

ORDINANCE 1695

AN ORDINANCE OF THE CITY OF SEAL BEACH AMENDING THE SEAL BEACH MUNICIPAL CODE BY REVISING AND SUPPLEMENTING THE CITY'S WATER CONSERVATION PROVISIONS

WHEREAS, a reliable minimum supply of water is essential to the public health, safety and welfare of the people and economy of Southern California and the City of Seal Beach community.

WHEREAS, Southern California is a semi-arid region, largely dependent on imported water supplies from Northern California and the Colorado River along with a limited amount of local water supplies. Population growth, drought, climate change, environmental concerns, government policy changes, restrictions on pumping and other factors in our region, in other parts of the State and in the western U.S., make Southern California highly-susceptible to water supply reliability issues. Southern California experienced significant dry year conditions in 2012-2017, which led local water agencies, including the City of Seal Beach (City) to declare water shortage conditions that triggered demand reduction actions.

WHEREAS, the Legislature subsequently amended the Urban Water Management Planning Act (Water Code section 10610 et seq.) in 2018, to add California Water Code Section 10632 relating to water shortage contingency planning and also mandated new elements to Urban Water Management Plans and Water Shortage Contingency Plans. These elements include an annual drought risk assessment, State Water Shortage Levels, and statewide water use prohibitions.

WHEREAS, the Municipal Water District of Orange County (MWDOC) has adopted a 2020 Urban Water Management Plan and Water Shortage Contingency Plan documents that include water conservation and additional demand reduction actions in times of shortage as a necessary and effective component of MWDOC's programs to provide a reliable supply of water to meet the needs of MWDOC's 28 member agencies, including the City, with which this Ordinance is consistent.

WHEREAS, the imported water supplies in the City and MWDOC are subject to the Water Shortage Allocations determined by the Metropolitan Water District of Southern California, and subsequently MWDOC will be required to curtail deliveries of imported water based on MWDOC's Water Shortage Allocation Plan, which could be triggered in a state of shortage.

WHEREAS, local groundwater supplies from the Orange County Groundwater Basin are limited by the Basin Pumping Percentage, which is set by Orange County Water District on an annual basis. A supply reduction that may result from

the annual Basin Production Percentage will be included in the City's Annual Water Supply and Demand Assessment.

WHEREAS, as of July 2021, both MWDOC and the City are required to prepare an Annual Water Supply and Demand Assessment and Drought Risk Assessment as part of their Urban Water Management Plan for submission to the California Department of Water Resources (DWR). Annually, by July 1st of each year, beginning the year following the adoption of the 2020 Urban Water Management Plan. MWDOC and the City are required to monitor, report, and if declared a drought emergency according to their adopted Water Shortage Contingency Plans, then notify DWR, in order to comply with the California Water Code 10632.1 reporting requirements.

WHEREAS, California Water Code Section 353 specifies that a governing body must adopt regulations or restrictions on the delivery and consumption of water within its service area when it declares the existence of an emergency condition.

WHEREAS, California Water Code Section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

WHEREAS, City Charter Article IV, Sections 412 through 416 set forth the procedures for adoption of City ordinances, and California Water Code Section 375 et seq. and Section 10640 et seq. set forth the public notification, public meeting and public hearing and findings requirements for water providers proposing the establishment of a water conservation program.

WHEREAS, California Water Code Sections 350, et. seq., sets forth the determination and notification procedures for water suppliers seeking to declare a water shortage or a water emergency.

WHEREAS, California Water Code Section 356 allows for the adoption of regulations and restrictions that include discontinuance of service as an enforcement option where a water shortage emergency condition has been declared.

WHEREAS, California Water Code Section 377 authorizes water suppliers to enforce a comprehensive water conservation program to reduce water consumption through establishment of non-compliance charges and other penalties, subject to advance notification to water users.

WHEREAS, Health and Safety Code Section 5471 authorizes the City to apply charges or fees to persons or entities that fail to comply with any provision of this Ordinance in order to recover administrative and enforcement costs due to non-compliance (including but not limited to notices, postings, hearings, water waste

violations, water shortage demand reduction measures, shut offs, account management, data collection).

WHEREAS, California Water Code Section 370, et. seq., authorizes water suppliers to adopt water allocation programs for water users and allocation-based conservation water pricing.

