

ORDINANCE NO. 3494
CORRECTED COPY

AN ORDINANCE AMENDING CHAPTER 9 OF PART VIII OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ESTABLISHING A WATER CONSERVATION PROGRAM FOR ALL AREAS IN TULARE COUNTY SERVICE AREA NO. 1 WHEREIN THE COUNTY OF TULARE OFFERS OR SUPPLIES POTABLE WATER THROUGH A PUBLIC WATER SYSTEM EITHER AS AN OWNER OR AS A COURT-APPOINTED OPERATOR.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1: Chapter 9 of Part VIII of the Ordinance Code of Tulare County is amended to read:

CHAPTER 9. COUNTY SERVICE AREA NO. 1 WATER CONSERVATION PROGRAM

ARTICLE 1. GENERAL PROVISIONS

8-09-1000 LEGISLATIVE AUTHORITY:

Pursuant to the authority granted it by Chapter 3.5 (consisting of section 375 et seq.) of Division 1 of the Water Code of California and under the general police powers granted to the County of Tulare by the Constitution of the State of California, Article 11, section 7, the Board of Supervisors does enact this Chapter and establishes a water conservation program for all Water Service Areas as defined in section 8-09-1010.

8-09-1005 PURPOSE:

It is the purpose and intent of this Chapter to minimize outdoor water use and to control unnecessary consumption of the available potable water supplies in certain unincorporated areas wherein the County of Tulare supplies, as either an owner or as a court appointed operator of a public water system, potable domestic water to residents of the County of Tulare.

8-09-1010 DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) "Board" or "Board of Supervisors" means the Board of Supervisors of the County of Tulare.
- (b) [Reserved]
- (c) "Customers" means and includes all persons who are owners of real property or tenants of real property that is improved by buildings which are connected to and receive water service from the Public Water System.
- (d) "Person" means any individual, firm, company, partnership, association, organization, the United States of America, the State of California, political subdivision, governmental agency, or other public or municipal corporation.
- (e) "Public Water System" means any Water Works installed within a Water Service Area and providing or offering potable domestic water to customers.
- (f) [Reserved]

(g) "Water Service Area" means any area within County Service Area No. 1 wherein the County of Tulare offers or supplies potable water through a public water system either as an owner or as a court-appointed operator. Water Service Areas include, but are not limited to, the Zones of Benefit in the areas commonly known as Yetttem and Delft Colony, as well as the area served by the Seville Water Company.

(h) "Water Works" means and includes the wells, pumps, tanks, treatment facilities, reservoirs, pipelines, meters, and all other works necessary, useful, or convenient to distribute and sell water for domestic and municipal purposes.

8-09-1020 SEVERABILITY:

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

8-09-1025 NOT EXCLUSIVE REGULATION:

This Chapter is not the exclusive regulation of this water usage but shall supplement and be in addition to other regulating statutes and ordinances heretofore and hereafter enacted by the State, the County or any other legal entity or agency having jurisdiction.

ARTICLE 3. ADMINISTRATION OF PROGRAM

8-09-1075 APPLICATION:

The provisions of this chapter shall apply to all persons, customers, and property within the limits of any and all Water Service Areas.

ARTICLE 5. PROGRAM REGULATIONS

8-09-1125 WATER CONSERVATION:

No person shall knowingly use, or make, cause, or permit the use of, water for residential, commercial, industrial, governmental, or any other purpose in a manner contrary to any provision of this chapter, or in an amount in excess of that use permitted by the conservation stage in effect pursuant to action taken by the Board of Supervisors.

