City Council Agenda
August 19, 2015

Date: July 24, 2015

To: Mayor and City Council

From: Tim Tucker, City Engineer

Subject: Ordinance 1387 amending Section 7 of the City of Martinez Water System Regulations Governing Water Service

---

Recommendation
Motion approving Ordinance No. 1387 C.S. amending Section 7 of the City of Martinez Water System Regulations Governing Water Service.

Background
At the City Council meeting of July 15th the above ordinance was introduced and a public hearing was held in accordance with California Government Code. The ordinance is now before you for adoption and will become effective after 30 days.

Fiscal Impact
There is no fiscal impact associated with this action.

Attachment
- Ordinance 1387

APPROVED BY:
Rob Braulik, City Manager

ORDINANCE NO. 1387 C.S.

AMENDING SECTION 7 OF THE CITY OF MARTINEZ REGULATIONS GOVERNING WATER SERVICE TO ESTABLISH FINES AND PENALTIES FOR WASTEFUL USE OF TREATED WATER DURING TEMPORARY DROUGHT CONDITIONS

WHEREAS, California is in the midst of a severe and extraordinary four-year drought; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board (SWRCB) approved emergency regulations mandating residents and water suppliers take certain action relative to water use and use of potable water for irrigation purposes and on March 17, 2015, the SWRCB, in light of California entering a fourth year of extraordinary drought conditions, reauthorized the emergency regulations adopted in 2014, and approved additional mandates requiring water suppliers and businesses to take certain further actions relative to water use and use of potable water for irrigation purposes, including the imposition of fines up to $500 per day for each violation of the SWRCB emergency regulations, and the imposition of fines of up to $10,000 per day against urban water suppliers found to be non-compliant with the SWRCB rules and regulations; and

WHEREAS, the California Governor formally declared April 1, 2015, by Executive Order B-29-15 a continued state of emergency exists due to water shortage and drought conditions, and the orders and provisions of Executive Order B-26-14 and B-28-14 remain in full force and effect subject to modifications by Executive Order B-29-15, and he is directing SWRCB to impose additional water use restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016; and

WHEREAS, the SWRCB is developing additional, but currently unpublished, regulations to implement Executive Order B-29-15; and

WHEREAS, the United States Bureau of Reclamation (Reclamation) has announced its initial 2015 water year allocation for the Central Valley Project (CVP) and has forecast the water supply available for the City's untreated water supplier, Contra Costa Water District (CCWD), is to be no more than an historical low of 25% of its past use under a median forecast; and

WHEREAS, drought conditions contribute to further uncertainty regarding regulatory conditions in the Sacramento–San Joaquin Delta affecting the amount and quality of water can be legally moved from Reclamation's reservoirs to pumping plants in the Delta, including CCWD's; and

WHEREAS, as of the date of enactment of this ordinance and based on current and historic water supply availability, CCWD projects, and in turn the City of Martinez's, water supplies will be impacted in 2015-2016 as a result of drought conditions; and

WHEREAS, conservation and waste prevention measures are necessary to manage demands within the City to comply with emergency regulations of the State of California and to ensure sufficient water is available for critical domestic, municipal and industrial water needs of the City's customers in 2015-2016, and to ensure water supplies are not depleted in the event the following year is also dry; and

WHEREAS, while the City's water conservation efforts, recycled water, and CCWD's supplemental water purchases have stretched CCWD available water supplies, discretionary outdoor water use will require further reductions pursuant to the actions and requirements of the Governor and SWRCB; and

WHEREAS, California Water Code Section 350 et seq. authorizes the City Council to declare a water shortage emergency condition to exist upon the making of appropriate findings after notice of a public hearing is published and a public hearing is conducted at which time testimony may be presented regarding the water shortage emergency condition; and

WHEREAS, California Water Code Section 375 et seq. authorizes the City Council to adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the City after notice of a public hearing is published and a public hearing is conducted at which time testimony may be presented regarding the water conservation program.

NOW, THEREFORE, the City Council of the City of Martinez does find and ordain as follows:

SECTION 1. The City Council finds:

1. Based upon the facts recited above, and upon the authority contained in Water Code §350 et seq., §375 et seq., §31021 et seq., § et seq., and §31026 et seq., drought conditions exist, which can affect water supply and quality available to the City as a Contra Costa Water District untreated water customer; and

2. Conservation measures to prevent waste and unreasonable use are necessary to manage demands so reasonable water needs of District customers can be met in 2015; and

3. The City intends to meet the overall 25% water use reduction requirement by requiring the following water use reductions as follows:

    a. Industrial customers are hereby required to reduce water use 5% and to be conservation-minded in their everyday use of water, with water use during 2013 used as the baseline for reduction; and

    b. Irrigation/Agricultural customers are hereby required to reduce outdoor landscape irrigation water use 40%, and to be conservation-minded in everyday use of water, with water use during 2013 used as the baseline for reduction; and

    c. All other customer classes are hereby required to reduce water use 25% and to be conservation-minded in everyday use of water, with water use during 2013 used as the baseline for reduction.

4. The water use "Prohibited Practices", attached hereto as described in Exhibit A, City of Martinez 25% Drought Management Plan (Plan), and incorporated herein as if fully set forth, are necessary to conserve water, promote effective water supply planning, assure reasonable and beneficial use of water, prevent waste and unreasonable use of water, and prevent unreasonable methods of use of water within the City; and said water use prohibitions are necessary to ensure sufficient supplies of water will be available to meet the needs of, and to protect the health and safety of, the City's customers and other members of the public; and

SECTION 2. Section 7 of the CITY OF MARTINEZ WATER SYSTEM REGULATIONS GOVERNING WATER SERVICE REGULATIONS GOVERNING WATER SERVICE is removed and replaced to read as follows:

SECTION 7

WATER SUPPLY AND INTERRUPTION OF SERVICE

7.1 General – The City will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water under proper pressure. However, the City will not be liable for any loss or damage occasioned by interruption, shortage, or insufficiency of supply.

7.2 Suspending Service – For purposes of making repairs or installing improvements to the system, the City has the right to temporarily suspend the delivery of water. Insofar as practicable, repairs or improvements will be performed rapidly, and at times will cause minimal inconvenience to the customers concerned. The City will not be liable for any loss or damage occasioned by suspensions of service.

7.3 Maintenance of Pressures – The City does not guarantee to maintain any specific water pressure or range of pressures for any service, and no damages relating to pressure will give any right of claim against the City.

7.4 Service Outside Corporate Limits – The City Council reserves the right to discontinue water service to any or all premises outside the corporate limits, at any time the City may cease to have an adequate supply of water.

d. Localized Improvements

It has been determined improvements to the system are required in certain localized areas to provide the desired level of service for existing and future developments. Applicants for water service in these localized areas shall pay the water connection fees and install the additional improvements required to serve these localized areas, or deposit a proportionate cost share of the improvements or enter into a deferred improvement agreement as required by the City.
These localized areas and the requirement for service are listed in Appendix A at the end of Section 14.

7.5 Water Shortages – The City reserves the right to fix the time and rate of flow of all deliveries of water to each customer and, in the event of shortage, to allocate between its customers the water supply from time to time available to the City and to establish such priorities to the available supply the City shall consider necessary and in the public interest.

7.6 Prevention of Waste – If the City finds a customer is wasting water by failing to repair a leak in the customer's water system, by permitting water to run off the customer's premises, or by failing to put water received from the City to reasonable and beneficial use, the City shall notify the customer to cease the waste. If the customer fails to take prompt, reasonable action to stop the waste, the City may, in its sole discretion, suspend delivery of water to the customer or install a device to restrict the flow of water to the customer until the City determines there will be no further waste of water by the customer.

> ***In addition, and at the sole discretion of the City, the City may levy Administrative Citations, as provided for in Chapter 1.15 of the Martinez Municipal Code, of up to $250 for a first offense, and up to $500 for a second offence for the wasting of water.***

7.7 Water Conservation Encouraged – The City encourages the installation of water conserving landscaping and water-saving devices in plumbing and water conserving appliances.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

SECTION 4. Effective date. This ordinance shall become effective 30 days after the date of adoption.

SECTION 5. Posting. At least five (5) days prior to its final adoption, a certified copy of the full text of this ordinance shall be posted in the office of the City Clerk.

Within 15 days after adoption the City Clerk shall publish a summary of this ordinance with the names of those City Council members voting for and against the ordinance in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED:_____
Rob Schroder, Mayor

ATTEST:_____
Deputy City Clerk

* * * * * *

I HEREBY CERTIFY the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 15th day of July, 2015, and duly passed and adopted at an Adjourned Regular Meeting of said City Council held on the 19th day of August, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

Attachment A

City of Martinez 25% Drought Management Plan (Plan)

I PROHIBITED PRACTICES

The following uses of water supplied by the City of Martinez have been determined to be wasteful and are prohibited at any time when a 25% Drought Management Program is in effect:

