

# Agenda Report

CITY OF LA VERNE

Public Works Department

Approved on 05/16/22 at the  
regular meeting of the  
La Verne City Council.

DATE: May 16, 2022

TO: Honorable Mayor and City Council

FROM: Shawn Igoe, Director of Public Works

SUBJECT: Urgency Ordinance No. 1111 or Urgency Ordinance No. 1112, Amending Chapter 13.15 of the La Verne Municipal Code Relative to Water Conservation, Use and Restrictions

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## Agenda Summary

On March 18, 2022 the Department of Water Resources (DWR) announced a decrease in the State Water Project (SWP) allocation from 15 percent to 5 percent. On March 28, 2022, Governor Gavin Newsom signed Executive Order N-7-22 (Executive Order) proclaiming states of emergency across all the counties of California. In response, the Three Valleys Municipal Water District (TVMWD) Board voted to move to a Water Shortage Contingency Plan (WSCP) Level 5 in its SWP constrained areas, requiring a restriction on outdoor watering of no more than one day per week. The constrained area of TVMWD includes the cities of Claremont and La Verne.

## Recommendation

Staff recommends that the City Council:

1. Adopt Urgency Ordinance No. 1111 or Urgency Ordinance No. 1112, amending Section 13.15.040 and Section 13.15.043 of Chapter 13.15 of the La Verne Municipal Code relative to Water Conservation, Use and Restrictions.

## Background

On April 18, 2022, City Council adopted Resolution No. 22-17 enacting Phase V of the Water Conservation, Use and Restrictions Ordinance and imposed California Drought Penalty Surcharges to be effective July 1, 2022. The April Staff Report provided historical drought information and a copy is attached for reference.

California is now moving into a third year of severe drought. The dry period in January and February and the absence of significant rains in March prompted the DWR to reduce the SWP allocation from 15 percent to 5 percent of requested water supplies.

The City of La Verne (City) is SWP dependent and receives approximately 75 percent of its water supply from the SWP through its wholesale provider TVMWD, which is a Member Agency of the Metropolitan Water District (MWD). To further complicate matters, the City produces

approximately 25 percent of our water supply from local sources, some of which must be treated and/or blended with SWP water.

On April 20, 2022, by way of Resolution No. 22-04-928 (attached), the TVMWD Board voted to move to a WSCP Level 5 in its SWP constrained areas, urging up to a 50 percent reduction in water use. TVMWD adopted the resolution in response to the pending MWD Board Meeting on April 26, 2022, where MWD was to call on all Member Agencies to reduce use of MWDs supplies delivered from the SWP system. TVMWD requires the constrained SWP dependent areas to implement and enforce a restriction on outdoor watering of no more than one day per week, and to adopt a mechanism to ban all outdoor watering in the event such a ban is necessary to preserve SWP supplies. Hand watering of trees is exempt from the one day per week restriction, along with drip irrigation systems and established fire hazard zones.

At its April 26, 2022, Board Meeting, the MWD Board passed a resolution (attached) that:

1. Declared a Water Shortage Emergency Condition exists in the SWP Dependent Area.
2. Adopted a framework for an Emergency Water Conservation Program.
3. Expressed support for the Governor's Executive Order, calling for all urban water suppliers to implement actions to reduce water use by 20-30 percent, depending on location.

The Emergency Water Conservation Plan included two paths for affected Member Agencies (i.e. TVMWD) to reduce use of Metropolitan's supplies delivered from the SWP supplies. A penalty of \$2,000 per acre-foot for all usage above certain limits will be enforced on all Member Agencies beginning in June 2022 should compliance with their resolution not be met.

Under the first compliance path, a Member Agency must adopt restrictions that limit outdoor watering to one day per week (or its equivalent). In addition, the Member Agency must adopt a mechanism for banning all outdoor water in the event the MWD General Manager later determines that such a ban is necessary to preserve SWP supplies.

The second path allows an affected Member Agency to achieve compliance by meeting an agency-specific volumetric delivery limit from MWD every month. The volumetric limit for each Agency is based on their equivalent share of Human Health and Safety water available from the DWR (roughly 55 gallons per person per day) plus any additional water MWD is able to provide from the SWP system. In comparison, La Verne's residential yearly average is 135 gallons per person per day. Any Member Agency that exceeds its volumetric limit would pay a \$2,000 per acre-foot penalty on any water provided by MWD from the SWP system in excess of the limit for the month.

