

URGENCY ORDINANCE #2015-07

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING
CHAPTER 13.14 TO PROVIDE NEW REGULATIONS ON WATER CONSERVATION**

WHEREAS, California is now experiencing the fourth year of drought conditions state-wide and the combination of warmer than average temperatures and minimal precipitation experienced in the state since 2012 is unparalleled in our recorded history; and

WHEREAS, on April 1, 2015, the Governor issued an Executive Order mandating that all municipal water providers (including the City) reduce their demands in 2015 when compared to 2013; and

WHEREAS, on May 5, 2015, pursuant to Water Code §1058.5, the State Water Resources Control Board (SWRCB) adopted the Emergency Regulations (23 CCR §863, §864, and §865) for the purpose of requiring mandatory water conservation in urban settings; and

WHEREAS, the City Council of the City of American Canyon, adopted Ordinance 2009-03 on February 17, 2009 thereby establishing a Water Conservation Plan pursuant to American Canyon Municipal Code Section 13.14; and

WHEREAS, in order to comply with the SWRCB Emergency Regulations, certain changes to the Water Conservation Plan are required; and

WHEREAS, the City Council of the City of American Canyon, declared a Drought Emergency and Water Conservation Stage 2 (Mandatory Compliance – Water Alert) on July 29, 2014; and

WHEREAS, the City Council of the City of American Canyon, reaffirmed a Drought Emergency and Water Conservation Stage 2 (Mandatory Compliance – Water Alert) on May 19, 2015.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The adoption of the proposed Urgency Ordinance is not a project that has the potential for causing a significant effect on the environment and therefore is not subject to review under the California Environmental Quality Act (CEQA). In addition, the proposed Urgency Ordinance is exempt under the definition of Project in Section 15378 (b)(3) in that it concerns general policy and procedure making.

SECTION 2: American Canyon Municipal Code Chapter 13.14, Water Conservation Plan is hereby repealed and replaced with the following:

Chapter 13.14

WATER CONSERVATION PLAN

Sections:

- 13.14.010 Title.
- 13.14.020 Purpose and intent.
- 13.14.030 Definitions.
- 13.14.040 Authorization.
- 13.14.050 Application.
- 13.14.060 Water waste prohibitions.
- 13.14.065 Recycled water service required.
- 13.14.070 Water conservation stages.
- 13.14.080 Mandatory conservation phase implementation.
- 13.14.090 Duration of conservation stages.
- 13.14.100 Drought surcharge.
- 13.14.110 Exceptions and application procedures for exceptions.
- 13.14.120 Violation—Enforcement.
- 13.14.130 Violation—Penalties.
- 13.14.140 Violation—Additional remedy.

13.14.010 Title.

This chapter shall be known as the “Water Conservation Plan” of the City of American Canyon and may be so cited. (Ord. 2009-03 § 1, 2009)

13.14.020 Purpose and intent.

The purpose of this chapter is to have a plan for water conservation resulting from a reduced supply of water such as may result from drought, water supply shortages, or limitations of water delivery conditions.

Nothing in this chapter will preclude the City Council from passing an emergency Resolution for the immediate curtailment of water use by its customers due to water supply shortages and delivery limitations caused by catastrophic events and conditions, either natural or unnatural. (Ord. 2009-03 § 1, 2009)

13.14.030 Definitions.

The terms used in this chapter shall have the following meanings:

- A. “City” means the City of American Canyon acting by and through the City of American Canyon Public Works Department as operator of the City of American Canyon water and recycled water systems.
- B. “Customer” means any person, firm, partnership, association, corporation, company, organization, property, or governmental entity, whether within or outside the geographic boundaries of the City of American Canyon, who uses water supplied by the city.
- C. “GPD” means gallons per day.
- D. “Manager” is the City Manager of the City of American Canyon.
- E. “Public Works Director” is the Public Works Department head of the City of American Canyon.

