

ORDINANCE 2009-03

AN ORDINANCE OF THE CITY OF AMERICAN CANYON, STATE OF CALIFORNIA, ESTABLISHING A WATER CONSERVATION PLAN

WHEREAS, the City Council of the City of American Canyon is concerned about the health, safety and welfare of its water customers; and

WHEREAS, when dry conditions prevail, the general welfare requires that the City's available water resources be put to the maximum beneficial use to every extent possible; and

WHEREAS, the cooperation of all City water customers is required to prevent the waste or unreasonable use of water during drought conditions, including conservation efforts with the view to the reasonable and beneficial use of water in the interest of all water customers and the greater public welfare.

NOW, THEREFORE, the City Council of American Canyon does hereby ordain as follows:

Ordinance No. 29, adopted as an emergency ordinance by the American Canyon County Water District on June 4, 1991, and as amended by Emergency Ordinance No. 30 on June 18, 1991, and as amended by Emergency Ordinance No. 32 on August 6, 1991, is hereby repealed.

SECTION 1. Section 13.14 of the City of American Canyon Municipal Code is added to *Title 13, Water Service Systems*, to read as follows:

ARTICLE I. TITLE, PURPOSE AND GENERAL PROVISIONS

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.

13.14.020 Purpose and Intent

The purpose of this ordinance 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 ordinance 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.

13.14.030 Definitions

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

- A. The "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 system.
- B. "Manager" is the City Manager of the City of American Canyon.
- C. "Public Works Director" is the Public Works Department head of the City of American Canyon.
- D. "Customer" means any person, firm, partnership, association, corporation, company, organization, or governmental entity, whether within or without the geographic boundaries of the City of American Canyon, who uses water supplied by the City.
- E. "GPD" means gallons per day.
- F. "Water" means potable water.

13.14.040 Authorization

The City Manager or his or her 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.

13.14.050 Application

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

13.14.060 Water Waste Prohibitions

Non-essential uses: No customer of the City shall use, or permit the use of, potable water from the City for residential, commercial, institutional, industrial, agricultural, or other purpose for the following nonessential uses:

- 1. 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 (72) 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. Irrigation in a manner or to an extent which allows excessive run-off of water or unreasonable over-spray of the areas being watered. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of his/her water use and any run-off, and to employ available alternatives to apply irrigation water in a reasonably 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 this ordinance, unless required for health or safety reasons;
6. Water for new non-recirculating conveyor car wash systems; and
7. Water for new non-recirculating industrial clothes wash systems.

Exempt Water Uses: 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 section. Use of water supplied by a private well or from a reclaimed wastewater or rain water utilization system is also exempt.

13.14.070 Water Conservation Stages

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 that use permitted by either Conservation Stage 2 or 3 when in effect as declared by separate resolution of the City Council, in accordance with the provisions of this Chapter.

During a declared drought emergency, the fees and charges for “voluntary” requests for leak inspections and water audits shall be waived.

- A. Stage 1. Voluntary Conservation. In order to achieve an overall system-wide reduction goal of 10 percent, all potable water customers of the City shall be requested to:
1. Apply irrigation water only during the evening and early morning hours to reduce evaporation losses.
 2. Inspect all irrigation systems, repair leaks, and adjust spray heads to provide optimum coverage and eliminate avoidable over-spray.
 3. For irrigation valves controlling water applied to lawns, vary the minutes of run-time consistent with fluctuations in weather.
 4. Reduce minutes of run-time for each irrigation cycle if water begins to run-off to gutters and ditches before the irrigation cycle is completed.

5. Utilize water conservation incentive, rebate and giveaway programs to replace water guzzling plumbing fixtures and appliances with water efficient models.
6. Utilize City information regarding using water efficiently, reading water meters, repairing ordinary leaks, and water efficient landscape.

B. Stage 2. Mandatory Compliance - Water Alert. The City Council may by resolution declare a Conservation Stage 2 upon recommendation by the City Manager based on water supply and delivery projections by the Public Works Director that an overall system-wide reduction of 20 percent is necessary. The reduction shall be based upon the amount of water used during that base period defined as the amount of water used on a customer's premises during the corresponding monthly billing period in the previous year. New services or services without a prior year billing history shall be allotted on comparable customer usage. In order to achieve an overall system-wide reduction of 20 percent, 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 is prohibited except during the hours of 12:01 AM to 12:00 noon and from 6:00 PM to 12:00 midnight, provided, however, that irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at anytime if:
 - a. a hand-held hose is used, or
 - b. a hand-held, faucet-filled bucket of five (5) gallons or less is used, or
 - c. a drip irrigation system is used.
2. The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment is prohibited except between the hours of 12:01 AM to 12:00 noon and from 6:00 PM to 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket, or hand-held hose equipped with a positive shutoff nozzle used for quick rinses. Washing may be done at any time on the immediate premises of a commercial car wash whose primary business is car washing.

EXCEPTION: Washing may be exempted from the foregoing requirements upon written approval by the City Manager, if the public health, safety, and welfare are contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles to transport food and perishables.
3. The refilling or initial filling of water to a swimming pool is prohibited.