8-09-1130 WATER CONSERVATION STAGES:

By resolution the Board of Supervisors will, from time to time, put into effect the following stages for any or all Water Service Areas:

1. Stage 1 – Voluntary Compliance: The County will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices. All persons using County water are encouraged to participate in voluntary water conservation by avoiding the following activities:
 - a) Overwatering of lawns, gardens, landscaped areas, trees, shrubs or other plants;
 - b) Providing or selling water to any other location, residence or parcel;
 - c) Over seeding of lawns with annual ryegrass;

- d) Washing of sidewalks, driveways, parking areas, patios or other paved areas with potable water;
- e) Washing automobiles, trucks, trailers, boats except at commercial car wash using recycled water;
- f) Using water from fire hydrants for uses other than firefighting activities and/or other activities immediately necessary to maintain the health, safety, and/or welfare of the public;
- g) Operating ornamental fountains, waterfalls, or similar structures not using recycled water;
- h) Draining and refilling swimming pools;
- i) Using swamp/evaporative coolers that do not use recirculation pumps;
- j) Using potable water for irrigation or construction;
- k) Allowing substantial amounts of water to run off to a gutter, ditch or drain;
- l) Waiting more than seventy-two (72) hours before repairing breaks, leaks or malfunctions;
- m) Watering outdoor plants more than 3 days per week maximum; and
- n) Watering outdoor plants between the hours of 6:00 AM and 8:00 PM.

2. Stage 2 - Mandatory Compliance: All persons using County water shall comply with Stage 1 water conservation practices during a Stage 2 Drought Alert, and shall also comply with the following additional mandatory conservation measures:

- a) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs or other plants is permitted only on designated days between 8 P.M. and 6 A.M. local time. No watering during the day between 6 A.M. and 8 P.M. local time. Excessive watering beyond beneficial use is prohibited. Irrigation of lawns, gardens, landscaped areas, trees, shrubs or other plants is permitted at any time if:
 - I. A hand-held hose with a positive shut-off nozzle is used; or
 - II. A hand-held faucet-filled bucket of five gallons or less is used; or
 - III. A drip or mist irrigation system is used.
- b) Days designated for irrigation are as follows:
 - I. Odd numbered addresses may water only on Tuesday and Saturday;
 - II. Even numbered addresses may water only on Wednesday and Sunday.
- c) Customers must repair all breaks, leaks, or malfunctions in the customer's plumbing or distribution facilities within seventy-two (72) hours after a break, leak, or malfunction is discovered or reasonably should have been discovered.
- d) The following activities are prohibited except as otherwise authorized. The restrictions shall apply year round unless a more stringent water conservation stage is implemented.
 - I. Providing or selling water to any other location, residence or parcel;
 - II. Over seeding of lawns with annual ryegrass;

- III. Washing of sidewalks, driveways, parking areas, patios or other paved areas with potable water;
 - IV. Washing automobiles, trucks, trailers, or boats except as described in section 8-09-1140;
 - V. Using water from fire hydrants for uses other than firefighting activities and/or other activities immediately necessary to maintain the health, safety, and/or welfare of the public;
 - VI. Operating ornamental fountains, waterfalls, or similar structures not using recycled water;
 - VII. Draining and refilling swimming pools;
 - VIII. Using swamp/evaporative coolers that do not use recirculation pumps;
 - IX. Using potable water for irrigation or construction;
 - X. Allowing substantial amounts of water to run off to a gutter, ditch or drain;
3. Stage 3 - Mandatory Compliance: Upon declaration by the Board of Supervisors, all elements of Stage 2 shall remain in effect in Stage 3, except that:
- a) Customers must repair all breaks, leaks, or malfunctions in the customer's plumbing or distribution facilities within forty-eight (48) hours after a break, leak, or malfunction is discovered or reasonably should have been discovered.
 - b) Days designated for irrigation are further restricted depending on the month of the year as follows:
 - I. No outdoor watering during December, January, and February;
 - II. Outdoor watering limited to one day per week during March, April, and November:
 - i. Odd numbered addresses may water only on Saturday;
 - ii. Even numbered addresses may water only on Sunday.
 - III. Outdoor watering limited to two day per week from May to October:
 - i. Odd numbered addresses may water only on Tuesday and Saturday;
 - ii. Even numbered addresses may water only on Wednesday and Sunday;
4. Stage 4: Mandatory Compliance: Upon declaration by the Board of Supervisors, all elements of Stage 3 shall remain in effect in Stage 4, except that:
- a) All outdoor irrigation using water from the County system is restricted except as follows:
 - I. Maintenance of trees and shrubs that are watered on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation; and
 - II. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed the schedule established under Stage 3.

8-09-1135 SAME: EXCEPTIONS: GENERAL:

The following activities are exempt from section 8-09-1130:

1. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
2. Maintenance of existing landscaping for erosion control;
3. Maintenance of plant materials identified to be endangered or essential to the well-being of endangered animals;
4. Watering of livestock;
5. Public works projects and actively irrigated environmental mitigation projects; and
6. Activities in the immediate interest of the public health, safety, or welfare.

8-09-1140 SAME: EXCEPTION: COMMERCIAL CAR WASH:

Washing automobiles, trucks, trailers, or boats may be done at any time on the immediate premises of a commercial car wash using recycled water. Car washes by community groups or organizations shall be prohibited at all times. Further, such washing may be exempted from these regulations under section 8-09-1135 if the health, safety and/or welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles used to transport food and perishables.

8-09-1145 SAME: EXCEPTION: COMMERCIAL NURSERIES:

Commercial nurseries using water supplied by the public water system or otherwise supplied by the County shall water only on designated days and shall use only hand-held hoses, drip or mist irrigation systems, or hand-held buckets between the hours of 6:00 a.m. and 8:00 p.m. (local time). Designated days are: (1) Even numbered addresses on Wednesday and Sunday; (2) Odd numbered addresses on Tuesday and Saturday; (3) No watering on Monday, Thursday or Friday.

8-09-1150 SETTING OF WATER CONSERVATION STAGE:

The Board will have sole authority to determine which Water Conservation Stage is appropriate for all Water Service Areas, an individual Water Service Area, or any portion thereof, at any given period. The Board will set Water Conservation Stage(s) by resolution. The corresponding restrictions shall apply to all persons, year-round, unless otherwise stated or until the Board sets a different stage or declares by resolution that a water conservation stage is no longer necessary.

8-09-1155 CONTROL OF WATER DISTRIBUTION LINES AND FACILITIES:

Every customer is deemed to have her/his/its water distribution lines and facilities under her/his/its control at all times and to know the manner and extent of her/his/its water use and excess run-off.

ARTICLE 7. PENALTIES AND ENFORCEMENT

8-09-1205 ENFORCEMENT: OBJECTIVES:

It is one of the objectives of the County of Tulare that the citizens of the Water Service Areas be encouraged to voluntarily comply with the provisions of this Chapter. In furtherance of said objective, the enforcement of this chapter will permit the issuance of a first warning of violation

of any provisions of Article 5 by way of written notice of violation to the violating water user, before the issuance of a citation for further said violations.

8-09-1210 ENFORCEMENT: PENALTY:

Notwithstanding section 8-09-1275 any person violating any provision of Article 5 shall be guilty of an infraction which shall be punishable by a fine of Twenty-Five Dollars (\$25.00) for the first violation, Fifty Dollars (\$50.00) for the second violation and One Hundred Dollars (\$100) for the third and each subsequent violation. Each day that a violation continues shall be regarded as a new and separate violation, offense, and infraction, except where the violation cannot be immediately remedied by shutting off the source, in which case not more than forty-eight (48) hours will be allowed to correct the problem. Beyond that, each new day will constitute a new and separate violation, offense, and infraction.

8-09-1215 SAME: CITATION AND COMPLAINT:

For each and every violation of any provision of Article 5, the citation issued shall state on its face, and any complaint thereon shall be filed in accordance with, the following:

"The Complaint charging a violation of Article 5, consisting of sections 8-09-1125 through 8-09-1155, of Chapter 9 of Part VIII of the Ordinance Code of the County of Tulare shall not be filed with the Clerk of the appropriate judicial court for a period of thirty (30) days after the issuance of this Citation. Within such thirty (30) day period, the person receiving this Citation shall have the right to voluntarily appear before the Director of the Tulare County Resource Management Agency, as Administrator of this Chapter, or his or her deputy, during business hours in his or her offices at the Tulare County Government Plaza located at 5961 South Mooney Boulevard in the City of Visalia, California, and to pay the Director the sum of Twenty-Five Dollars (\$25.00) in cash for the first violation, Fifty Dollars (\$50.00) for the second violation and One Hundred Dollars (\$100) for the third and each additional violation of Article 5, consisting of sections 8-09-1125 through 8-09-1155, of Chapter 9 of Part VIII of the Ordinance Code of the County of Tulare. If the person receiving a Citation pays the amount required to the Director of the Resource Management Agency within such thirty (30) day period and before the filing of a Complaint, a Complaint shall not be filed with the Court and further appearance will not be necessary by the person receiving the Citation. Payment shall constitute an admission of violation by the person receiving the Citation. Should the person receiving the citation fail to pay the Director of the Resource Management Agency the amount above specified within the time specified, a Complaint charging an infraction shall be filed, the person shall be required to appear before the Court at the time and place indicated on the citation and the matter processed in the usual course at a hearing before the Court. The Court may add Court costs and fees to the fine imposed."

8-09-1220 PUBLIC NUISANCE:

In addition to any other remedies which may otherwise be available to the County of Tulare, the Board of Supervisors of the County of Tulare hereby makes the following findings and declarations:

(a) The waste of water, in an amount in excess of that use permitted by the conservation stage in effect pursuant to action taken by the Board of Supervisors, on public or private property within a Water Service Area, is hereby found to contribute to and compound drought conditions which

may, from time to time, exist in Tulare County, to the detriment of one of our most precious and finite resources, water. Such conditions cause injury to the health, safety and/or general welfare of the citizens of Tulare County.

(b) Therefore, the waste of water within a Water Service Area on private or public property, except as expressly permitted hereinabove, is hereby declared to constitute a public nuisance which may be abated in an action brought on behalf of the people of the State of California by the District Attorney or by the County Counsel, in any Court of competent jurisdiction.

(c) Alternatively or in addition to any other remedies available to the County of Tulare by law, such public nuisance may be enforced through administrative proceedings including but not limited to those provided by Chapter 23 (Administrative Fines) of Part I and Chapter 1 (Public Nuisances) of Part IV of this Ordinance Code.

8-09-1225 ENFORCEMENT OFFICERS:

(a) All police officers, sheriff deputies, and persons authorized by law to issue citations within the County or by ordinance to issue citations for violation of this Chapter shall, in conjunction with other duties imposed upon them by law, diligently enforce the provisions of this Chapter.

(b) All other employees of the County are encouraged to notify the Tulare County Resource Management Agency of any perceived violations of this Chapter.

(c) Except as otherwise provided, this Chapter shall be administered and enforced by the Director of the Tulare County Resource Management Agency and his authorized representatives.

ARTICLE 9. EXEMPTIONS AND EXCEPTIONS

8-09-1275 APPLICATION FOR EXEMPTION:

Consideration of written applications for exceptions regarding regulations and restrictions on water use not otherwise set forth in previous sections of this ordinance shall be as follows:

(a) Upon written application, in the form and containing the information required by the Tulare County Resource Management Agency Director, an exception may be granted by the Tulare County Resource Management Agency Director, if:

(1) Compliance with this Chapter would cause an unnecessary and undue hardship to the Applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or

(2) Compliance with this ordinance would cause a condition affecting the health, sanitation, fire protection, and/or safety of the Applicant or the public.

(b) Any decision of the Tulare County Resource Management Agency Director under this section may be appealed to the Board of Supervisors in accordance with section 165 of this Ordinance Code.

UPON MOTION OF SUPERVISOR VANDER POEL, SECONDED BY SUPERVISOR ISHIDA,
THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL
MEETING HELD MAY 17, 2016, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS ISHIDA, VANDER POEL, COX, WORTHLEY AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

COUNTY OF TULARE

By: *Mike Ennis*
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors

By: *Daniel C. Ybana*
Deputy Clerk

