

ORDINANCE NO. 10-

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU CITY, MOHAVE COUNTY, ARIZONA, AMENDING TITLE 7 WATER ALLOCATION AND MANAGEMENT OF THE LAKE HAVASU CITY CODE TO INCLUDE CHAPTER 7.20 WATER WASTE RESTRICTIONS

WHEREAS, Lake Havasu City (“City”) receives a specific annual allotment of Colorado River water for beneficial consumption pursuant to the City’s contract with the United States; and

WHEREAS, Lake Havasu City is responsible for the treatment, distribution, and delivery of potable Colorado River water to resident and non-resident interests within the City’s expanded water service area; and

WHEREAS, alternative water sources are limited for Lake Havasu City and the City’s limited Colorado River water allotment may be diminished due to federally-declared water delivery reductions (“Shortages”); and

WHEREAS, disruptions in the delivery of Colorado River water are possible due to unforeseen emergencies; and

WHEREAS, water conservation is a documented strategy for lowering consumption, which provides an impetus to immediately implement a water conservation action; and

WHEREAS, water conservation reduces the peak loading on the water system and allows deferment and delay of expensive CIP construction projects to increase capacity for Lake Havasu City; and

WHEREAS, water conservation reduces the cost to the individual citizen because their water bill is based on consumption; and

WHEREAS, a water conservation plan has been developed by Lake Havasu City;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Lake Havasu City, that Title 7 of the Lake Havasu City Code be amended to include Chapter 7.20 as follows:

7.20 WASTE OF WATER RESTRICTIONS

§ 7.20.010 DEFINITIONS

- A. IMPERVIOUS SURFACE means any artificially created surface which cannot be penetrated by water or which causes water to run off the surface, including streets, driveways, sidewalks and rooftops.
- B. IRRIGATION SYSTEM means a device or combination of devices having a hose, pipe, or other conduit installed in the landscape which transmits City water, through which City water or a mixture of City water and chemicals is drawn and applied to lawns, landscapes, or green space.
- C. NOTICE OF VIOLATION means a written warning which describes how water is being wasted and warns the customer that it is unlawful to waste water after service of the notice.
- D. PUBLIC RIGHT-OF-WAY means the area of land acquired or obtained by the city, county, or state primarily for the use of the public for the movement of people, goods, vehicles, or storm water. For the purposes of this article the public right-of-way shall include sidewalks, curbs, streets, and storm water drainage inlets.
- E. REPEATED OR FLAGRANT WASTING OF WATER means and includes those situations where persons who have received notice that they are wasting water continue to do so in the same manner. It does not mean those persons who waste water on solitary or isolated occasions.
- F. RESPONSIBLE PARTY means generally the water customer; however, the responsible party may be any individual, partnership, firm, corporation, Limited Liability Company or other legal entity who is an owner, occupant, or user of real property to which water is supplied by Lake Havasu City.
- G. RUNOFF means water which is not absorbed by the soil or landscape to which it is applied. Runoff occurs when water is applied too quickly (application rate exceeds infiltration rate), particularly if there is a severe slope. This chapter does not apply to storm water runoff which is the runoff from precipitation that travels over natural or developed surfaces to the nearest stream, other conduit, or impoundment and appears in lakes, rivers, ponds, or other bodies of water.
- H. SERVICE OF A NOTICE OF VIOLATION means personal service upon a responsible party of suitable age and discretion residing at the customer's residence or working for the customer at the place where the waste of water initiates; posting such notice upon the premises where the waste of water initiates; or, mailing a copy of such notice to the customer at the address as shown on the records of the Lake Havasu City water system.
- I. WASTE OF WATER means any non-beneficial or unreasonable use of water by any customer of the Lake Havasu City water system.

J. WATER refers to all water supplied by Lake Havasu City or water included in the City's Colorado River entitlement, except treated wastewater.

§ 7.20.020 WASTE OF WATER PROHIBITED

A. The following measures are prohibited:

1. The expenditure or application of potable water, including from irrigation systems, that results in water flowing into any public right-of-way including gutter, street, sidewalk, swale or storm drain in a steady stream or flow.

2. Washing of motor vehicles, water craft, buildings, or exterior surfaces without the use of a quick-acting, positive shut-off nozzle.

3. Use of potable water to wash impervious surfaces such as driveways, sidewalks, parking lots and roadways when the use of air blowers or sweeping would provide a reasonable alternative.

4. Allowing water waste caused by easily correctable leaks, breaks, or malfunctions. Such leaks, breaks, and malfunctions must be fixed within 72 hours of discovery.