Based on the two compliance paths, TVMWD determined the first path which limited outdoor watering to one day per week was currently the best approach. This was solidified in their 22-04-928 resolution. However, because of uncertainty in the drought's persistence and the speed and scale of demand response, the MWD General Manager was authorized to ban all non-essential outdoor irrigation as early as September 1, 2022, should conditions warrant. This would allow the MWD General Manager to impose volumetric limits on all Member Agencies that originally chose the first path by limit outdoor watering to one a day per week. Imposition of volumetric limits would not occur prior to December 1, 2022. Furthermore, the Emergency Water Conservation Program is set to continue through June 30, 2023, unless the MWD Board lifts the action before that date.

In addition to the challenges of the City's reduced SWP allocation, the City must comply with requirements of the Executive Order. In the Executive Order, Governor Newsom tasked the SWRCB to adopt emergency regulation that include, at minimum, a State Shortage Level 2 response requiring a twenty percent water use reduction. Should the drought last beyond this year, Governor Newsom calls for measures to further conserve water and improve drought resiliency, and for water suppliers to conserve more than required by the emergency regulations and to voluntarily activate more stringent local requirements based on a State Shortage Level 3, requiring a thirty percent water use reduction.

An update to the City's Water Conservation, Use and Restrictions Ordinance is necessary to impose the water use restrictions and enforcement as required by the new mandates placed on the SWP constrained areas by MWD. If the City either does not submit an acceptable plan to limit outdoor watering or if it inadequately enforces the plan, a penalty of \$2,000 per acre-foot will be assessed on all SWP supply purchases. Both the watering restrictions and the plan for enforcement must be in place by no later than June 1, 2022 to meet these mandates set by MWD, therefore, an Urgency Ordinance is necessary to meet the deadline.

Per Section 15.37.020 of Chapter 15.37 of the La Verne Municipal Code, "the territory described as a very high fire hazard severity zone (VHFHSZ) shall be as established by the Director of California Department of Forestry and Fire Protection and as designated on a map entitled city of La Verne VHFHSZ, dated July 1, 2008, and retained on file as the city of La Verne and which shall also be retained on file at the office of the State Fire Marshal." The VHFHSZ is generally bounded by Wheeler Avenue to the West, the easterly boarder of La Verne and Claremont and North of Baseline Road (map attached). For areas that fall within the Cal Fire/County jurisdiction and provided water from the City of La Verne, an additional map is attached identifying those areas.

Considering this, and given the exclusion that is provided under MWD's order, rather than adopting a city-wide restriction staff has outlined two options for the City Council to consider related to fire hazard zones which are outlined below:

1. Adopt Ordinance XXXX that would provide an exemption to the single day per week outdoor watering for properties within the fire hazard zone while still requiring a 20% reduction in water usage.
2. Adopt Ordinance XXXX that would provide an exemption to the single day per week watering for properties within the fire hazard zone and limit outdoor watering to three days per week outlined within the Ordinance.

Although the adopted Urgency Ordinance goes into effect immediately upon Council's approval, enforcement of the Urgency Ordinance will begin June 1, 2022, and only after La Verne Water Utility Customers have been notified via mailed notice of the new water use restrictions and penalty surcharges. Additionally, per Council's direction from the April 18<sup>th</sup> meeting, penalties would not go into effect until after July 1, 2022.

#### **Notices to the Public**

Upon adoption of the Urgency Ordinance, a notice detailing the newly adopted water use restrictions and the California drought penalty surcharges will be mailed to all La Verne Water Utility Customers. Additional notices will be sent out as bill inserts and/or separately in an effort to notify residents and property owners. The additional cost for any outreach notices sent via US

Postal Service is an estimated \$6,500 per mailing, which includes printing and postage costs. The City is looking into rebate programs through MWD that can assist in offsetting these costs.

