

Ordinance No. 050307

Town Of Wilsonville Water Works

**The Emergency
Water Conservation Plan**

Of

**The Wilsonville Water Works
System**

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The Emergency Water Conservation Plan
Of
The Wilsonville Water System

Section 100.00 Scope There is hereby established an Emergency Water Conservation Plan to be placed in effect fully, or any part thereof, when needed, as determined by management, with approval by the Wilsonville Water System's Town Council.

Section 100.01 Declaration of Policy It is hereby declared that, because the conditions prevailing in the Wilsonville Water System are from which the System obtains water supply, the general welfare requires that the water resources available to the System be put to a maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such water is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the customers of the System and for the public welfare.

Section 100.02 Declaration of Urgency The Wilsonville Water System hereby finds and declares that there exists within its System a water shortage emergency condition and that, as a result, there is an urgent necessity to take action through the exercise of its policies to protect the public peace, health, and safety of this System from a public disaster or calamity, to take effect immediately upon publication of this Ordinance.

Section 100.03 Declaration of Purpose The purpose of this Chapter is to provide a mandatory water conservation plan to minimize the effect of a shortage of water to customers of the System and, by means of the Chapter, to adopt provisions that will significantly reduce the consumption of water over an extended period of time, thereby extending the available water required for the customers of the System while reducing the hardship of the System and the general public to the greatest extent possible.

Section 100.04 Definitions The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined within individual sections of this Chapter:

- i. "Water Board" means the Wilsonville Town Council.
- ii. "System" means the Wilsonville Water Works System.
- iii. "Section" means a section of this Chapter unless some other ordinance or statute is specifically mentioned.
- iv. "Customer" means any person, persons, association, corporation, or governmental agency supplied or entitled to be supplied with water service by the Department.
- v. "Chapter" means the Ordinance providing for "The Emergency Water Conservation Plan for the Wilsonville Water System".

- vi. "Officer" means every person designated as an official or acting on behalf of the Wilsonville Water System.
- vii. "His" as used herein includes masculine, feminine, or neuter, as appropriate.
- viii. "Process Water" means water used to manufacture, alter, convert, clean, heat, or cool a product, or the equipment used for such purpose; water used for plant and equipment washing and for transporting the raw materials and products; and water used to grow trees and plants for sale or installation.
- ix. "Base Period" means that period of time over which the base is computed.
- x. "Base" means the amount of water used on a customer's premises during the corresponding billing period in the prior twelve months. Any customer who was not a customer on the premises for which service was billed by the System during the base period shall be assigned the same base for such or similar premises as provided above, and the System shall have the further discretion to adjust such base in the event such customer's use of the premises is substantially different from the previous use thereof during the base period.
- xi. "Billing Unit" means the unit amount of waste used to apply water rates for purpose of calculating commodity charges for customers water usage.

Section 100.05 Authorization The various officers, boards, departments, bureaus and agencies of the System are hereby authorized and directed to immediately implement the applicable provisions of this Chapter upon the effective date hereof.

Section 100.06 Application The provisions of this Chapter shall apply to all customers and property served by the System wherever situated, and shall also apply to all property and facilities owned, maintained, operated or under the jurisdiction of the various officers, boards, departments, and bureaus or agencies of the System.

Section 100.07 Water Conservation Phases No customer of the System shall make, cause, use, or permit the use of water from the System 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 the conservation phase then in effect pursuant to action taken by the Water System in accordance with the provision of this Chapter,

A. Phase I

1. Prohibited Uses Applicable to All Customers

- a) There shall be no hose washing of sidewalks, walkways, driveways, or parking areas, except that flammable or other dangerous substances may be disposed of by direct hose flushing for the benefit of public health and safety.
- b) No water shall be used to clean, fill, or maintain levels in swimming pools or decorative fountains unless such water is part of a recycling system.

