

ORDINANCE NO. 2015-4

AN UNCODIFIED INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA, PROHIBITING CERTAIN ACTIVITIES THAT WASTE WATER AND IMPLEMENTING MANDATORY RESTRICTIONS ON OUTDOOR IRRIGATION TO PROMOTE WATER CONSERVATION, TO BECOME EFFECTIVE IMMEDIATELY

**THE CITY COUNCIL OF THE CITY OF ST. HELENA HEREBY ORDAINS AS
FOLLOWS:**

SECTION 1. FINDINGS.

On January 17, 2014 Governor Brown issued Governor's Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions.

On April 25, 2014, Governor Brown issued an executive order to strengthen the state's ability to manage water and habitat effectively in a drought.

On July 15, 2014, the State Water Resources Control Board approved its Resolution No. 2014-0032 To Adopt an Emergency Regulation for Statewide Water Conservation and this emergency regulation includes new California Code of Regulations Title 23, Sections 863, 864 and 865 (hereinafter collectively, "Emergency Regulation"). The Emergency Regulation became effective as of August 1, 2014.

On August 26, 2014, to comply with the Emergency Regulation, the City adopted an Urgency Ordinance amending Municipal Code Section 13.04.230(B) to be consistent with the Emergency Regulation.

On March 17, 2015, the State Water Resources Control Board amended and re-adopted the Emergency Regulation by Resolution No. 2015-0013 ("Amended Emergency Regulation").

The Amended Emergency Regulation prohibits each of the following actions, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

- The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
- The application of potable water to driveways and sidewalks;

- The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
- The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
- The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased; and

The Amended Emergency Regulation requires operators of hotels and motels to 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.

The Amended Emergency Regulation requires that within 45 days of the adoption of the Amended Emergency Regulation each distributor of a public water supply that is not an urban water supplier must either: 1) limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or 2) implement another mandatory conservation measure or measures intended to achieve a 20 percent reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

The City of St. Helena (City) is a distributor of a public water supply and is not an urban water supplier, as that term is defined in Water Code Section 10617.

The City's Water Use and Efficiency Guidelines (Municipal Code Chapter 13.12) and Water Service System Regulations (Municipal Code Chapter 13.04) contain prohibitions and mandatory restrictions to reduce water waste and control outdoor water use.

By adopting this ordinance, the City will both implement the Amended Emergency Regulation and provide clarity to its customers on prohibitions and restrictions that are in effect.

In light of the declaration of a State of Emergency by the Governor and the obligation to implement the Amended Emergency Regulations in a short timeframe, the City considered the adoption of this interim urgency ordinance in accordance with Government Code § 36937(b) at a duly noticed public meeting on April 28, 2015, at which time it received and considered testimony from members of the public.

Pursuant to Article XI, Section 7 of the California Constitution, the City may make and enforce all regulations and ordinances using its police powers.

In accordance with the authority granted the City under Government Code section 36937(b), and based on the findings stated herein, the City Council further finds that the Governor has declared a State of Emergency due to severe drought conditions statewide, and even though the City is not experiencing a severe drought, statewide the drought poses a current and immediate threat to the public health, safety, and welfare

requiring immediate implementation of the Amended Emergency Regulation by the City to promote water conservation, and further finds that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. The State has mandated uniform Amended Emergency Regulations that apply statewide, and has required the Amended Emergency Regulations be implemented by water suppliers in a short time frame, necessitating the adoption of this urgency ordinance.

SECTION 2. IMPLEMENTATION OF AMENDED EMERGENCY REGULATION.

1. To promote water conservation, each of the following actions shall be prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:
 - A. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
 - B. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
 - C. The application of potable water to driveways and sidewalks;
 - D. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;
 - E. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
 - F. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;
2. To promote water conservation, operators of 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.
3. To promote conservation, all customers of the city shall limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two (2) days per week.
4. The violation of each provision of this Ordinance, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced as an infraction in accordance with Chapter 1.20 of the Municipal Code.
5. As an additional remedy and in accordance with the Emergency Regulation, violation of any of the provisions listed in 1 or 2 of this section, in addition to any

other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

6. This Ordinance shall be read in conjunction with the provisions of Chapters 13.04 and 13.12 of the Municipal Code. To the extent there is any conflict between the provisions of Chapter 13.04 or Chapter 13.12 and this Ordinance, this Ordinance shall govern.

SECTION 3. Environmental Review.

The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the statutory exemption set forth in Section 15269(c) (specific actions necessary to prevent or mitigate an emergency) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this ordinance is a direct response to the State's Emergency Regulation, and pursuant to the categorical exemption set forth in Section 15307 (actions by regulatory agencies for protection of natural resources) because the State Water Resources Control Board has mandated that St. Helena, as a distributor of a public water supply, protect and conserve the natural resource of water during the severe drought.

SECTION 4. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date and Duration.

This ordinance is an urgency ordinance enacted under California Government Code sections 36934 and 36937(b). This urgency ordinance is effective upon adoption by a four-fifths (4/5) vote of the City Council. This Ordinance shall remain in full force and effect until December 23, 2015, at which time it will automatically expire, unless it is earlier repealed or extended by the City Council in accordance with applicable law.

SECTION 6. Publication.

The City Clerk is directed to cause this ordinance to be published in the manner required by law.

This ordinance was introduced and duly adopted by the City Council of the City of St. Helena at the regular meeting held this 28th day of April, 2015 by a four-fifths vote of the City Council as follows:

Mayor Galbraith:

Yes

Vice Mayor White:

Yes

Councilmember Crull:

Yes

Councilmember Dohring:

Yes

Councilmember Pitts:

Yes

APPROVED:

ATTEST:

Alan Galbraith
Alan Galbraith, Mayor

Cindy Black
Cindy Black, City Clerk

APPROVED AS TO FORM:

Thomas B. Brown
Thomas B. Brown
City Attorney