Single Family and Multi-Family Residential customers

a. Outside watering with City-furnished water result in excessive flooding or runoff into a gutter, drain, patio, driveway, walkway or street.
b. Outside watering of landscaping during the daylight hours of 9 a.m. to 5 p.m.
c. Washing a vehicle, trailer or boat with City-furnished water using a hose without a shut off nozzle.
d. Washing paved or other hard-surfaced areas, including sidewalks, walkways, driveways, patios, and parking areas with City-furnished water.
e. Using City-furnished water for non-recirculating decorative fountains or filling decorative lakes or ponds.
f. Watering outdoor landscapes during and up to 48 hours after measurable rainfall.
g. Watering of outdoor landscapes more than two days per week unless the City grants an exception. Examples include newly planted drip irrigated drought tolerant landscaping, and vegetable gardens.
h. Watering of landscape of newly constructed homes and buildings is not delivered by drip or microspray systems.

Non-residential customers

a. Outside watering with City-furnished water result in excessive flooding or runoff into a gutter, adjacent properties, drain, patio, driveway, walkway, structures, parking lots or street.
b. Outside watering of landscaping during the daylight hours of 9 a.m. to 5 p.m.
c. Using City-furnished water for non-recalculating decorative fountains or for filling decorative lakes or ponds.
d. Washing paved or other hard-surfaced areas, including sidewalks, walkways, driveways, patios and parking areas with City-furnished water.
e. Washing a vehicle, trailer or boat with City-furnished water using a hose without a shut off nozzle.
f. Watering outdoor landscapes during and up to 48 hours after measurable rainfall.
g. Watering of outdoor landscapes more than two days per week unless the City grants an exception. Examples include newly planted drip irrigated drought tolerant landscaping, and vegetable gardens.
h. Watering of landscape of newly constructed homes and buildings is not delivered by drip or microspray systems.

II REDUCTION REQUIREMENTS BY CUSTOMER CLASSIFICATION:

The City intends to meet the overall 25% water use reduction requirement by requiring the following water use reductions as follows:

a. Industrial customers are required to reduce their water use by 5% and to be conservation minded in their everyday use of water, with water use during 2013 used as the baseline for reduction.
b. Irrigation/Agricultural customers are required to reduce their outdoor landscape irrigation water use by 40%, and to be conservation minded in their everyday use of water, with water use during 2013 used as the baseline for reduction.
c. All other customer classes are required to reduce their water use by 25% and to be conservation minded in their everyday use of water, with water use during 2013 used as the baseline for reduction.

III CITY INCENTIVES

In accordance California Governor Executive Order B-29-15 the City shall:

Mandatory

a. In coordination with the Department of Water Resources and Contra Costa Water District (CCWD) the City shall provide incentives for customers to convert lawns and ornamentalturf to drought tolerant landscapes.
b. In coordination with the California Energy Commission, jointly with the California Department of Water Resources and the Water Board and CCWD provide appliance rebate programs for the replacement of inefficient household devices.

Current/Optional Programs

a. Coupons for mulch for use in landscaping and for local car washes using recycled water
b. Free conservation site surveys
c. Outreach programs, workshops, and educational materials.
d. Rebates for water efficient fixtures and landscape conversions
e. Recycled water fill stations offered free of charge by local sanitary districts

IV TEMPORARY PRICING ADJUSTMENT

In accordance with Proposition 218 the City will implement temporary pricing adjustments to signal to customers the need to achieve the prescribed water use reductions. The pricing adjustments will result in a $0.50 per unit (748 gallons) increase in treated water quantity charges. This level establishes the price signal anticipated to achieve desired conservation behaviors. Customers meeting the 25% reduction requirement will experience a reduction in the water bill compared to current billing levels, thereby incentivizing them to conserve. Residential customers using less than 200 gallons per day averaged over the billing cycle are considered to be efficiently using water based on district wide typical customer use and will be credited the pricing adjustment. Multifamily structures, served with a single water meter, using 200 or more gallons per day are subject to the pricing adjustment.

V VIOLATIONS

In order to enforce the water use prohibitions, the City has the discretionary ability to impose fines for the wasteful use of City treated water as follows:

a. First offence: At the City's discretion the City will issue a Warning Notice and at the City's option fines up to $250 for each offence.
b. Second offence: At the City's discretion the City will issue a Warning Notice and at the City's option fines up to $500 for each offence.
c. Subsequent offences: At the City's discretion the suspension of service under existing City of Martinez Regulations Governing Water Service Chapter 7, Section 7.6, Prevention of Waste.
d. Fines may be appealed to the City of Martinez City Manager

VI EXCEPTIONS

Under extraordinary circumstances such as for medical purposes the City of Martinez Water Superintendent may wave all or portions of this Plan for customers on a case-by-case basis.