

ORDINANCE NO. 300u

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO HILLS, CALIFORNIA, REPEALING CHAPTER 13.08 WATER CONSERVATION AND ORDINANCE NOS. 286u and 286 OF THE CHINO HILLS MUNICIPAL CODE IN ITS ENTIRETY, AND ESTABLISHING A NEW CHAPTER 13.08 WATER CONSERVATION OF THE CHINO HILLS MUNICIPAL CODE AND FINDING THAT THIS PROJECT IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council does hereby make the following findings of fact:

- a. It is necessary to repeal the existing Chapter 13.08 Water Conservation and Ordinance Nos. 286u and 286 in order to continue to comply with State of California regulations and current water enacted requirements and to conserve water appropriately.
- b. It is necessary to establish a new Chapter 13.08 Water Conservation in its stead in order to continue to comply with California State Water Resources Control Board (Board) Regulations and minimize the potential for water shortages while balancing the needs for the survival of landscape City assets, including trees and other vegetation during drought years.
- c. It is necessary to minimize the potential for water shortage through the practice of water conservation pursuant to California Water Code § 375 et seq., based upon the need to conserve water supplies and to avoid or minimize the effects of any future shortage.
- d. It is further necessary to reduce the potential effect of a water shortage on the residents, businesses and visitors of Chino Hills and to modify provisions that will continue to reduce the inefficient consumption of water, thereby extending the available water resources necessary for the domestic, sanitation, and fire protection of the community to the greatest extent possible.
- e. On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions.
- f. On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions.

- g. On April 1, 2015, the Governor issued an Executive Order that, in part, directs the Board to impose restrictions on water suppliers (including the City of Chino Hills) to achieve a statewide 25 percent reduction to potable urban usage through February 28, 2016.
- h. On May 5, 2015, the Board adopted California Code of Regulations, Title 23, Section 866 and re-adopted Sections 863, 864, and 865 that requires, among other things, that, beginning June 1, 2015, the City of Chino Hills reduce its total potable water production by 28 percent for each month as compared to the amount used in the same month in 2013.
- i. On November 13, 2015, the Governor issued an Executive Order calling for an extension of urban water use restrictions until October 31, 2016 should drought conditions persist through January 2016.
- j. On February 2, 2016, the Board adopted extended emergency regulations to be in effect through October 2016 in order to address specific provisions of the Governor's November 13, 2015 Executive Order.
- k. On May 9, 2016, the Governor issued an Executive Order that, in part, directs the Board to adjust and extend its emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions for many communities.
- l. On May 18, 2016, the Board adopted extended emergency regulations to be in effect through January 2017 in order to address specific provisions of the Governor's May 9, 2016 Executive Order. The Board-adopted regulations (May 18, 2016) to provide specific guidance for the City of Chino Hills, which resulted in the City not having a consumption reduction requirement. The City can demonstrate that over the following three years, assuming drought conditions persist, its water supply slightly exceeds its demand. Nevertheless, the City still must conserve water given the overall drought conditions in the State and the unpredictability of the future.
- m. The present year is critically dry in the Southern California area and has been immediately preceded by four or more consecutive below normal precipitation, dry, or critically dry years. While Northern California received some rainfall, the Southern California area received very little and is still in a drought. According to the National Oceanic and Atmospheric Administration (NOAA), June of 2016 is the hottest June on record. This, along with water-use restrictions adopted by the City, including the two-days per week irrigation restrictions, has resulted in a tremendous number of dead, dying and distressed trees within the City. There are indications that the upcoming months will likely continue the trend of dry and very hot weather.

- n. Given the lessening of the State water restrictions on the City of Chino Hills, the public good requires that trees and vegetation that have suffered in the drought years receive an additional watering day from the current two times per week restriction. Concurrent with this Ordinance, the City Council plans to take an action to reduce the water restrictions from Stage III to Stage II. However, given the strong public need for water conservation, prior to this reduction, the public good requires that Stage II restrictions be strengthened to incorporate some of the conservation measures previously included in Stage III.
- o. California Water Code Section 375 et seq. empower any public entity which supplies water at retail or wholesale to adopt and enforce a water conservation program to reduce the quantity of water used by those within its service area after holding a public hearing and making appropriate findings of necessity for the adoption of a water conservation program.
- p. Pursuant to California Water Code Section 375, on July 2, 2016 the City published notice in the Chino Champion, a regularly published newspaper, a notice of the time and place of the July 12, 2016 public hearing on the proposed urgency Ordinance. A duly noticed public hearing before the City Council will be conducted on July 12, 2016 at which time all interested persons will be given an opportunity to testify.
- q. Based on the facts noted above, and all other facts presented to the City Council, this Ordinance is adopted for the immediate preservation of the public peace, health or safety and is passed by no less than a four-fifths vote of the City Council.

SECTION 2. The City Council finds that this Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (Title 14 California Code of Regulations §§ 15000, et seq.) because it consists of the operation of existing facilities involving no expansion of use and consists of actions taken to assure the maintenance, protection and enhancement of natural resources and the environment. Consequently, it is categorically exempt from further CEQA review under California Code of Regulations Title 14, §§ 15301, 15307 and 15308.

SECTION 3. That Chapter 13.08 Water Conservation of the Chino Hills Municipal Code and Ordinance Nos. 286u and 286 are hereby repealed in their entirety.

SECTION 4. That Chapter 13.08 Water Conservation of the Chino Hills Municipal Code is hereby adopted and shall read as follows:

Chapter 13.08
WATER CONSERVATION

13.08.010 - Findings of Necessity.

It is necessary to minimize the potential for water shortage through the practice of water conservation pursuant to California Water Code § 375 et seq., based upon the need to conserve water supplies and to avoid or minimize the effects of any future shortage. It is further necessary to reduce the potential effect of a water shortage on the residents, businesses and visitors of Chino Hills and to adopt provisions that will significantly reduce the inefficient consumption of water, thereby extending the available water resources necessary for the domestic, sanitation, and fire protection of the community to the greatest extent possible. Nothing in this chapter shall prevent the City from also declaring a water emergency pursuant to Water Code Section 350.

13.08.020 - Water Customer.

Water customer, for the purposes of this chapter, shall mean any person, partnership, business, corporation, or association or legal entity to whom the City of Chino Hills (City) supplies water or user of water supplied by the City.

13.08.030 - Application.

This chapter shall be applicable to all water customers.

13.08.040 - Exceptions and Exemptions.

- A. **Exceptions.** The City Manager or his/her designee shall grant an exception from the requirements of this chapter for any of the following reasons:
1. Water use is necessary for public health and safety; or
 2. Recycled water is being used; or
 3. Water use is necessary due to the medical needs of the water customer.
- B. **Exemptions.** The Public Works Commission may grant an exemption to the requirements of this chapter, with or without conditions, if it determines that a water customer would otherwise experience extreme financial hardship that cannot be mitigated. The Public Works Commission shall review any requests for an exemption from compliance with this chapter. A written request for an exemption must be submitted to the Public Works Department a minimum of two weeks prior to the Commission meeting at which the exemption is to be considered. If appropriate, the Public Works Commission may require the customer granted an exemption to reduce water use by other appropriate alternative methods. A decision of the Public Works Commission may be appealed to the City Council in

accordance with Chino Hills Municipal Code Section 1.20.010. The City Council may establish by resolution an "exemption processing fee."

13.08.050 - Authorization.

The City Council may declare the conservation stage based on any of the following circumstances:

- Issuance of a water emergency executive order by the Governor of California; or
- Adoption of certain regulations by the California State Water Resources Control Board; or
- Major interruptions in water supply from Metropolitan Water District, the Inland Empire Utilities Agency or any other major water supplier to the City; or
- Occurrence of a major water emergency emanating from a natural or man-caused disaster.

As declared, the City Council shall see to the enforcement of all prohibitions and restrictions as outlined in the following four stages:

Stage 1 - Voluntary Water Conservation Alert;

Stage 2 - Moderate Water Conservation Alert;

Stage 3 - High Water Conservation Alert; and

Stage 4 - Severe Water Conservation Alert.

13.08.060 - Stage I Voluntary Water Conservation Alert.

Chino Hills water customers are requested to voluntarily limit the amount of water used from March 1st through October 31st of each year to the amount absolutely necessary for health, safety, business, and irrigation. During Stage 1, all elements of the prohibitions and restrictions for moderate, high and severe conservation alerts shall apply on a voluntary basis.

13.08.070 - Stage II Prohibitions and Restrictions - Moderate Water Conservation Alert.

The following restrictions and exceptions shall be applicable during a Moderate Water Conservation Alert as declared by the City Council, whenever the City's water supply is anticipated to be reduced by up to ten (10) percent, and voluntary conservation does not achieve the desired reduction, or whenever any of the conditions noted under Section 13.08.050 are met requiring conservation measures noted in this stage:

- A. All residential customers shall be limited in the outdoor use of water for sprinkling, watering, or irrigating any shrubbery, trees, lawns, grass,

groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas to a three days per week schedule based on street address. Designated days of irrigation: Residential addresses ending in an even number may use water on Mondays, Wednesdays and Saturdays and residential addresses ending in an odd number may use water on Tuesdays, Thursdays and Sundays. All such irrigation may only occur between 12:01 a.m. and 9:00 a.m. or between 6:00 p.m. and 12:00 a.m. and shall not exceed fifteen (15) minutes per watering-station, except for drip or micro-spray irrigation systems which shall not exceed 30 minutes per station. No irrigation shall occur between the hours of 9:00 a.m. and 6:00 p.m.;