5. Restaurants serving water unless requested by the customer.

6. Indiscriminate or excessive water use, which results in water waste.

§ 7.20.030 ADDITIONAL WASTE OF WATER PROHIBITED:

A. During federally-declared Colorado River Shortages that result in a direct reduction to Lake Havasu City's annual allocation, the following additional activities are prohibited:

1. Hosing buildings or impervious surfaces (e.g. driveways and sidewalks) at any time.

2. Operation of decorative fountains, without recirculating systems.

3. Refilling a swimming pool or spa with potable water after it has been drained.

4. The use of potable water for construction purposes, such as consolidation of backfill and dust control.

5. Hotels and motels must post notices encouraging water conservation practices, including the option of not having linens and towels laundered daily.

6. Operation of outdoor misting systems used to cool public areas.

§ 7.20.040 EXCEPTIONS TO WASTE OF WATER

A. Exceptions to waste of water shall include:

1. Flow resulting from fire fighting or routine inspections of fire hydrants or from fire training activities.

2. Water applied to abate spills of flammable or otherwise hazardous materials.

3. Water applied to prevent or abate health, safety, or accident hazards when alternative methods are not available.

4. Water that reaches or flows onto adjacent property, public rights-of-way or easements, including private easements when caused by vandalism, wind, rain, emergencies, electrical outages, natural disasters or acts of terrorism.

5. Flows resulting from a routine inspection or maintenance of the water utility system.

6. Water used by Lake Havasu City in installation, maintenance, repair or replacement of public facilities and structures including, but not limited to, traffic control devices, storm and sanitary sewer structures, and road and street improvements.

7. Water used by Lake Havasu City or its respective contractors and/or subcontractors for saw cutting of pavement, dust control, compaction or other uses identified under the terms of applicable contracts, except as noted in § 7.20.030(A)(4).

8. Storm water run-off.

9. The uses of water which are necessary to protect public health and safety for essential government services such as police, fire, public works and other similar emergencies.

§ 7.20.050 ENFORCEMENT

A. If a person fails to comply with this chapter, the following will occur:

1. First Violation: written warning entered on water service record and delivered to customer via mail, personal service, or other reasonable means.

2. Second Violation: surcharge imposed on utility bill (\$50.00) following advanced written notice delivered to customer via mail, personal service, or other reasonable means.

3. Third Violation: surcharge imposed on utility bill (\$100.00) following advanced written notice delivered to customer via mail, personal service, or other reasonable means.

4. Fourth Violation: Installation of flow-restricting devices and surcharge imposed on utility bill (\$300.00) following advanced written notice delivered to customer via mail, personal service, or other reasonable means and any additional charges applied as outlined in this chapter.

5. Additional Violations Beyond the fourth: Discontinuation of water service following five business days after a written notice is delivered to customer via mail, personal service, or other reasonable means.

a. Reconnection fee: When service is discontinued pursuant to the provisions of this section, service shall not be reinstated until the violator agrees in writing to comply with the provisions of this chapter and pays a \$500.00 penalty for waste of water violation and the established water reconnection fee.

B. Equitable relief: The provisions of this article may be enforced by an appropriate remedy, including mandatory or prohibitory injunction, issued from a court of competent jurisdiction.

C. Any person cited for violation pursuant to this ordinance may, within 10 business days after receipt or notice of such a violation, submit the matter to the City Manager or his or her designee for review. Review of the matter may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. The City Manager may consider any relevant and reliable evidence concerning the decision, including evidence of the proper application of the city standards utilized in reaching the decision or any errors in the information or methodology used by the city personnel in reaching the decision. The City Manager may, in consultation with the City Attorney, hold an informal hearing on the matter. The City Manager shall uphold a decision which is supported by substantial, reliable and probative information, and shall modify or reject any other decision. The City Manager's final decision upon review, which may be promulgated with the assistance of the City Attorney, shall be in writing, contain findings of fact and other grounds for the final decision, and be delivered or mailed within 60 days of the submission of the appeal to the party requesting review and to his or her attorney of record, if any.

PASSED AND ADOPTED by the City Council of Lake Havasu City,
Arizona, this _____ day of _____, 20__.

APPROVED:

Mark S. Nexsen, Mayor

ATTEST:

Carla Simendich, City Clerk

APPROVED AS TO FORM:

REVIEWED BY:

Paul Lenkowsky, City Attorney

Charlie Cassens, Interim City Manager