- c) No restaurant, hotel, café, cafeteria, or other public place where food is sold, served, or offered for sale, shall serve drinking water to any customer unless expressly requested.
- d) No customer of the System shall permit water to leak from any facility on his premises; failure to effect a timely repair of any leak shall subject said customer to all penalties provided herein for waste of water.
- e) No lawn, landscape, or other turf areas including vegetable or flower gardens shall be watered or irrigated using water from the System until adequate water supplies are available.
- f) No washing of automobiles, trucks, tractors, trailers, or any other vehicle or part thereof will be permitted until normal conditions are reinstated.

B. Phase II

- 1. **Prohibited Uses Applicable to All Customers.** No use of water may be made contrary to the provisions of Subsection 100.07A.
- 2. **Customer Percentage Curtailment.** No customer shall make, cause, use, or permit the use of water from the Systems for any purpose in an amount in excess of ninety percent (90%) of the amount used during the base period as defined in this Chapter.

C. Phase III

- 1. **Prohibited Uses Applicable to All Customers.** No use of water may be made contrary to the provisions of Subsection 100.07A.
- 2. **Customer Percentage Curtailment.** No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of eighty-five percent (85%) of the amount used during the base period as defined in this Chapter, except that the process water may be used to the extent of eighty-five percent (85%) of the base period.

D. Phase IV

- 1. **Prohibited Uses Applicable to All Customers.** No use of water may be made contrary to the provisions of 100.07A.
- 2. **Customer Percentage Curtailment.** No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of eighty percent (80%) of the amount used during the base period as defined in this Chapter, except that process water may be used to the extent of eighty percent (80%) of the base period.

E. Phase V

1. Prohibited Uses Applicable to All Customers. No use of water may be made contrary to the provisions of Subsection 100.07A.
 2. Customer Percentage Curtailment. No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of seventy-five percent (75%) of the amount used during the base period as define in this Chapter, except that process water may be used to the extent of seventy-five percent (75%) of the base period.
- F. Exception. The Prohibited use of water from the System provided for by Subsection 100.07 A.1, B.1, C.1, D.1, and E.1 of this Section are not applicable to that use of water necessary for public health and safety or for essential government services such as police, fire, and other similar emergency services.

Section 100.08 Conservation Phase Implementation

- A. Phase Change Initiation. The System shall monitor and evaluate the projected supply and demand for water by its customers monthly, and shall recommend to the Water Board the extent of the conservation required by the customers of the System in order for the Department to prudently plan for and supply water to its customers. The Water Board shall, in turn, recommend the appropriate phase of water conservation to be implemented. Thereafter, the Water Board may order that the appropriate phase of water conservation be implemented in accordance with the applicable provisions of this Chapter. Said order shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective immediately upon such publication. The prohibited use provision shall become operable immediately upon the effective date of this Ordinance. The customer percentage curtailment provisions shall take effect with the first full billing period commencing on or after the effective date of the public proclamation by the Water Board.

Section 100.09 Failure to Comply

- A. Penalties. It shall be unlawful for any customer of the System to fail to comply with any of the provisions of this Chapter. The penalties for failure to comply with any of the provisions of this Chapter shall be as follows:
1. For each violation by any customer of the System of any of the provision of Subsections B.2, C.2, D.2, or E.2 of Section 100.07, a surcharge penalty is hereby imposed in an amount equal to twenty-five percent (25%) of the water bill plus an additional one dollar (\$1.00) for each billing unit in excess of the percentage usage of water permitted by the particular conservation phase in which the violation occurred.
 2. Violations