- F. "Recycled water" means water treated in accordance with Title 22, Section 60301 et seq., of the California Code of Regulations and suitable for reuse under the circumstances outlined.
- G. "Water" means potable water.
- H. "Turf" means a species of grass that was developed to be used as a lawn together with the surface layer of earth held together by its roots.
- I. "Low-Flow Toilet" means a toilet that uses no more than 1.6 gallons of water per flush or less.
- J. "Residential Uses" means all those uses classified as residential pursuant to ACOM 19.05.040.
- K. "Non-Residential Uses" means all other uses not classified as residential pursuant to ACOM 19.05.040. (Ord. 2009-13 § 1, 2009; Ord. 2009-03 § 1, 2009)

13.14.040 Authorization.

The Manager or designee is authorized and directed to implement the applicable provisions of this chapter upon adoption of a City Council Resolution determining that such implementation is necessary to protect the public health, safety and welfare. (Ord. 2009-03 § 1, 2009)

13.14.050 Application.

The provisions of this chapter shall apply to all persons, customers and properties served by the City including expressly those outside the geographic boundaries of the City of American Canyon. (Ord. 2009-03 § 1, 2009)

13.14.060 Water waste prohibitions.

The following uses of water are defined as "waste of water" and are absolutely prohibited:

1. Failing to repair a leak and/or otherwise permit the escape of water through breaks or leaks within the customer's plumbing or private distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two hours after the customer discovers such a break or leak or receives notice from the city, is a reasonable time within which to correct such a break or leak or, at a minimum, to stop the flow of water from such break or leak.
2. Use water to irrigate grass, lawns, ground-cover, shrubbery, crops, trees or other vegetation or in such a manner as to result in runoff to any gutter, ditch, drain or impermeable surface. Every customer is deemed to have his or her water system under control at all times, to know the manner and extent of his or her water use and any run-off, and to employ available alternatives to apply irrigation water in an efficient manner.
3. Washing cars, boats, trailers or other vehicles and machinery directly with a hose not equipped with a shutoff nozzle.
4. Water for non-recycling decorative water fountains.
5. Water for single-pass evaporative cooling systems for air conditioning in all connections installed after the effective date of the ordinance codified in this chapter, unless required for health or safety reasons.
6. Water for non-recirculating conveyor car wash systems, industrial clothes wash systems, and/or other commercial purposes for which recirculated or recycled water can safely and effectively serve the same purpose.
7. Water for the irrigation of turf for non-residential uses.
8. Water for the flushing of toilets for non-residential uses with the exception of water for flushing low-flow toilets and/or as provided by Section 13.14.110.

9. The use of water for earth compaction, dust control, or other construction use, including the testing of new sewer lines unless the water is obtained from a source expressly approved by the Public Works Director provided, however, notwithstanding the foregoing, that water may be used for purposes of testing new water service lines.
10. Withdrawal of water from fire hydrants within the service area of the City, except for purposes of fire-fighting, water system maintenance, and other uses as permitted by the City.
11. All restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased are to serve water to customers only when specifically requested by the customer.
12. All 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.
13. The irrigation with water of landscapes outside of newly constructed homes and buildings in a manner inconsistent APMC §16.14.
14. Use of water that is inconsistent with state or federal regulations.
(Ord. 2009-13 § 2, 2009; Ord. 2009-03 § 1, 2009)

13.14.065 Recycled water service required.

Following a public hearing, the City's nonresidential water customers whose properties may be served by recycled water shall connect their property to recycled water for those uses for which the use of potable domestic water would be deemed a waste or unreasonable use of water as specified in Division 7, Chapter 7, of the California Water Code (Section 13550 et seq.). Recycled water customers shall pay for recycled water at the rate established by the City Council.

Upon written notification from the City, new development shall construct the infrastructure to accept recycled water from City. New development shall pay any applicable recycled water connection fees at the rate established by the City Council.

Upon written notification from the City, new development abutting on any street in which there is now or may in the future be located a public recycled water line, is required to connect the property directly to the recycled water line, provided that the public recycled water line is within two hundred feet of the nearest point of the property. The expense to extend the public recycled water line and associated appurtenances to and across the street frontage is the sole responsibility of the developer.

Upon written notification from the City, new development abutting on any street in which there may be located a public recycled water line in the future is required to construct the recycled water line and associated appurtenances along the street frontage at the developer's sole expense, including the new development's connection thereto.