WHEREAS, California Water Code Sections 13550 and 13551 declare a statewide policy that the use of domestic water for irrigation purposes when reclaimed (recycled) water is available constitutes a waste or unreasonable use of water within the meaning of the State Constitution.

WHEREAS, the adoption and enforcement of a Water Shortage Contingency Response Ordinance is necessary to manage the City's water supply short- and long-term and to minimize and/or avoid the effects of drought and water shortage within the City. Such a program is essential to ensure a reliable and sustainable minimum supply of water for public health, safety and welfare.

WHEREAS, the City Council adopts this Ordinance in accordance with the Seal Beach Charter pursuant to the City's authority over municipal affairs as a charter city under California Constitution, Article XI, Section 5; the City's police power under California Constitution Article XI, Section 7; and pursuant to state law including California Constitution, Article X, Section 2, Water Code Section 370 et seq. and Water Code Section 10620 et seq.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds this Ordinance 1695 establishes reasonable water management requirements necessary to conserve water, enable effective water supply reliability planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, and maximize efficient use of water within the City.

This Ordinance establishes:

1. Permanent water conservation measures designed to increase water-use efficiency during non-shortage conditions.
2. Regulations to be implemented during times of declared water shortages or water shortage emergencies.
3. Six Water Shortage Levels that are most often triggered due to drought conditions to provide defined response actions that

consist of increasing water use restrictions and demand reduction actions as a result of worsening drought or emergency conditions and decreasing supplies.

SECTION 2. Chapter 9.35 (“Water and Water Conservation”) of Title 9 of the Seal Beach Municipal Code is hereby retitled as “Water.”

SECTION 3. Sections 9.35.095 through 9.35.170 of Chapter 9.35 of Title 9 of the Seal Beach Municipal Code are hereby repealed in their entirety and removed from the Municipal Code.

SECTION 4: A new Chapter 9.37 entitled “Water Shortage Contingency Response” is hereby added to Title 9 of the Seal Beach Municipal Code to read as follows:

“Chapter 9.37 Water Shortage Contingency Response

9.37.005 Definitions

A. For the purposes of this chapter, the following words and phrases shall mean:

1. **Annual Water Supply and Demand Assessment:** a determination of the near-term outlook for supplies and demands and how a perceived shortage may relate to the Shortage Level response actions as defined in the Water Shortage Contingency Plan in the current calendar year.
2. **City:** the City of Seal Beach.
3. **Demand Reduction Actions:** education, incentive or regulatory actions taken by the City to reduce water demand in its service area during times of shortage. Demand reduction actions pre-planned to prepare for a water shortage as presented in Table 8-2 of the City’s Water Shortage Contingency Plan.
4. **Director:** director of public works/city engineer or the designee thereof.
5. **DWR:** California Department of Water Resources.
6. **Local Health Agency:** Orange County Health Department.
7. **MWDOC:** the Municipal Water District of Orange County.
8. **Water Conservation Measure:** restrictions enforceable to address progressive levels of water shortage, including but not limited to, Permanent Water Conservation Measures, Water Shortage Level mandatory water conservation measures and demand reduction actions as defined in this chapter or the City’s Water Shortage Contingency Plan.

9. **Water User:** a person who obtains water from the city water system.

B. Any word or phrase used in this chapter that is defined in the Health and Safety Code Section 116275 or in California Code of Regulations Title 17, Section 7583 and not defined in subsection A shall have the meaning set forth in such state law provision.

9.37.010 Applicability

A. The provisions of this chapter apply to any person or entity using water provided by the City. This includes individuals, persons, corporations, public or private entities, governmental agencies or institutions, or any other users of City water.

B. Exemptions. The provisions of the chapter do not apply to any of the following:

1. Water use necessary to protect public health and safety or for essential government services, such as police, fire and similar services.

2. Recycled water use for onsite reuse. Use of recycled water requires a permit that has specific use restrictions, many of which focus on water efficiency. Given such permits and the interest in promoting the use of recycled water as a means to preserve, recycled water is exempt from requirements of this chapter.

3. Water used by commercial nurseries and growers to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.

4. Water used from private wells.

C. This chapter is intended solely to further the beneficial use and conservation of water. It is not intended to implement any provision of federal, state, or local statutes, ordinances or regulations relating to protection of water quality or control of drainage or runoff. Refer to chapter 9.20 for information on storm water management.