- a) For the first violation by any customer of the System of any of the provision of Subsection A.1, B.1, C.1, D.1, or E.1 of Section 100.07, the System shall issue a written notice of the fact of such violations to the customer.
 - b) For a second violation by any customer of the System of any of the provisions of Subsections A.1, B.1, C.1, D.1, or E.1 of Section 100.07, the Department shall issue a written notice of the fact of such second violation to the customer and assess a penalty as noted in Section 100.09 A.1 of forty percent (40%) of the water bill plus the stated amount in excess of billing units.
 - c) For the third violation by any customer of the System of any of the provisions of Subsections A.1, B.1, C.1, D.1, or E.1 of Section 100.07, the System shall install a flow restricting device of 1GPM capacity for services up to one and one-half (1½) inch size, and comparatively sized restrictors for larger services, on the service of the customer at the premises at which the violation occurred for a period of not less than forty-eight (48) hours. The charge for installing a flow restricting device shall be based upon the size of the meter and the cost of installation as set forth in the Water Rate Schedules and Rules, but shall not be less than fifty dollars (\$50.00) if restoration of normal service is performed during the hours of 8:00 am to 4:00 pm on regular working days. If removal of the flow restricting device and restoration of normal service is made after regular working hours, on holidays or weekends, the restoration service charge shall be eighty dollars (\$80.00).
3. For any subsequent violation by any customer of the System of any of the provisions of Subsections A.1, B.1, C.1, D.1, or E.1 of Section 100.07 within the preceding twelve (12) calendar months, the Department shall discontinue water service to that customer at the premises at which the violation occurred. The charge for reconnection and restoration of normal service shall be fifty dollars (\$50.00).

B. Notice. The System shall give notice of each violation to the customer committing such violation as follows:

1. For any violation of the provisions of Subsection B.2 through E.2 of Section 100.07 or for a first or second violation of the provisions of Subsections A.1 through E.1 of Subsection 100.07, the Department may give written notice of the fact of such violation to the customer personally or by regular mail.
2. If the penalty assessed is, or includes the installation of a flow restrictor or the discontinuance of water service to the customer for any period of time whatever, notice of the violation shall be given in the following manner:
 - a) By giving written notice thereof to the customer personally.

- b) If the customer is absent from or unavailable at his place of residence, by leaving a copy with some person of suitable age and discretion, and sending a copy through the United States Mail addressed to the customer at his place of residence.
- c) If such place of residence cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person there residing, if such person can be found, and also sending a copy through the United States Mail addressed to the customer at the place where the property is situated.

Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the customer of his right to a hearing on the violation.

- C. Hearing. Any customer against whom a penalty is levied pursuant to this Section shall have a right to a hearing, in the first instance by the System with the right of appeal to an appeal board, on the merits of the alleged violation upon the written request of that customer to the System within fifteen (15) days of the date of notification of the violation.
- D. Reservation of Right. The rights of the System hereunder shall be cumulative to any other right of the System to discontinue service. All monies collected by the System pursuant to any of the penalty provisions of this Chapter shall be deposited in the Water Revenue Fund as reimbursement for the System's costs and expenses of administering and enforcing this Chapter.

Section 100.10 Relief from Compliance.

- A. Administrative Relief. Any customer who is dissatisfied with the application of any of the provisions of this Chapter as the same relates to him, may seek relief as set forth below.

The System shall have the power, upon the filing by a customer of an application for relief as herein provided, to take such steps as it deems reasonable and to set up such procedures as it considers necessary to resolve said application for relief prior to the submission of said application to an appeal board.

In determining whether relief shall be granted, the System and the appeal boards shall take into consideration all relevant factors including, but not limited to:

1. Whether any additional reduction in water consumption will result in unemployment

2. Whether additional members have been added to the household
3. Changes in vacancy factors in multi-family housing
4. Adjustments to water use caused by emergency health and safety hazards
5. Water use necessary for reasons related to family illness or health

No relief shall be granted to any customer for any reason in the absence of a showing by the customer that he has achieved the maximum practical reduction in water consumption in his residential, commercial, industrial, agricultural, or governmental water consumption, as the case may be, other than in the specific area in which relief is being sought.

