

ORDINANCE NO. 2015-2

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN, CALIFORNIA,
AMENDING TITLE 11 PUBLIC WAYS AND PROPERTY, ADDING CHAPTER 11.05A
WATER CONSERVATION AND EDUCATION AND RESCINDING SECTION 11.05.230
IRRIGATION OF LAWNS AND LANDSCAPING OF THE NEWMAN CITY CODE
COMPLYING WITH STATE EMERGENCY WATER CONSERVATION REGULATIONS**

WHEREAS, in response to the Governor's January 17, 2014 drought emergency proclamation, the State Water Resources Control Board (SWRCB) at its July 15th, 2014 meeting approved emergency regulations to ensure water agencies, their customers, and state residents increase conservation in urban settings, with a specific emphasis on outdoor irrigation; and

WHEREAS, on April 1, 2015, Governor Brown signed Executive Order B-29-15, directing the State Water Board to impose restrictions to achieve a statewide 25 percent reduction in potable urban water usage through February 2016, as compared to the amount used in 2013.

WHEREAS, the SWRCB's emergency regulations require urban water suppliers to implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation and to submit monthly monitoring reports to the SWRCB that include the amount of potable water produced in the prior month, and the gallons of water used per capita in its service territory; and

WHEREAS, the City's new Water Conservation and Education ordinance specifies what actions the City may take in response to different stages of water shortage emergencies; and

WHEREAS, the new Water Conservation and Education ordinance provides flexibility in selecting the exact strategy to be used to respond to a particular water shortage situation; and

WHEREAS, the City's new Water Conservation and Education ordinance includes comparable requirements to those outlined in Section 11.05.230 Irrigation of lawns and landscaping of the Newman City Code thereby making Section 11.05.230 obsolete; and

WHEREAS, in order to comply with the SWRCB directive, it is recommended City Council adopt said Ordinance implementing the Water Conservation and Education Program; and

WHEREAS, the City of Newman held a Public Hearing on May 26, 2015 as noticed, to allow the City Council to hear and consider all protests and objections concerning the proposed Water Conservation and Education ordinances; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWMAN DOES ORDAIN AS FOLLOWS:

SECTION 1

The recitals above are true and correct, and the City Council hereby makes the findings set forth herein

SECTION 2

That Section 11.05.230 Irrigation of lawns and landscaping of the Newman City Code be rescinded as follows:

11.05.230 — Irrigation of lawns and landscaping.

~~A. All outside watering, including lawns and landscaping, shall be prohibited between the hours of 1:00 p.m. and 6:00 p.m. It shall be unlawful for any person, firm or corporation to conduct outside watering during said times, unless approval, for good cause, has been granted by the Public Works Director.~~

~~B. Whenever landscaping or a landscape plan is required by this title, water efficient landscaping shall be required. Guidelines shall conform to the standards contained in the "Water Efficient Landscape Guidelines" as promulgated by the Public Works Director and adopted herein by reference.~~

C. Driveways, sidewalks, building exteriors and parking lots may be hosed down with the use of a quick-acting, shut-off hose nozzle.

D. Wastewater shall include the use of lawn sprinklers when it is raining and the watering of lawns, ground cover, shrubbery and trees in a manner or to an extent which allows substantial amounts of excess water to run off the area being watered.

E. Quick-acting shut-off hose nozzles shall be required for car washing.

F. Any violation of the provisions of this section shall constitute an infraction and shall be punished by a fine of \$25.00 for the first violation after a warning in writing, \$50.00 for a second violation within one year, and a fine of \$100.00 for each additional violation within one year. The City may, at its option, discontinue the service after the third violation after giving the customer written notice. (Ord. 93-2, 3-23-1993; Ord. 92-19, 12-8-1992)

(deletions as strikeouts)

SECTION 3

That Title 11 of the Newman City Code be amended to add Chapter 11.5A Water Conservation And Education as stated in Attachment "A", attached hereto and made a part hereof by this reference.

SECTION 4

All other sections and provisions of Title 11 shall remain in full force and effect.

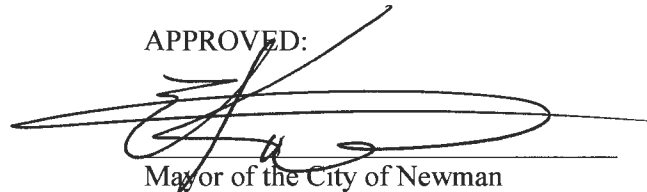
SECTION 5

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the West Side Index, a newspaper of general circulation, published and circulated in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of May, 2015 by Council Member Martina and adopted at a regular meeting of said City Council held on the 26th day of May, 2015 by the following vote:

AYES: Graham, Candea, Martina and Mayor Katen.
NOES: None.
ABSENT: Davis.

APPROVED:



Mayor of the City of Newman

ATTEST:



City Clerk of the City of Newman

ATTACHMENT “A”
TITLE 11 PUBLIC WAYS AND PROPERTY
CHAPTER 11.5A WATER CONSERVATION AND EDUCATION

Article I. Purpose

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Article I. Purpose

11.5A.010 Purpose.

The purpose and intent of the Council in enacting this Chapter is to protect the health, safety, welfare and interest of the public, and of patrons of establishments regulated by this Code by requiring that the patrons, establishments and persons conserve and not waste water by requiring that such establishments and persons conform to the water conservation procedures set forth in this chapter.

11.5A.020 Findings.

- A. As a result of the drought and the understanding that water is a precious resource, the City Council finds that any ordinance relating to the conservation of water is an urgency matter for the health, safety and general welfare of the public;
- B. The Constitution of the State of California and California Case Law provide that water shall not be wasted;
- C. To prevent the waste of water it is the intent of the City Council of the City of Newman to adopt reasonable rules regulating the use of water for outdoor landscape watering and other ancillary uses;
- D. The City Council is mindful of the importance of conserving water.

Article II. Education

11.5A.030 Education.

- A. The City Council, as part of supplementation of this Chapter, will provide information to the public through the City Manager and City departments regarding the proper use to minimize the volume of water needed for a given function.
- B. The Council, in an effort to carry out its findings and legislative purpose, sponsors this educational program with the intent that through proper education and implementation of water conservation procedures persons and establishments may continue to function with a significant savings in the volume of water.

Article III. Water Conservation Schedule and Prohibitions

11.5A.040 Outdoor Landscape Watering.

All users of water within the City limits of the City of Newman are subject to the following regulation:

- A. From March 1st to October 31st, all outside watering, including lawns and landscaping, shall be prohibited between the hours of 1:00 p.m. and 6:00 p.m. It shall be unlawful for any person, firm or corporation to conduct outside watering during said times, unless approval, for good cause, has been granted by the Public Works Director.

11.5A.050 Prohibitions.

- A. Newly planted lawns may be allowed daily watering only until the second mowing has been completed upon notification of the Public Works Department to planting.

- B. The washing down or hosing of recreational vehicles, sidewalks, gutters, outside structures, or other exterior surfaces without prior written consent of the City Manager or his designee is prohibited and a violation of this chapter. Sweeping or brushing is required unless prior approval for water use is obtained.
- C. The filling of wading pools is permitted, but "slip-n-slides" and other recreational activities requiring a constant flow of water are prohibited.
- D. The washing of vehicles at a residence is allowed only if a quick-acting automatic positive shut-off valve is used and in proper operating condition including the discharge of treated wash waters, and is limited to one (1) such washing per week per vehicle during designated watering days and times. This section is subject to the provisions of Newman Municipal Code Chapter 11.12 Storm Water management and Discharge Control.

Article IV. Emergency Water Shortage Plan

11.5A.060 Title.

There is hereby established the "City of Newman Emergency Water Shortage Plan."

11.5A.070 Declaration of Policy: Purpose.

- A. Declaration of policy. The City Council hereby declares that the general welfare requires that the water resources available to the City be put to the maximum beneficial use to the extent to which the City is capable, and that the waste of, unreasonable use of, or unreasonable method of use of water be prevented. The conservation of such water is to insure the reasonable and beneficial use thereof in the interests of the people of the City of Newman and for the public welfare.
- B. Purpose. The City Council finds and declares that consolidating the various provisions of Ordinance associated with water conservation into one readily accessible document shall provide a more professional and usable work product as well as promote a better public understanding of the various procedures and provisions of the Newman Emergency Water Shortage Plan. Additionally, adding provisions prohibiting water wasting and defining the acts which so constitute water wasting advances the purpose and policy of the Newman Emergency Water Shortage Plan.

11.5A.080 City Manager: Authorized Action.

The City Manager, or his or her designee, is hereby authorized and directed to implement the provisions of this chapter upon a determination that same is necessary to protect the public welfare and safety.

11.5A.090 Application.

The provisions of this chapter shall apply to all persons, customers and property served by the City of Newman.

11.5A.100 Water Conservation Stages.

A. STAGE 1 – MANDATORY WATER CONSERVATION.

Stage 1 calls for a low level of informational outreach and enforcement of the permanent water use ordinances. Customers of the City of Newman are hereby directed to limit the amount of water used on a year round basis. Due to the characteristics of the current City of Newman water system, additional water conservation is needed between March 1st and October 31st each year as established by Section 11.05A.040.

B. STAGE 2 – MANDATORY WATER CONSERVATION COMPLIANCE: WARNING.

Upon implementation of this chapter by the City Manager pursuant to Section 11.5A.080 of this Code, and publication of notice that Stage 2 Mandatory Conservation Compliance Measures are in effect, the following mandatory conservation compliance measures shall apply:

- (1) Outdoor landscape watering. Outdoor landscape watering shall be limited to three times per week on an odd-even basis in accordance with Section 11.5A.100 B(2). If the address ends in an even number, the water days shall be Tuesday, Thursday and Saturday. If the address ends in an odd number, the watering days will be Wednesday, Friday and Sunday.
- (2) Outdoor watering is prohibited between the hours of 1 p.m. and 6 p.m.
- (3) Large commercial landscapes and City parks shall have individual watering schedules approved by the Public Works Department.
- (4) Residential vehicle washing. Residents shall be allowed to wash their vehicles as established by Section 11.05A.050 D.

C. STAGE 3 – MANDATORY WATER CONSERVATION COMPLIANCE: WARNING.

Upon implementation of this Chapter by the City Manager pursuant to Section 11.5A.080 of this Code, and publication of notice that Stage 3 Mandatory Conservation Compliance Measures are in effect, the following Mandatory Water Conservation Compliance Measures shall apply:

- (1) Outdoor Landscaping Watering. Outdoor landscape watering shall be limited to two times per week in accordance with Section 11.5A.100 B(2). If the address ends in an even number, the watering days shall be Tuesday and Saturday. If the address ends in an odd number, the watering days shall be Wednesday and Sunday.
- (2) Large commercial landscapes and City parks shall also be limited to two days per week, as scheduled by the Public Works Department.
- (3) Residential vehicle washing. Residents shall be allowed to wash their vehicles as established by Section 11.05A.050 D.
- (4) Further use of decorative fountains or reflection ponds shall be disconnected until further notice.

D. STAGE 4 – MANDATORY WATER CONSERVATION COMPLIANCE: WARNING.

Upon implementation of this Chapter by the City Manager pursuant to Section 11.5A.080 and publication of notice that Stage 4 Mandatory Conservation Compliance Measures are in effect, the following mandatory conservation compliance measures shall apply:

- (1) Outdoor landscape watering shall be limited to one day per week. If the address ends in an even number, the watering day shall be Saturday. If the address ends in an odd number, the watering day shall be Sunday. Watering hours shall be in accordance with Section 11.05A.100 B(2). No outdoor landscaping watering Monday through Friday.
- (2) Large commercial landscaping and City parks shall be limited to one (1) day per week, as scheduled by the Public Works Department.

- (3) Filling newly constructed or drained swimming pools with City water shall be prohibited.
- (4) Construction water from City fire hydrants shall be banned but treated effluent water from the wastewater treatment plant may be made available for construction water purposes.
- (5) Further use of decorative fountains or reflection ponds shall be discontinued until further notice.
- (6) Washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment not occurring upon the immediate premises of commercial car washes and commercial service stations and not in immediate interest of the public health, safety, and welfare shall be prohibited.

E. STAGE 5 – MANDATORY WATER CONSERVATION COMPLIANCE: WARNING.

Upon implementation of this Chapter by the City Manager pursuant to Section 11.5A.080 of this Code, and publication of notice that Stage 5 Mandatory Conservation Compliance Measures are in effect, the following mandatory conservation compliance measures shall apply:

- (1) Outdoor landscape watering shall be prohibited. This includes multi-purpose commercial landscapes and City parks and median strips.
- (2) Industry and commercial businesses shall be required to curtail consumption in order to maintain adequate supplies of water for health and safety.
- (3) If there is total well failure, disaster relief from outside the City of Newman shall be required.

11.5A.110 Mandatory Water Conservation Compliance Phase Implementation.

- A. The Director of Public Works, or his or her designee, shall monitor the projected supply and demand for water by its customers, with heightened emphasis during the months of April through October;
- B. The Director of Public Works, or his or her designee, shall recommend to the City Manager the extent of the Conservation Compliance Stage required in order for the City to prudently plan for and supply water to its customers.
- C. The City Manager may order that the appropriate Stage of water conservation be implemented or terminated in accordance with the applicable provisions of this Chapter. When implementing Mandatory Water Conservation Compliance Stage 2, 3, and 4, said order shall be made by public announcement and shall be published a minimum of one (1) time in a daily newspaper of general circulation and shall become effective immediately upon such publication.

11.5A.120 Water Wasting Prohibited.

Water wasting, as defined by Section 11.5A.130 of this Code, is prohibited.

11.5A.130 Acts Constituting Water Wasting.

For the purposes of this title, acts constituting water wasting shall mean and include, but shall not be limited to, any of the following acts:

- A. Failure to comply with the City of Newman Emergency Water Shortage Plan, any conservation stage declared thereunder, and/or any guidelines or outdoor landscape watering schedules in effect pursuant thereto.
- B. Watering outdoor landscaping areas or gardens such that excess water leaves the property or area being watered.
- C. Watering outdoor landscaping while raining and within 48 hours following any measurable rainfall.
- D. Washing vehicles, boats, or equipment during restricted days or hours; and/or using an open hose not equipped with a quick-action automatic shut-off valve while so doing.
- E. Hosing down driveways, streets, sidewalks, parking lots, and building exteriors without the prior written consent of the Public Works Director or his designee. If consent is given, any restrictions on the frequency, timing or method would remain in effect unless a health or safety condition existed.
- F. Having leaky faucets, irrigation valves, sprinkler heads or plumbing fixtures on the premises.
- G. Operating evaporated coolers which are not equipped with a recirculating pump.

11.5A.140 Notice of Acts Constituting Water Wasting.

- A. Any utility customer, or person using the utilities with the consent of or actual or constructive knowledge of the customer, continue to commit acts which constitute the wasting of water, as provided in Section 11.5A.130 of this Code, shall be served Notice of Acts Constituting Water Wasting.
- B. This Notice of Acts Constituting Water Wasting shall serve as a first warning and first Notice of Acts Constituting Water Wasting shall:
 - (1) Identify the date, time and circumstances of the violation;
 - (2) State the amount of the potential penalty fee for water wasting;
 - (3) Advise the customer of his or her appeal rights as provided herein;
- C. The Notice of Acts Constituting Water Wasting shall be served to any utility customer, or person using the utilities with the consent of or actual or constructive knowledge of the customer, continue to commit acts which constitute the wasting of water, as provided in Section 11.5A.130.

11.5A.150 Penalty Fee Assessment For Water Wasting.

- A. A penalty fee in the sum of Twenty-five and no/100ths (\$25.00) Dollars shall be assessed to the utility customer's account for a first violation within one (1) year after being served with a Notice of Acts Constituting Water Wasting, pursuant to Section 11.5A.140 of this Code.
- B. A penalty fee in the sum of Fifty and no/100ths (\$50.00) Dollars shall be assessed to the utility customer's account for a second violation within said one (1) year after being served with a Notice of Acts Constituting Water Wasting, pursuant to Section 11.5A.140 of this Code.
- C. A penalty fee in the sum of One Hundred and no/100ths (\$100.00) Dollars shall be assessed to the utility customer's account for a third violation within said one (1) year after being served with a Notice of Intention to Impose a Penalty Fee for Water Wasting, pursuant to Section 11.5A.140 of this Code.
- D. The City may, at its option, discontinue the service after the third violation after giving the customer written notice.

11.5A.160 Appeal.

- A. A utility customer shall have the right to appeal to the City Manager, or his or her designee, the Notice of Acts Constituting Water Wasting, or any water wasting penalty fee assessed to his or her account.
- B. The appeal hearing shall be held before the City Manager, or his or her designee. After hearing all of the evidence presented, he or she shall make the final administrative determination regarding the matter.
- C. The customer shall be allowed to present such witnesses and evidence as he or she may desire.
- D. Such appeal hearing is an administrative hearing and the rules of evidence shall not apply.

11.5A.170 Appeal Hearing Request.

- A. The utility customer must request an appeal hearing in writing within fifteen (15) calendar days from the date of service of the Notice of Acts Constituting Water Wasting, or any water wasting penalty fee assessed to his or her account, unless the fifteenth day falls on a weekend day or City observed holiday.
- B. The request for hearing shall be addressed to the City Manager and shall be deemed served only when received by the City. Failure to properly serve the request for hearing within the fifteen (15) calendar day period shall be deemed a waiver of the right to appeal the matter and the penalty fee will be assessed against the customer's account unless the fifteenth day falls on a weekend day or City observed holiday.
- C. The hearing officer shall give written notice by mail to the utility customer of the date, time, and location of the appeal hearing, which hearing shall be held no sooner than ten (10) days from receipt of the request for hearing and no longer than thirty (30) days from receipt of such request.
- D. The decision of the hearing officer shall be final. If the Notice of Acts Constituting Water Wasting, or any water wasting penalty fee assessed to an account is upheld, the penalty fee shall be assessed to the customer's account.

11.5A.180 Failure to Pay Penalty Fee.

Failure of any utility customer to pay the penalty fees imposed pursuant to this article as required shall be grounds to discontinue utility service until compliance is obtained.