9.37.015 Permanent Mandatory Water Conservation Measures

The City has adopted a Water Shortage Contingency Plan which details demand reduction actions that the City may take to restrict or shall prohibit its customers' consumption of water, including baseline conservation measures to be taken in times of normal water supply conditions. The following permanent water

conservation measures set forth in this chapter, in support of demand reduction actions as called for in the California Water Code, are effective at all times and are applicable unless repealed by the City Council. Violations of this section shall be considered waste and an unreasonable use of water subject to penalties and fees as appropriate, in addition to any other legal or equitable remedies provided by law.

A. Leaks

Each water user shall repair all leaks from indoor and outdoor plumbing fixture at the user's premises. Such water user shall eliminate any loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system promptly after discovering the leak, but in no case more than 7 days after discovery, unless otherwise permitted in the Water Shortage Contingency Plan demand reduction actions.

B. Runoff

No water user shall cause or allow water to run off landscape areas into the public right-of-way due to incorrectly maintained sprinklers, excessive watering or use.

C. Limits on Watering Hours

No water user shall cause or allow watering or irrigating of the user's lawn, landscape or other vegetated area with potable water between 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-water shut-off nozzle or device, or for a very short period of time for the limited purpose of adjusting or repairing an irrigation system.

D. Limit on Watering Duration

No water user shall cause or allow watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended for longer than 15 minutes watering per day per station. Landscape irrigation shall be consistent with Chapter 9.70 (Water Efficient Landscape Ordinance).

E. No Washing Down Hard or Paved Surfaces

No water user shall cause or allow the washing down of hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys. Notwithstanding this prohibition, a water user may wash down such surfaces when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a

low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

F. Re-circulating Water Required for Water Fountains and Decorative Water Features

No person shall operate a water fountain or other decorative water feature that does not use re-circulated water.

G. No Installation of Single Pass Cooling Systems

No person shall install single pass cooling systems in connection with new water service.

H. No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems

No person shall install non-re-circulating water systems in connection with commercial conveyor car wash and commercial laundry systems. The owner or operator of any commercial conveyor car wash system shall install operational re-circulating water systems or secure a waiver of this requirement from the Director.

I. Washing of Vehicles and Equipment.

No person shall wash a motor vehicle, trailer, boat or other type of mobile equipment other than by a hand-held bucket or by a hose equipped with a positive shut-off nozzle. This prohibition shall not apply to washing performed at a commercial car wash.

J. Water Upon Request

Restaurants shall not offer water service and shall serve water only to a customer that specifically requests water.

9.37.020 Determination of Water Shortage Level

The City's Water Shortage Levels are aligned with the six standard State Water Shortage Levels and as defined in MWDOC's as well as the City's Water Shortage Contingency Plan to comply with California Water Code Section 10632(a)(3). The Water Shortage Levels represent shortages from normal reliability as determined in the Annual Water Supply and Demand Assessment, corresponding to progressive ranges of 10, 20, 30, 40, 50, and greater than 50 percent shortages. The City Council may declare a Water Shortage Level upon making a finding specified in DWR Table 8-1, by resolution adopted at a regular or special meeting

after a public hearing. Such resolutions shall specify the start day of the Level and shall be effective upon posting in a publication of general circulation within the City.

A. DWR Table 8-1 from the City’s Water Shortage Contingency Plan defines the conditions that trigger each Water Shortage Level as follows:

DWR Table 8-1 Water Shortage Contingency Plan Levels		
Shortage Level	Percent Shortage Range	Shortage Level Response Actions
<u>0</u>	0% (Normal)	A Level 0 Water Supply Shortage – Condition exists when the City notifies its water users that no supply reductions are anticipated in this year. The City proceeds with planned water efficiency best practices to support consumer demand reduction in line with state mandated requirements and local City goals for water supply reliability. Permanent water waste prohibitions are in place as stipulated in the City’s Water Shortage Contingency Response Ordinance.
<u>1</u>	Up to 10%	A Level 1 Water Supply Shortage – Condition exists when the City notifies its water users that due to drought or other supply reductions, a consumer demand reduction of up to 10% is necessary to make more efficient use of water and respond to existing water conditions. The type of event that may prompt the City to declare a Level 1 Water Supply Shortage may include, among other factors, a finding that its wholesale water provider calls for extraordinary water conservation.
<u>2</u>	11% to 20%	A Level 2 Water Supply Shortage – Condition exists when the City notifies its water users that due to drought or other supply reductions, a consumer demand reduction of up to 20% is necessary to make more efficient use of water and respond to existing water conditions. Upon declaration of a Level 2 Water Supply Shortage condition, the City shall implement the mandatory Level 2 conservation measures identified in this ordinance.
<u>3</u>	21% to 30%	A Level 3 Water Supply Shortage – Condition exists when the City declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 30% consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The City must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.