- B. Non-residential customers, including commercial nurseries, golf courses, institutions and other water dependent industries shall be prohibited from watering lawns, landscapes, or other turf areas more than three times per week. Such irrigation may only occur on Mondays, Wednesdays and Fridays between 12:01 a.m. and 9:00 a.m. or between 6:00 p.m. and 12:00 a.m. and shall not exceed fifteen (15) minutes per watering-station during assigned days, except for drip or micro-spray irrigation systems which shall not exceed 30 minutes per station. No irrigation shall occur between the hours of 9:00 a.m. and 6:00 p.m. Entities using recycled water are exempted from this prohibition for their recycled water use. However, such entities are not exempted for their potable water use;
- C. The outside irrigation of landscapes with City-supplied potable water for new construction of homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission;
- D. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall is prohibited. Measureable rainfall is defined as rainfall of one tenth of an inch (1/10") or more falling within a forty-eight (48) hour period;
- E. Applying 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;
- F. Applying potable water to any hard surface, including but not limited to driveways, sidewalks, parking areas, asphalt, patios, porches, verandas;
- G. Permitting water to leak on any premises. Such leak shall be repaired in a timely manner after notification by the City, but in no case in excess of forty-eight (48) hours after notification;
- H. Serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;
- I. Using potable water in a non-residential fountain or other decorative water feature, except where the water is part of a recirculating system;
- J. Using water from fire hydrants shall be limited to fire fighting and related activities necessary to maintain the public health, safety, and welfare. An

exception may be made for construction use through a proper City-designated meter where recycled water is not available;

- K. Permitting non-commercial washing of privately owned livestock, trailers, buses or boats, except from a bucket and/or a hand-held hose equipped with a shut-off nozzle used for a quick rinse;
- L. Using a hand-held hose that dispenses potable water without a shut-off valve. Such use shall not be in conflict with any provision within this code.
- M. Swimming pool refilling or new-construction swimming pool filling shall be limited to the same days as set forth in subsection A for outdoor use of water; and
- N. Washing of vehicles or boats is prohibited except:
 - 1. When using a hose that is equipped with a shut-off valve; or
 - 2. When washed in either an automatic or manual commercial car wash. Notwithstanding the above, temporary car washes held for fundraising purposes are prohibited.

13.08.080 - Stage III Prohibitions and Restrictions - High Water Conservation Alert.

The following restrictions and exceptions shall be applicable during a High Water Conservation Alert as declared by the City Council whenever the City's water supply is anticipated to be reduced by more than ten (10%) percent and up to twenty-five (25%) percent or whenever any of the conditions noted under Section 13.08.050 are met requiring conservation measures noted in this Stage:

- A. All prohibitions and restrictions in Section 13.08.070 shall be in effect;
- B. All residential customers shall be limited in the outdoor use of water for sprinkling, watering, or irrigating any shrubbery, trees, lawns, grass, groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas to a two days per week schedule based on street address. Designated days of irrigation: Residential addresses ending in an even number may use water on Wednesdays and Saturdays and residential addresses ending in an odd number may use water on Thursdays and Sundays. All such irrigation may only occur between 12:01 a.m. and 9:00 a.m. or between 6:00 p.m. and 12:00 a.m. and shall not exceed fifteen (15) minutes per watering-station, except for drip or micro-spray irrigation systems which shall not exceed 30 minutes per station. No irrigation shall occur between the hours of 9:00 a.m. and 6:00 p.m.;
- C. Non-residential customers, including commercial nurseries, golf courses, institutions and other water dependent industries shall be prohibited from watering lawns, landscapes, or other turf areas more than twice per week. Such irrigation may only occur on Tuesdays and Fridays between 12:01 a.m. and 9:00 a.m. or between 6:00 p.m. and 12:00 a.m. and shall not exceed fifteen (15) minutes per watering-station during assigned days, except for drip or micro-spray irrigation systems which shall not exceed 30 minutes per station. No irrigation shall occur between the hours of 9:00 a.m. and 6:00 p.m. Entities using recycled water are exempted from this

prohibition for their recycled water use. However, such entities are not exempted for their potable water use. Alternatively, non-residential customers may be exempted from this prohibition by reducing their potable water usage by 28 percent from their usage in 2013;

- D. To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language;
- E. Use of potable water for dust control is prohibited where recycled water is readily available for connection by the property owner.

13.08.090 - Stage IV prohibitions and restrictions - Severe Water Conservation Alert.