Failure of a water customer to accept service of recycled water when it is made available, where use of potable water would otherwise be deemed a waste or unreasonable use of water, may be grounds for termination of the customer's potable water service.

Failure of a recycled water customer to comply with the City's conditions for recycled water use shall be deemed a violation and shall be subject to enforcement as outlined in Section 13.14.120.

Water customers may appeal the City's determination that recycled water of suitable quality is available as outlined in Section 13.14.110. (Ord. 2009-13 § 3, 2009)

13.14.070 Water conservation stages.

The intent of this section is to provide for the escalation of customer demand management strategies that may be necessary due to an emergency caused by drought and/or water supply

shortages. There are four stages of strategies, each of which builds upon its predecessor stage and are to be implemented as the severity of conditions increase. No customer of the City shall 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 this chapter, or in an amount in excess of what is permitted in accordance with the provisions of this chapter. The reductions shall be based upon the amount of water used during that base period defined as the amount of water used on a customer's property during the corresponding monthly billing period in the previous year, or other year as may be designated by the City Council. New services or services without a base year billing history shall be allotted on comparable customer usage.

- A. Stage 1. Voluntary Conservation. The intent of Stage 1 is to achieve an overall system-wide demand reduction of 10%. The City Council may by Resolution declare a "Drought Emergency Stage 1 (Voluntary Conservation)" upon recommendation by the Manager and based on water supply and delivery projections by the Public Works Director, that an overall system-wide reduction of 10% is necessary. During Stage 1, all water customers of the City shall be requested to implement the following best practices:
 1. Apply irrigation water only during the evening and early morning hours to reduce evaporation losses.
 2. Utilize water conservation incentive, rebate and giveaway programs to replace water guzzling plumbing fixtures and appliances with water efficient models.
 3. Utilize City information regarding using water efficiently, reading water meters, repairing ordinary leaks, and water efficient landscape.
 4. Wash automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment during the evening and early morning hours to reduce evaporation losses. Such washing shall be done with a hand-held bucket, or hand-held hose equipped with a positive shutoff nozzle used for quick rinses.
 5. Reduce monthly demand by 10% when compared to the same time period in the established base year.

- B. Stage 2. Mandatory Compliance - Water Alert. The intent of Stage 2 is to achieve an overall system-wide demand reduction of 20%. The City Council may by Resolution declare a "Drought Emergency Stage 2 (Mandatory Compliance - Water Alert)" upon recommendation by the Manager and based on water supply and delivery projections by the Public Works Director, that an overall system-wide reduction of 20% is necessary. In addition to the mandatory 20% reduction for each water customer, and in addition to the requirements in Stage 1, the following activities shall be prohibited:
 1. Gardening and landscape irrigation utilizing individual sprinklers or sprinkler systems on lawns, gardens, landscaped areas, trees, shrubs, or other plants except as expressly provided for by Resolution of the City Council.
 2. The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment is except as expressly allowed by the adoption of a Resolution by City Council.
 3. The washing of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas except as expressly allowed by the adoption of a Resolution by City Council.
 4. The irrigation of turf on street medians with water.
 5. The use of water to fill a new swimming pool, spa, pond, or similar recreational basin of water.

6. The operation of any ornamental fountain or other structure making similar or otherwise ornamental use of water outside.
- C. Stage 3. Mandatory Compliance - Water Emergency. The intent of Stage 3 is to achieve an overall system-wide demand reduction of 30%. The City Council may, by Resolution, declare a "Drought Emergency Stage 3 (Mandatory Compliance – Water Emergency)" upon recommendation by the Manager and based on water supply and delivery projections by the Public Works Director, that an overall system-wide demand reduction of 30% percent is necessary. In addition to a mandatory reduction of 30% for each water customer, and in addition to the requirements in Stages 1 and 2, the following activities shall be prohibited:
 1. Planting any new landscaping, except for native, drought tolerant species as defined by APMC §16.22.
 - D. Stage 4. Mandatory Compliance—Severe Water Emergency. The intent of Stage 4 is to achieve an overall system-wide demand reduction of 50%. The City Council may, by Resolution, declare a "Drought Emergency Stage 4 (Mandatory Compliance – Severe Water Emergency)" upon recommendation by the Manager and based on water supply and delivery projections by the Public Works Director, that an overall system-wide demand reduction of 50% is necessary. During Stage 4, mandatory water rationing will occur on a property by property basis. Regardless of water consumption in the prior or other base year, the City Council may set water allocation amounts based on minimum health and safety standards. In addition to the mandatory conservation goals for each water customer, and in addition to the requirements in Stages 1, 2 and 3, the following activities shall be prohibited:
 1. The use of water outside of a home or business except as expressly provided for by Resolution of the City Council.
 2. Use of water in excess of the allocation to a property.