4. The operation of any ornamental fountain or other structure making similar use of water is prohibited except for those fountains/structures with a recycling system which recycles 75 percent of the water in the system. The use of treated water to fill, refill, or maintain the level of any fountain is prohibited.
5. Use of water from fire hydrants shall be limited to fire fighting and other activities necessary to maintain the health, safety, and welfare of the citizens of American Canyon.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. allowing water to run off to a gutter, ditch, or drain;
 - b. failing to repair a controllable leak;
 - c. washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, unless the concrete foundation is in the process of curing during construction, and except to alleviate immediate fire hazards.
 - d. use of potable water to irrigate grass, lawns, ground-cover, shrubbery, crops, trees or other vegetation between the hours of 12:00 noon and 6:00 PM or in such a manner as to result in runoff for more than five minutes.
7. All restaurants are prohibited from serving water to customers except when specifically requested by the customer.
8. The use of water, treated or untreated, for use in earth compaction, dust control, or other construction use, including the testing of new sewer lines, is prohibited, unless the water is obtained from a source approved by the City, provided, however, notwithstanding the foregoing, treated water may be used for purposes of testing new water service lines.
9. Withdrawal of water from fire hydrants within the service area of the City, except for purposes of fire fighting and water system maintenance, is prohibited.
10. Water use by a vehicle washing facility in excess of 20 percent less than the amount used by the facility during the corresponding billing period in the prior year.

- C. Stage 3. Mandatory Compliance - Water Emergency. The City Council may, by resolution, declare a Conservation Stage 3 upon recommendation by the City Manager based on water supply and delivery projections by the Public Works Director that an overall system-wide reduction of 30 percent is necessary. The reduction shall be based upon the amount of water used during that base period defined as the amount of water used on a customer's premises during the corresponding monthly billing period in the previous year. New services or services without a prior year billing history shall be allotted on comparable customer usage. In order to achieve an overall system-wide reduction of 30 percent, the following activities shall be prohibited:
1. Any activities prohibited during a Conservation Stage 2.
 2. Watering any residential lawn, or any commercial or industrial area lawn irrigated with potable water, at any time of day or night.
 3. Planting any new landscaping, except for designated drought resistant landscaping prescribed by the City Manager or designated representative.
 4. All day and night-time irrigation sprinkling unless only a hand-held nozzle is used. An exception will be made to permit drip irrigation for established perennial plants and trees using manual or automatic time-controlled water application.
 5. Planting of new annual plants, vegetables, flowers or vines.
- D. Stage 4. Mandatory Compliance - Severe Water Emergency. The City Council may, by resolution, declare a Conservation Stage 4 upon recommendation by the City Manager based on water supply and delivery projections by the Public Works Director that an overall system-wide reduction of 50 percent is necessary. The reduction shall be based upon the amount of water used during that base period defined as the amount of water used on a customer's premises during the corresponding monthly billing period in the previous year. New services or services without a prior year billing history shall be allotted on comparable customer usage. In order to achieve an overall system-wide reduction of 50 percent, the following activities shall be prohibited:
1. Any activities prohibited during a Conservation Stage 1; 2, or 3.
 2. Mandatory water rationing based on established water banks in effect.

13.14.080 Mandatory Conservation Phase Implementation

After the City Council, by resolution, declares a Conservation Stage 2, 3 or 4, the City 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 (1) time in a daily newspaper of general circulation, and shall continue to be published on a weekly basis until such time as all restrictions are removed.

13.14.090 Duration of Conservation Stages

Mandatory stages shall be effective upon the effective date of this ordinance 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.

13.14.100 Drought Surcharge

- A. Customers will receive prior notification of the standard allotment basis, applicable rates, and the opportunity to request exceptions to the standard allotment basis.
- B. 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.
- C. 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:
 - Up to 10% in excess of allotment = 1.0 times the applicable volume charge
 - 10.01 to 20% in excess of allotment = 2.0 times the applicable volume charge
 - Over 20% in excess of allotment = 3.0 times the applicable volume charge
- D. 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.
- E. 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.
- F. Customers who are willing to pay a premium for water may be allowed to do so, assuming that their higher usage does not compromise the City's ability to provide water to its other customers.

13.14.110 Exceptions and Application Procedures for Exceptions

Any customer of the City may make written application for an exception. Said application shall describe in detail why applicant believes an exception is justified.

- A. The City Manager may grant exceptions for use of water otherwise prohibited 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 2 gallons per minute or less; (4) drip irrigation systems.
- D. The decision of the City Manager may be appealed to the City Council by submitting a written appeal to the City Clerk within fifteen (15) 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.

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 ordinance 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 (60) 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 ordinance, the City may disconnect the service to the customer for a period of three (3) 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 Section 13.14.120 (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 \$2,500.00 for the first offense and \$5,000.00 for the second offense.

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 Section 13.14.120 (A) 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 punished accordingly. Each offense shall be punishable by:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of this chapter within one year; and
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of this chapter within one year.

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 Section 13.14.120 (A) 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 the City of American Canyon Municipal Code.

SECTION 2. Severability

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. Effective Date

This ordinance shall become effective 30 days after the date of adoption.

SECTION 4. Posting

The City Clerk shall cause this ordinance to be published and/or posted within fifteen (15) days after its adoption.

THE FOREGOING 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 3rd day of February, 2009, and was approved and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 17th day of February, 2009, by the following vote:

AYES: Garcia, Callison, Bennett, Coffey, West
NOES: None
ABSTAIN: None
ABSENT: None



Leon Garcia, Mayor

ATTEST:


Dorothy Roadman, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney