

(O-99-39)

ORDINANCE NUMBER O- 18596 (NEW SERIES)

ADOPTED ON OCT 19 1998

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 7, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 38 TITLED "EMERGENCY WATER REGULATIONS," BY AMENDING AND RENUMBERING SECTION 67.38 TO SECTION 67.3801, SECTION 67.38.1 TO SECTION 67.3802, SECTION 67.38.2 TO SECTION 67.3803, SECTION 67.38.3 TO SECTION 67.3804, SECTION 67.38.4 TO SECTION 67.3805, SECTION 67.38.5 TO SECTION 67.3806, SECTION 67.38.6 TO SECTION 67.3807, SECTION 67.38.7 TO SECTION 67.3808, SECTION 67.38.8 TO SECTION 67.3809, BY RENUMBERING SECTION 67.38.9 TO SECTION 67.3810, AND BY RENUMBERING AND AMENDING SECTION 67.39 TO SECTION 67.3811, ALL RELATING TO EMERGENCY WATER REGULATIONS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter VI, Article 7, of the San Diego Municipal Code is amended by adding Division 38 titled "Emergency Water Regulations," to read as follows:

**DIVISION 38**

**EMERGENCY WATER REGULATIONS**

Section 1. That Chapter VI, Article 7, Division 38 of the San Diego Municipal Code is amended by renumbering section 67.38 to section 67.3801, section 67.38.1 to section 67.3802, section 67.38.2 to section 67.3803, section 67.38.3 to section 67.3804, section 67.38.4 to section 67.3805, section 67.38.5 to section 67.3806, section 67.38.6 to section 67.3807, section 67.38.7 to section 67.3808, and section 67.38.8 to section 67.3809, and amending sections 67.3801,

67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, and 67.3809, to read as follows:

**SEC. 67.3801 Declaration of Emergency**

[No change.]

**SEC. 67.3802 Comprehensive Water Conservation Plan**

[No change.]

**SEC. 67.3803 Declaration of Policy**

The City Council, by and through its Water Department, finds and determines that a water shortage could exist based upon the occurrence of one or more of the following conditions:

(a) A general water supply shortage due to increased demand or limited supply.

(b) Distribution or storage facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or The City of San Diego become inadequate.

(c) A disruption of the supply, storage and distribution facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or The City of San Diego occurs.

[No change in last paragraph.]

**SEC. 67.3804 Authority to Implement Water Conservation Stages**

The City Manager, or his designee, upon the recommendation of the Director of the Water Department, and following public notice, is authorized and directed to implement the applicable provisions of sections 67.3801 through 67.3811, upon his

determination that such implementation is necessary to protect the public welfare and safety under the following conditions:

(a) In the event of an unforeseeable disaster or water emergency such as an earthquake, aqueduct break, or other major disruption in the water supply, the City Manager, or his designee, is authorized to implement the emergency provisions of sections 67.3801 through 67.3811. Public notice will follow enactment of said provision.

(b) In the event of a foreseeable water emergency such as extended drought conditions, the City Manager, or his designee, is authorized to implement the applicable provisions of sections 67.3801 through 67.3811 as provided herein, after holding a public hearing before the City Council.

**SEC. 67.3805 Application**

(a) The provisions of sections 67.3801 through 67.3811 shall apply to all persons, customers and property served by the Water Department wherever situated, except as provided in section 67.3805(b).

(b) The use of potable water for industrial manufacturing, processing, or research and development is exempt from the provisions of section 67.3806(d), if all of the following conditions are met: 1) the business is one of the types of businesses described in categories 2000 through 3999, 7390, and 8730 of the Standard Industrial Classification Code, a copy of which is on file with the Office of the City Clerk as Document No. 00-18596-1; 2) the business is located in an area where reclaimed water is available; 3) the business uses reclaimed water on its premises to the full extent possible; and, 4) the business participates in all applicable City water conservation programs that

are considered Best Management Practices by the California Urban Water Conservation Council. A list of the City's water conservation programs that are Best Management Practices is on file with the Office of the City Clerk as Document No. 00-18596-2

**SEC. 67.3806 Water Conservation Stages**

It is unlawful for any customer of The City of San Diego Water Department to make, cause, use or permit the use of water from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of sections 67.3801 through 67.3811, or in an amount in excess of that use permitted by the following conservation stages which are in effect pursuant to action taken by the City Manager, or his designee, in accordance with the provisions of sections 67.3801 through 67.3811. It is unlawful for any person to waste water or to use it unreasonably.

(a) [No change.]

(b) Stage 1. Voluntary Compliance — Water Watch.

Stage 1 applies during periods when the possibility exists that The City of San Diego Water Department will not be able to meet all of the water demands of its customers. All elements of Stage 2 shall during Stage 1 apply on a voluntary basis only.

(c) Stage 2. Mandatory Compliance — Water Alert.

Stage 2 applies during periods when the probability exists that The City of San Diego Water Department will not be able to meet all of the water demands of its customers.

[No change in second paragraph.]

(1) through (9) [No change.]

(d) Stage 3. Mandatory Compliance — Water Warning.

Stage 3 applies during periods when the probability exists that The City of San Diego Water Department will not be able to meet all of the water demands of its customers. Upon implementation by the City Manager and publication of notice, the following water conservation measures shall apply except when reclaimed water is used:

(1) through (10) [No change.]

(11) The use of water for commercial manufacturing or processing purposes shall be reduced in volume by an amount determined by the City Council. This provision does not apply to businesses which are exempt from water use restrictions pursuant to section 67.3805(b).

(e) [No change.]

**SEC. 67.3807 Mandatory Conservation Phase Implementation**

The Water Department shall monitor the projected supply and demand for water, by its customers, on a daily basis during periods of emergency or drought and shall recommend to the City Manager the extent of the conservation required through the implementation and/or termination of particular conservation stages to prudently plan and supply water to its customers. Thereafter, the City Manager may order the implementation or termination of the appropriate phase of water conservation in accordance with the applicable provisions of sections 67.3801 through 67.3811. The declaration of any stage beyond Stage 1 shall be made by public announcement and shall be published a minimum of one (1) time for three (3) consecutive days in a daily

newspaper of general circulation. The stage designated shall become effective immediately upon announcement.

**SEC. 67.3808 Penalty.**

It shall be unlawful for any person, corporation or association to violate the provisions of sections 67.3801 through 67.3811. Violations of these provisions shall be a misdemeanor subject to penalties provided in San Diego Municipal Code section 12.0201. The Water Department can alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code section 12.0202 or pursue any administrative remedy provided in Chapter I. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water shall be discontinued or appropriately limited to any customer who willfully uses water in violation of any provision of this Division.

**SEC. 67.3809 Severability**

If any provision, section, subsection, sentence, clause or phrase of sections 67.3801 through 67.3811 or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of sections 67.3801 through 67.3811 shall not be affected, it being the intent of the City Council in adopting sections 67.3801 through 67.3811 that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of sections 67.3801 through 67.3811 are declared to be severable for that purpose.

Section 3. That Chapter VI, Article 7, Division 38, is amended by renumbering section 67.38.9 to section 67.3810, to read as follows:

**SEC. 67.3810 Citations**

[No change in text.]

Section 4. That Chapter VI, Article 7, Division 38, is amended by renumbering and amending section 67.39 to section 67.3811, to read as follows:


**SEC. 67.3811 Publication of Terms of Water Use**

[No change in text.]

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
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Deputy City Attorney

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