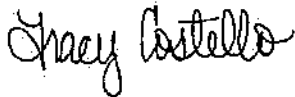
Staff will continue additional outreach efforts through our social media sources; Facebook, Instagram and Twitter, by providing drought updates, water saving tips and any relevant information received from the SWRCB, MWD and TVMWD. In addition, message boards will be placed in locations throughout the City as they are available, in an effort to remind residents to conserve water. Lastly, the City's Website (Conservation Page) has been updated with links to all the rebate programs available to residents in addition to the details of Phase V of Water Conservation, Use and Restrictions and the California Drought Penalty Surcharges as enacted by Council on April 18, 2022.

### Use of Funds

Drought Penalty Surcharge funds collected will first be used to pay any penalties assessed to the City by TVMWD. Any additional funds will be used, as they have in the past, for expansion of our public outreach efforts, to increase our water conservation programs and for capital improvement solutions. In the past, this has included funding toward turf replacement, mailers, giveaway items for events, pamphlets, etc.

Respectfully Submitted,

SHAWN IGOE  
Director of Public Works By



Tracy L. Costello  
Public Works Manager

Attachments: Urgency Ordinance Nos. 1111 and 1112  
April 18, 2022 Staff Report  
Resolution No. 22-17  
MWD April 26, 2022 Board Meeting Resolution  
TVMWD Resolution No. 22-04-928  
Very High Fire Hazard Severity Zone  
Cal Fire FRAP Fire Hazard Severity Zones

ORDINANCE NO. 1111

1 AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA VERNE, STATE  
2 OF CALIFORNIA, COUNTY OF LOS ANGELES, AMENDING SECTIONS 13.15.040 AND  
3 13.15.043 OF CHAPTER 13.15 OF THE LA VERNE MUNICIPAL CODE RELATIVE TO  
4 WATER CONSERVATION, USE AND RESTRICTIONS

5 **WHEREAS**, on October 19, 2021 Governor Newsom issued a Proclamation of a State  
6 of Emergency, declaring a statewide drought emergency; and,

7 **WHEREAS**, on March 18, 2022, the Department of Water Resources announced a  
8 decrease in the State Water Project allocation from 15 percent to 5 percent; and,

9 **WHEREAS**, the City of La Verne is State Water Project dependent and receives one  
10 hundred percent of our purchased water from the State Water Project supplies; and,

11 **WHEREAS**, on March 28, 2022, Governor Newsom issued Executive Order N-7\_22  
12 proclaiming states of emergency across all counties of California due to extreme and  
13 expanding drought conditions; and,

14 **WHEREAS**, per Governor Newsom's March 2022 Executive Order, by May 25, 2022,  
15 the State Water Resources Control Board (SWRCB) shall consider adopting emergency  
16 regulations that include at a minimum, shortage response actions for a shortage level of up to  
17 twenty percent, by a date to be set by the SWRCB; and,

18 **WHEREAS**, on April 18, 2022, the La Verne City Council adopted Resolution 22-17  
19 enacting Phase V of the Water Conservation, Use and Restrictions and imposing California  
20 Drought Penalty Surcharges; and,

21 **WHEREAS**, on April 20, 2022, The Three Valleys Municipal Water District (TVMWD)  
22 Board adopted Resolution 22-04-928 enacting a Water Shortage Contingency Plan - Level 5,  
23 in its State Water Project constrained areas, urging up to a 50 percent reduction in water use;  
24 and,

25 **WHEREAS**, the TVMWD identified the city of La Verne as a State Water Project  
26 constrained area and requires the City to implement and enforce a restriction on outdoor  
27 watering of no more than one day per week beginning June 1, 2022; and

28 **WHEREAS**, on April 26, 2022, the Metropolitan Water District (MWD) Board adopted  
29 an Emergency Water Conservation Program, declaring that a Water Shortage Emergency  
exists in the State Water Project dependent areas and that the Emergency Water Conservation  
Program shall continue through June 30, 2023, unless the MWD Board lifts the action before  
that date; and,

**WHEREAS**, an Urgency Ordinance is necessary to meet the June 1, 2022, deadline of  
the TVMWD water use restrictions as set in the Water Shortage Contingency Plan - Level 5, to  
avoid penalties of up to \$2000 per acre-foot.