**DWR Table 8-1
Water Shortage Contingency Plan Levels**

Shortage Level	Percent Shortage Range	Shortage Level Response Actions
4	31% to 40%	A Level 4 Water Supply Shortage - Condition exists when the City declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 40% consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The City must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
5	41% to 50%	A Level 5 Water Supply Shortage - Condition exists when the City declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 50% or more consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The City must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
6	>50%	A Level 6 Water Supply Shortage – Condition exists when the City declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that greater than 50% or more consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The City must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.

NOTES:

The shortage response actions that align with each Level of Water Supply Shortage are defined in the City’s Water Shortage Contingency Plan, or as may be amended from time to time, along with an estimate of the extent to which the gap between supplies and demand will be reduced, and include:

1. Locally appropriate supply augmentation actions.
2. Locally appropriate demand reduction actions to respond to shortages.

3. Locally appropriate operational changes.
 4. Additional mandatory prohibitions against specific water use practices, in addition to state-mandated prohibitions, as deemed necessary by the City.
- B. Each elevated shortage level will include the elements of the previous shortage level(s), including permanent mandatory water conservation measures as defined in this Ordinance and the City's Water Shortage Contingency Plan. As deemed necessary, an allocation of water supply under a water supply emergency condition beyond Water Shortage Contingency Plan defined actions may be required to be implemented when conditions dictate necessary.
- C. No person shall violate any provisions of the City's Water Shortage Contingency Plan applicable to a particular Water Storage Level during a period in which conditions of such Water Storage Level have been declared to exist.
- D. Upon determining that water shortage conditions continue to exist but have improved to the point that it is appropriate to move to a less restrictive level, the City Council shall adopt a resolution declaring the existence of the new water shortage level. Upon determining that water shortage conditions no longer exist, the City Council shall adopt a resolution declaring an end to the water shortage.

9.37.025 Procedures and Protocols for Communication

Upon declaration of a water shortage, the City will inform all relevant stakeholders, including customers, the public, interested parties, and local, regional, and state governments, of the applicable Water Storage Level and the effective date of the water shortage actions associated with the relevant Water Shortage Level according to the communication procedures identified in the City's Water Shortage Contingency Plan, including:

- A. Any current or predicted shortages as determined by the Annual Water Supply and Demand Assessment.
- B. Any shortage response actions triggered or anticipated to be triggered by the Annual Water Supply and Demand Assessment.
- C. Any other relevant communications.

9.37.030 Relief from Water Conservation Measures

- A. Within fifteen (15) days of the effective date of a resolution declaring the Water Shortage Level, any water user may apply to the Director for relief from the applicable water conservation measures. Applications shall be filed on a City-provided form and shall be accompanied by an application fee in an amount set by City Council resolution.

- B. The Director may approve, conditionally approve or deny an application for relief from water conservation measures. In making such determination, the Director shall consider the following factors:
 - 1. Whether additional reduction in water consumption will result in unemployment.
 - 2. Whether additional persons have been added to the household (i.e., higher occupancy dwellings or Accessory Dwelling Units [ADUs]).
 - 3. Whether additional landscaped property has been added to the property since the corresponding billing period of the prior calendar year.
 - 4. Changes in vacancy factors in multi-family housing.
 - 5. Increased number of employees in commercial, industrial and governmental offices.
 - 6. Increased production requiring increased process water for non-residential uses.
 - 7. Water uses during new construction.
 - 8. Adjustments to water use caused by emergency health or safety hazards.
 - 9. First filling of a permit-constructed swimming pool.
 - 10. Water use necessary for reasons related to family illness or health.
 - 11. Whether the applicant has achieved the maximum practical reduction in water consumption other than in the specific areas for which relief is sought.

- C. The decision of the Director shall be final.

9.37.035 Penalties, Violations and Enforcement of Water Conservation Measures

- A. **Penalties:** The following will apply to any person that fails to comply with any provision of this chapter or any water conservation measure adopted pursuant to this chapter or the City's for Permanent, and/or any applicable Water Shortage Level mandatory water conservation measures and demand reduction actions. The penalties set forth in this section shall be exclusive and not cumulative with any other provision of this code. Violation of water conservation measures shall be penalized as follows:

1. *First violation:* the Director shall issue a written warning and deliver a copy of this chapter by mail or posting (i.e., door hanger).
 2. *Second violation during a water conservation level within the preceding twelve (12) calendar months:* the Director shall impose a penalty in an amount consistent with the City's last adopted Cost Recovery Schedule.
 3. *Subsequent violations during a water conservation level within the preceding twelve (12) calendar months:* the City shall install a flow restricting device of appropriate size as determined by the Director, and a comparatively sized restrictor for larger service, on the service of the violator at the premises at which the violation occurred for a period of not less than 48 hours. The Director shall charge the water user the costs of installation and removal of the device and for restoration of normal service. Normal service shall not be restored until the account has been made current and all charges have been paid.
- B. Termination of Service:** In addition to any fines, the City may disconnect and/or terminate a customer's water service for a willful violation of any water conservation measure or other mandatory restrictions of this chapter or any willful violation of any water conservation measure imposed pursuant to the Water Shortage Contingency Plan. The violator shall be responsible for payment of the City's charges for disconnecting and/or reconnecting service. All associated fees must be paid in full prior to restoration of normal service. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.
- C. Separate Offenses:** Each day that a violation of this chapter occurs is a separate offense.
- D. Notice of Violation:** Except for violations of this chapter subject to excessive water use penalties, if any person fails or refuses to comply with this chapter, the City's Water Storage Contingency Plan, or any water conservation measure adopted pursuant thereto, the Director or his/her designee shall provide that person with written notice of the violation and an opportunity to correct the noncompliance at least fifteen (15) days before taking enforcement action.
1. The City will issue a Notice of Violation by mail or personal delivery at least fifteen (15) days before taking enforcement action. The written notice shall be mailed via United States first class mail to the address of the violation, to the party who is billed for the water, or to the Owner of the property, as appropriate, and shall also be posted or presented at the site of the violation.

2. The Notice shall contain the following information:
 - a. State the time, date, and place of violation;
 - b. State a general description of the violation;
 - c. State the means to correct the violation;
 - d. State a date by which correction is required; and,
 - e. State the possible consequences of failing to correct the violation.

E. Appeal and Hearing:

1. Issuance of the first violation notice shall not be subject to any right of hearing or appeal.
2. Any person receiving a notice of second or subsequent violation may request a hearing before the Director by filing a written appeal with the city clerk no later than the close of business on the day before the date scheduled for enforcement action. The appeal fee shall be in an amount set by City Council resolution. A timely request for a hearing shall stay the installation of a flow-restricting device on the appellant's premises until a decision has been made on the appeal. If the Director determines that the surcharge was incorrectly assessed, the City shall refund any money deposited by the customer. The Director's decision on the appeal shall be final.
3. Notwithstanding Subsection F(2), pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water level condition."

SECTION 5: CEQA. The City Council determines that the adoption of this Water Shortage Contingency Response Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Water Code Sections 10632 and 10652, and Sections 15282 and 15307 of the CEQA Guidelines.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council of the City of Seal Beach hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 6: Effective Date. This Ordinance shall become effective upon adoption in accordance with Water Code section 376.

SECTION 7: Publication. The City Clerk shall certify to the adoption of this Ordinance and shall post or publish this Ordinance or a summary as required by law.

INTRODUCED at a regular meeting of the City Council of the City of Seal Beach held on May 23, 2022.

PASSED, APPROVED and ADOPTED by the Seal Beach City Council at a regular meeting held on the XX day of June 2022.

AYES: Council Members _____

NOES: Council Members _____

ABSENT: Council Members _____

ABSTAIN: Council Members _____

Joe Kalmick, Mayor

ATTEST:

Gloria D. Harper, City Clerk

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Gloria D. Harper, City Clerk of the City of Seal Beach, do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Seal Beach held on the 23rd day of May 2022, and was passed, approved, and adopted by the City Council at a regular meeting on the XX day of June 2022.

Gloria D. Harper, City Clerk