In the event of a major earthquake, large-scale fire, or other so called "Act of Nature" which could have serious impacts on the City's total available water storage capacity, whether storage capacities have been reduced or not, or in the case of a reduction in City water supply anticipated to be more than twenty-five (25%) percent or whenever any of the conditions noted under Section 13.08.050 are met requiring conservation measures noted in this Stage, a Severe Water Conservation Alert shall be declared by the City Council. The following conservation measures shall apply:

- A. All previous restrictions noted in Sections 13.08.070 and 13.08.080 shall be in effect;
- B. There shall be no outdoor use of water at any time, including the use of a hand-held hose with shut-off valve;
- C. All decorative fountains, decorative (i.e., non-swimming) pools shall be drained and made dry. Such fountains and pools shall not be refilled until the City has returned to a Stage III water conservation stage. Fountains, ponds or pools that are filled with recycled water are not subject to this provision. Decorative ponds that contain fish as a feature shall be exempt from this restriction as long as the system is maintained in good working order with measures taken to reduce the volume of makeup water required for evaporative losses; and
- D. No commitments shall be made to provide water service as part of any new land use entitlement (general plan, specific plan or amendments requesting new water allocations) until the City has returned to a Stage III drought restriction. Currently approved specific plans with accompanying development agreements and projects or properties that have received water allocations in advance of full entitlements may be issued building permits so long as they comply with the remainder of this chapter.

13.08.100 - Penalties.

- A. No water customer of the City shall knowingly use, or permit the use of, water in a manner contrary to any provision of this chapter, or in an amount in excess of that use permitted by the provisions of this chapter;
- B. Unless otherwise provided, any water customer violating any provision of this chapter shall be guilty of an infraction or misdemeanor as specified in this section, and each day or portion thereof such violation, which is in existence, shall be a new and separate offense;
- C. Any violation of this chapter is deemed an infraction, punishable as provided in Section 1.36.020 of this code. Subsequent violations shall also be punished as provided in Section 1.36.020 of this code;
- D. Notwithstanding the above, the City Attorney or Deputy District Attorney may charge and prosecute second and subsequent offenses as misdemeanors at the City's sole discretion pursuant to California Water Code § 377. In addition to the above penalties, the City may file an action for civil abatement and, at the discretion of the court, be entitled to reimbursement for all necessary costs and attorney's fees incurred through investigation, discovery, analysis, inspection, abatement and other actual costs incurred by the City or its agents pertaining to the violation;
- E. The court shall fix the amount of any such reimbursements upon submission of proof of such costs by the City. Payment of any penalty provided in this section shall not relieve a person, firm or corporation, or other entity from the responsibility of correcting the condition resulting from the violation; and
- F. In addition to the above remedies, the City Manager or his/her designee is empowered, to enforce any or all of the following penalties:
 - 1. Place a flow restricting device upon the water service;
 - 2. Lock-off a water meter;
 - 3. Remove a water meter; and
 - 4. Shut-off the service connection.

All costs or expenses incurred by the City for enforcement of this section shall be borne by the water customer. No water service shall be limited or discontinued until the City Manager or his/her designee provides a written notice of intent to so limit or discontinue such service and the reasons for such decision, and further, provides such water customer notice of the right to request an administrative review and hearing pursuant to the procedures set forth in Section 1.18.090 of this code, except that any reference to "citation" in that section shall instead be deemed a reference to a "notice of intent" as described in this section. A written notice of intent shall be provided either by first class mail, by personal service to the water customer, or by posting said notice in a conspicuous place on the property wherein the violation occurred. Notwithstanding any other provision of this code, there shall be no right to further administrative review or appeal.

13.08.110 - Compliance.

Any City Code Enforcement Officer, Water Use Efficiency Coordinator and any other employee designated by the City Manager shall enforce the provisions of this chapter.

13.08.120 - Implementing policies.

The City Manager is authorized to promulgate policies and procedures to implement this chapter.

SECTION 5. If any section, subsection, subdivision, 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 hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portion thereof be declared invalid or unconstitutional.

SECTION 6. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7. Repeal of any provision of the Chino Hills Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

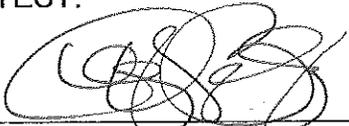
SECTION 8. The City Clerk shall certify as to the adoption of this Ordinance in its entirety thereof to be published within ten (10) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933 and Water Code Section 376.

SECTION 9. This Ordinance shall take effect immediately as an urgency Ordinance necessary for the preservation of the public peace, health or safety, pursuant to California Government Code Section 36937(b).

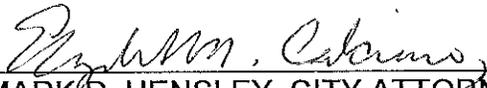
INTRODUCED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Chino Hills, California this 12th day of July, 2016.


ART BENNETT, MAYOR

ATTEST:


CHERYL BALZ, CITY CLERK

APPROVED AS TO FORM:


MARK D. HENSLEY, CITY ATTORNEY
Elizabeth M. Calciano,
Asst. City Attorney