No relief shall be granted to any customer who, when requested by the System fails to provide the System with information whereby the service provided to him can be classified for the pursuant to the provisions of this Chapter. No relief shall be granted to any customer who fails to file an application for relief within one (1) year of the date of the application of the provisions of this Chapter from which he seeks relief, except as otherwise provided in Section 100.09 C.

If a resolution of the application for relief is mutually agreed upon between the System and the customer, the agreement and the fact of concurrence therewith shall be in writing subscribed by the customer. No further appeal may be taken by the customer on the same, or substantially similar, circumstances and facts.

- B. Curtailment Relief Limitation. A customer may seek relief as herein provided from any application of the provisions of the Subsections B.2, C.2, D.2, and E.2 of Section 100.07 as they adversely affect him at any time after any of such provisions are in effect. During any subsequent phase which may hereinafter be imposed, a customer may seek relief as herein provided only as to the issue of whether that customer committed the particular act or acts, or omitted to perform the particular act or acts, as alleged by the System.
- C. Willful Misrepresentation. Notwithstanding any other provisions of law, and in addition thereto, and not in lieu thereof, any willful misrepresentation of a material fact by any person to the System or to any appeal board established pursuant to this Chapter, made for the purpose of securing relief from the provisions of this Chapter for any customer, is unlawful; and a violation of the Subsection shall be punishable by a fine not exceeding the sum of five hundred dollars (\$500.00), or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.

Section 100.11 General Provision

- A. Enforcement. The Water System shall enforce the provisions of this Chapter.

- B. Department to Give Effect to Legislative Intent. The System shall provide water to its customers in accordance with the provisions of this Chapter, and in a manner reasonably calculated to effectuate the intent hereof.
- C. Reduction in Water Supplied. If any customer fails to comply with any provision of this Chapter, the System may reduce the amount of water provided to that customer to the level, which that customer would be using if he were complying with the provisions of this Chapter. The provisions of the Subsection shall be applied in lieu of, or in addition to, any other penalties provided in this Chapter, in the discretion of the System, and shall be applied without regarding to the status or nature of the customer.
- D. Public Health and Safety not to be Affected. Nothing contained in this Chapter shall be construed to require the System to curtail the supply of water to any customer when, in the discretion of the System or an appeals board, such water is required by that customer to maintain an adequate level for public health and safety.

Summary of the Emergency Water Conservation Plan
Wilsonville Water Works System

Upon the recommendation of the Wilsonville Water System management an Emergency Water Conservation Ordinance has been approved that allows for quick imposition of mandatory water conservation measures in a drought or other emergency situation of reduced water supply.

Different phases of the ordinance can be implemented depending on the severity of the water supply shortage and the degree of water use reduction required:

- A. Phase I: Prohibits the watering of lawns during midday hours and the service of water in restaurants except on request, and asks all water users to voluntarily reduce their use by ten percent (10%).
- B. Phase II: Includes Phase I restrictions and makes a ten-percent (10%) water use reduction by all water users mandatory.
- C. Phase III: Increases mandatory reduction to fifteen percent (15%).
- D. Phase IV: Increases mandatory reduction to twenty percent (20%).
- E. Phase V: Increases mandatory reduction to twenty-five percent (25%).

Users who do not reduce their historic use levels by the amount specified in Phase II through V are subject to surcharges and other fines, to possible installation of flow restrictor in their service lines, and in extreme cases, to service disconnection. Exemption levels of use are established in Phases II through V. Customers using less water than the exemption level are not subject to penalties. The ordinance also includes an appeals process for those users who feel they would be unfairly burdened by a mandatory curtailment level.

The capability of the ordinance to achieve significant reduction in water use can be demonstrated during a drought or any other time necessary. It is our intent for the public to recognize the presence of a genuine emergency situation and respond accordingly.

Adopted the 4th day of April, 2005. Ordinance No. 050307

Rosemary C. Liveoak
Rosemary C. Liveoak, Mayor

Kay M. Gray
Attest