NOW, THEREFORE, the La Verne City Council, **HEREBY ORDAINS** as follows:

**Section 1:** Section 13.15.040(A)(1) of Chapter 13.15 of the La Verne Municipal Code entitled "Water Conservation, Use and Restrictions" is **HEREBY AMENDED** to read as follows:

1. Hose washing of sidewalks, walkways, driveways, parking areas, hardscapes, or other paved surfaces shall be prohibited, except in the event the City Manager or his/her Designee determines that such use is the only feasible means of correcting a potential threat to health, sanitation or safety.

**Section 2:** Section 13.15.040(E)(2) of Chapter 13.15 of the La Verne Municipal Code entitled "Water Conservation, Use and Restrictions" is **HEREBY AMENDED** to read as follows:

2. Watering of landscape or other turf area, including that of commercial nurseries, golf courses, and other water dependent industries shall only be permitted between the hours of six p.m. and ten a.m. and shall be limited to Tuesday for all even address locations and shall be limited to Thursday for all odd address locations, for no more than eight minutes per station or area, and not to exceed more than eight minutes per week; except that there shall be no restriction on watering with reclaimed water, providing that signs are posted that identify reclaimed water is being used. Hand watering of trees is exempt from the one day per week restriction, along with properly operating drip irrigation systems. Established fire hazard zones, as identified by Section 15.37.020 of Chapter 15.37 of the La Verne Municipal Code, are exempt from the one day per week restriction and shall only comply with the 20% reduction mandate.

**Section 3:** Section 13.15.043 of Chapter 13.15 of the La Verne Municipal Code entitled "Water Conservation, Use and Restrictions" is **HEREBY AMENDED** to read as follows:

It is unlawful for any customer to fail to comply with the provisions of this chapter. The City Manager or his/her Designee shall give first-time violators a courtesy notice of the violation. No punishment shall be initiated or levied in connection with the courtesy notice. Further violations within one year from the date of the courtesy notice shall be punishable as set forth in Section 9.60.030(F). Further, it is unlawful for any customer to consume water in excess of, the base year or as provided in Level C of Sections 13.15.030(B), (C), (D), (E), (F) and (G). In addition to any other penalties or penalty surcharges provided for in any other section of this chapter, the city reserves the right to install a flow restricting device on the service line at the customer's expense for continued violation of the provisions of this chapter or for excess consumption for two consecutive billing periods. Further, such prohibited uses and restrictions shall not be applicable to the maintenance of active parks as designated by the director of public works and other routinely used athletic fields. However, to the extent possible, such facilities shall be irrigated in accordance with the provisions of this chapter. (Ord. 1057 § 4, 2015; Ord. 1017 § 5, 2010; Ord. 1009 § 2, 2009; Ord. 827 § 1, 1991; Ord. 822 § 3, 1991)

**Section 4:** The City Council **HEREBY FINDS** and **DETERMINES** that adoption of the Ordinance is categorically exempt from environmental review under section 15308 of the California Environmental Quality Act and City of La Verne environmental guidelines.

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**Section 5:** If any section, subsection, subdivision, sentence, clause, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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**Section 6:** The Council declares this Ordinance is necessary as an emergency measure to preserve the public peace, health, safety and welfare. As such, this Ordinance shall be introduced and passed at one and the same meeting, and shall become effective immediately upon a 4/5ths vote of the Council.

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**Section 7:** The Mayor shall sign and the Assistant City Clerk shall certify to the passage and adoption of this Urgency Ordinance and thereupon the same shall take effect and be in full force immediately.

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**PASSED, APPROVED AND ADOPTED** this 16<sup>th</sup> day of May, 2022.

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**/S/ TIM HEPBURN**

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Mayor Tim Hepburn

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ATTEST:

**/S/ LUPE GAETA ESTRELLA**

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Lupe Gaeta Estrella, CMC  
Assistant City Clerk

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The foregoing **Ordinance No. 1111** was introduced at a regular meeting of said Council duly held on 16<sup>th</sup> day of May, 2022, and duly passed and adopted by the said City Council and thereupon duly signed by the Mayor of said City, attested by the Assistant City Clerk of said City, and passed and adopted by the following vote:

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AYES: Lau, Crosby, Davis, Carder, and Mayor Hepburn  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

**/S/ LUPE GAETA ESTRELLA**

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Lupe Gaeta Estrella, CMC  
Assistant City Clerk