use by the city, and its officers, employees, and agents, as may be necessary for the city to achieve the conservation of water resources equal to or greater than the level of conservation achieved by the city's water service customers.

SECTION 2

The adoption of this ordinance amending Article XI of Chapter 13.04 of the Sacramento City Code is not intended to and does not affect any administrative, civil, or criminal actions or proceedings brought or to be brought to enforce the provisions of Article XI of Chapter 13.04 of the Sacramento City Code, as they existed prior to the effective date of this ordinance. The provisions of Article XI of Chapter 13.04 of the Sacramento City Code as they exist prior to the effective date of this ordinance shall continue to be operative and effective with regard to any violations or acts occurring prior to the effective date of this ordinance.