13.14.080 Mandatory conservation phase implementation.

After the City Council, by Resolution, declares a Stage 1, 2, 3 or 4 Drought Emergency, the Manager shall order that the appropriate stage of water conservation be implemented in accordance with the applicable provisions of this chapter. Said order shall be made by public announcement; shall be published a minimum of one time in a daily newspaper of general circulation. The City Council shall receive a report at least monthly, noticed on a City Council agenda, regarding the City's water supply situation as long as the drought conditions remain in effect. (Ord. 2009-03 § 1, 2009)

13.14.090 Duration of conservation stages.

Mandatory stages shall be effective upon the effective date of the Ordinance codified in this chapter and may be implemented as authorized by City Council Resolution. Current conservation stages as authorized by City Council will be modified at such time that conditions indicate a more or less restrictive stage is necessary. (Ord. 2009-03 § 1, 2009)

13.14.100 Drought surcharge.

Customers will receive prior notification of the standard allotment basis, applicable rates, and the opportunity to request exceptions to the standard allotment basis.

Water use beyond the maximum allowed for each water conservation stage shall be subject to a drought surcharge pursuant to the schedule set forth below. The customer of record may request an increase in this basic allotment as set forth in Section 13.14.110 hereof. Application forms and instructions will be available at the American Canyon City Hall.

In addition to the general water service rates, each customer shall pay, during each billing period, a drought surcharge for water delivered in excess of the basic allotment. The surcharge is as follows:

1. Up to 10% in excess of allotment = 1.0 times the applicable volume charge.
2. 10.01% to 20% in excess of allotment = 2.0 times the applicable volume charge.
3. Over 20% in excess of allotment = 3.0 times the applicable volume charge.

Customers whose water usage falls in Tier 1 of the rate schedule are assumed to have maximized their conservation effort and will not be subject to a drought surcharge if their water consumption is not further reduced.

In addition to the drought surcharge, if drought usage exceeds the allowed allotment, a warning will be issued and enforcement actions may be taken as described in Section 13.14.120.

13.14.110 Exceptions and application procedures for exceptions.

All water use associated with the operation and maintenance of fire suppression equipment or employed by the City for water quality flushing and sanitation purposes shall be exempt from the provisions of this chapter. Use of water supplied by a private well or from a rain water utilization system is also exempt.

Any customer of the City may make written application for an exception to uses and activities prohibited by this chapter. Said application shall describe in detail why applicant believes an exception is justified.

A. The Manager may grant exceptions for use of water otherwise prohibited or required by this section upon finding and determining that failure to do so would cause an emergency condition affecting the health, sanitation, fire protection or safety of the applicant or public; or, cause an unnecessary and undue hardship on applicant or the public, including but not limited to, adverse economic impacts, such as loss of production or jobs.

B. In the event of an appeal of a drought surcharge, customers who can clearly demonstrate that they have taken steps to reduce their water consumption (by installing water efficient appliances, drip irrigation, drought tolerant landscaping, etc.) shall be considered favorably in granting waivers.

C. No increase in the basic water allotment shall be granted unless the customer has installed all water-saving devices which are feasible. Water saving devices include: (1) ultra-low flush toilets utilizing 1.6 gallons per flush or less; (2) low-flow shower heads; (3) low-flow faucet restrictors utilizing two gallons per minute or less; (4) drip irrigation systems.

D. The decision of the Manager may be appealed to the City Council by submitting a written appeal to the City Clerk within fifteen calendar days of the date of the decision. Upon granting any appeal, the City Council may impose any conditions it determines to be just and proper. Exceptions granted by the City Council shall be prepared in writing and the City Council may require the exception be recorded at applicant's expense. (Ord. 2009-13 § 4, 2009; Ord. 2009-03 § 1, 2009)

13.14.120 Violation—Enforcement.

The violation of each provision of this chapter, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced accordingly.

A. Any customer that violates any provision of this chapter shall, in addition to the imposition of the drought surcharge rates of Section 13.14.100 hereof, receive a personal contact by the City at the address of the water service. If personal contact is unsuccessful, written notice of the violation, including a date that the violation is to be corrected, may be left on the premises, with a copy of the notice sent by certified mail to the customer.

B. If after issuance of the written warning, the Manager determines that the customer has continued or is continuing to violate the provisions of this chapter, the Manager may authorize and implement installation of a flow restricting device on the service line or reduce the amount of water available to the customer. Any costs incurred by the City to authorize and implement the flow restricting device or reduce the amount of water available to the customer shall be borne by the customer. The flow restricting device shall be removed and the prior water supply amount resumed no sooner than sixty days after the date of the installation of the flow restricting device or a reduction in water available, provided that no further violations have occurred within that time.

C. If after implementation of a flow restricting device or reduction of water available to a customer, the customer continues to violate the provisions of the chapter, the City may disconnect the service to the customer for a period of three days. All costs or expenses incurred by the City for enforcement of this section shall be borne by the customer.

D. The unauthorized use of water following a disconnection of service pursuant to subsection C above, or any other unauthorized use of water from a fire hydrant or other use bypassing an installed meter, shall be subject to an automatic fine of two thousand five hundred dollars (\$2,500) for the first offense and five thousand dollars for the second offense (\$5,000). (Ord. 2009-03 § 1, 2009)

13.14.130 Violation—Penalties.

In addition to all other remedies provided herein, any person who violates any provision of this chapter after having received a written notice to refrain as provided in ACOM §13.14.120, is guilty of an infraction. The violation of each provision of this chapter and each separate violation thereof shall be deemed a separate offense and shall be punishable pursuant to ACOM §1.24. (Ord. 2009-03 § 1, 2009)

13.14.140 Violation—Additional remedy.

As an additional remedy, the violation of any provision of this chapter by any person who has received more than one written warning pursuant to ACOM §13.14.120 to refrain from the same or any other violation under this chapter in one calendar year shall be deemed and is declared to be, a public nuisance and may be subject to abatement in accordance with Chapter 8.04 of the City of American Canyon Municipal Code. (Ord. 2009-03 § 1, 2009)

SECTION 3: If any section, sub-section, subdivision, paragraph, clause or phrase in this Urgency Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence clause or phrase of this Urgency Ordinance, irrespective of the fact that any one or more sections, subsections subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional, is for any reason held to be invalid or unconstitutional.

SECTION 4: The urgency for the adoption of this Ordinance is the on-going conditions of the fourth year of extreme drought conditions throughout the State affecting the City's quantity and use of

water. The Ordinance is consistent with, and implements, provisions of Executive Order B-29-15 of April 1, 2015 and implementing regulations of the State Water Resources Control Board necessary for the preservation of water resources and the public health, safety and welfare.

SECTION 5: The Mayor shall sign this Urgency Ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause a summary of it to be published in a newspaper and circulated in the City and thereupon and thereafter this Ordinance shall take effect and be in force according to law.


The foregoing Urgency Ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 19th day of May, 2015, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, by the following vote:

MAYOR GARCIA:	Yes
VICE MAYOR LEARY:	Yes
COUNCIL MEMBER BENNETT:	Yes
COUNCIL MEMBER JOSEPH:	Yes
COUNCIL MEMBER RAMOS:	Yes



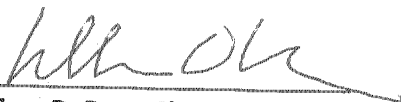
Leon Garcia, Mayor

ATTEST:



Cherri Walton, CMC, Deputy City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney