URGENCY ORDINANCE NO. 15 -1340

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY AMENDING ARTICLE VII, CHAPTER 3.5, OF THE DOWNEY MUNICIPAL CODE AS IT RELATES TO WATER CONSERVATION REGULATIONS AND RESTRICTIONS

WHEREAS, on January 17, 2014, the Governor of California declared a State of Emergency to exist in California due to severe drought conditions and the problems such conditions present to drinking water supplies and cultivation of crops; and,

WHEREAS, on April 25, 2014, the Governor of California further declared a State of Emergency to exist in California due to the severe drought and issued an executive order directing the State Water Resources Control Board (State Water Board) to adopt Emergency Regulations to reduce water use throughout the State; and,

WHEREAS, on July 15, 2014, the State Water Board adopted Emergency Regulations which took effect on July 28, 2014 adding Article 22.5, Sections 863, 864, and 865 to Title 23 of the California Code of Regulations pertaining to emergency water conservation requirements in response to the severe drought; and,

WHEREAS, on March 27, 2015, the State Water Board re-adopted the Emergency Regulations which took effect on July 28, 2014 and further amended Article 22.5, Sections 864 and 865 of Title 23 of the California Code of Regulations to add additional emergency water conservation requirements due to the continued lack of precipitation in the State; and,

WHEREAS, on April 1, 2015, Governor of California issued an executive order directing the State Water Board to establish mandatory water use restrictions for urban water suppliers across the State; and,

WHEREAS, on May 5, 2015, the State Water Board re-adopted the Emergency Regulations which took effect on March 27, 2015 and further amended Article 22.5, Sections 863, 864, and 865 of Title 23 of the California Code of Regulations while also adding Section 866, all of which took effect on May 18, 2015 and which compliance measures are set to run through February 2016, unless further amended or extended; and,

WHEREAS, the latest Emergency Regulations adopted by the State Water Board requires, for the first time in the State's history, a mandatory 25 percent reduction in potable water use statewide, and more specifically a 20 percent reduction by the City of Downey, from June 1, 2015 through February 2016; and,

WHEREAS, the City of Downey City Council previously adopted Downey Municipal Code (DMC) Article VII, Chapter 3.5 (Ordinance No. 925) that addressed droughts of years past; and,

WHEREAS, amendments to the Downey Municipal Code are necessary to ensure compliance with the State's Emergency Regulations and for the immediate preservation of the public peace, health and safety in that without immediate and State-mandated reductions in water use which became effective June 1, 2015, the State and City's water supply may be subject to further shortages placing in jeopardy, the City's ability to meet the basic health and sanitation needs of the City's customers and its ability to maintain public peace; and,

WHEREAS, the new Emergency Regulations include provisions and measures outlining fines and penalties for municipal non-compliance with its requirements and the State Water Board expects immediate action by all water providers through the State to ensure compliance.

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

SECTION 1. Article VII, Chapter 3.5, of the Downey Municipal Code is hereby amended and changed in its entirety to read as follows:

"Chapter 3.5 – WATER CONSERVATION REGULATIONS AND RESTRICTIONS

SECTION 7350. USE RESTRICTIONS.

Customers shall comply with the following restrictions concerning the use of water. Should any such restrictions conflict with Federal and State regulations, Federal and State regulations shall supersede this Section.

(a) **Landscape irrigation practices**:

(1) **Watering Hours – Potable Water**: Landscape irrigation with potable water shall only be permitted between the hours of 7:00 p.m. and 8:00 a.m. Pacific Standard Time.

(a) Exceptions: When a hand-held watering container is used, a drip irrigation system is used, or for the sole purpose of adjusting or repairing an irrigation system, such hours may be exceeded.

(2) **Watering Hours – Recycled Water:** Landscape irrigation with recycled water shall only be permitted between the hours of 10:00 p.m. and 6:00 a.m.

(a) Exceptions: For areas where public access is generally prohibited or minimized, such hours may be exceeded as approved by the Director of Public Works or his/her designee and the State Water Board or their local Los Angeles County designee.

(3) **Watering Duration – Potable Water**: Landscape irrigation with potable water is limited to no more than six (6) minutes per irrigation controller station per designated irrigation day.

(a) Exceptions: When a drip irrigation system or stream rotor sprinklers that meets a minimum 70% efficiency standard is used, such durations may be exceeded.

(4) **Watering Duration – Recycled Water**: Landscape irrigation with recycled water is not limited to any length of time per irrigation controller station per day as long as all other applicable provisions of the Downey Municipal Code are met.

(5) **Watering Days– Potable Water**: Landscape irrigation with potable water is limited to no more than the following number of days per week:

(a) October through April: No more than two days per week and only on designated irrigation days

(b) May through September: No more than three days per week and only on designated irrigation days

(c) Designated Irrigation Days:

(1) Street Addresses Ending in Even Numbers: Tuesdays, Thursdays, and/or Saturdays

(2) Street Addresses Ending in Odd Numbers: Mondays, Wednesdays, and/or Fridays

(d) Exceptions: Golf courses, agricultural customers, and landscape nurseries may exceed the above requirements when a plan is approved by the Director of Public Works or his/her designee.

(6) **Watering Days – Recycled Water**: Landscape irrigation with recycled water is permitted on any day of the week.

(7) **Irrigation Runoff**: Water shall not be allowed to run off landscape areas onto adjoining properties, non-irrigated areas, streets, sidewalks, or other hardscape areas due to incorrectly directed or maintained sprinklers or excessive watering.

(8) **Use of Hoses**: Landscape irrigation with potable water using a handheld hose is prohibited except where such hose is equipped with a positive shut-off nozzle.

(9) **Irrigation During Rainfall**: Landscape irrigation with potable water during and within 48 hours after measurable rainfall is prohibited.

(10) **Street Medians**: Irrigation of ornamental turf in public and private street medians using potable water is prohibited.

(11) **Irrigation at New Homes and Buildings**: Landscape irrigation with potable water at newly constructed homes and buildings shall comply with the latest regulations and requirements of the California Building Standards Commission and the Department of Housing and Community Development.

(b) **Exterior washing practices**:

(1) **Buildings, Facilities, and Motor Vehicles**: Washing of buildings, facilities, equipment, autos, trucks, trailers, boats, airplanes, and other types of mobile equipment with potable water is prohibited except by use of a handheld bucket or hose equipped with a positive shut-off nozzle.

(a) Exceptions: Washings are exempted from these regulations where the health, safety, and welfare of the public are contingent upon immediate cleaning of the facility or vehicle.

(2) **Commercial Car Wash:** Washing is permitted at any time on the immediate premises of a commercial car wash. New commercial car washes must be equipped with recirculating water systems. Installation of non-recirculating water systems is prohibited.

(3) **Hardscape**: Water shall not be used to wash down sidewalks, driveways, parking areas, patios, streets, or other hardscape areas except to alleviate immediate fire, sanitation, or health hazards and then only by use of a handheld bucket, handheld hose equipped with a shut-off nozzle, or a low-volume, high-pressure cleaning machine equipped to recycle any water used.

(c) **Ornamental and recreational uses**:

(1) **Swimming Pools and Spas:** Filling and refilling swimming pools and spas are discouraged, and only permitted between the hours of 9:00 p.m. and 6:00 a.m. Pacific Standard Time. Installation of covers is required on all newly constructed or reconstructed swimming pools and spas and highly encouraged on all existing pools and spas.

(2) **Decorative Water Features:** The use of potable water in decorative fountains and other water features such as ponds is prohibited except where water recirculating systems are used.

(d) **Fire and potable water piping systems**:

(1) **Fire Hydrants and Sprinkler Systems:** Water from fire hydrants and fire sprinkler systems shall only be used for firefighting and as necessary to protect the health, safety and welfare of the public.

(2) **Potable Water Systems**: Flushing of potable water mains is prohibited except where necessary to protect the health, safety, and welfare of the public.

(3) **Leaks:** Leaks shall be repaired as soon as discovered and shall not be allowed to continue for more than 48 hours.

(e) **Indoor water use**:

(1) **Eating and Drinking Establishments**: The serving of drinking water other than upon request at public eating and/or drinking establishments is prohibited unless requested.

(2) **Hotels and Motels**: Hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily and shall display notice of this option in each guest room.

(3) **Cooling Systems**: Installation of single-pass cooling systems as part of new developments or re-developments is prohibited.

(f) **Compliance and Enforcement**:

(1) **Compliance Tracking**: The City may monitor water usage by all means necessary to ensure compliance including but not limited to: visual inspection, camera, video, and remote meter and water usage monitoring via radio, cellular tower, and/or satellite.

(2) **Compliance Measures**: The City may take all means necessary to ensure compliance including but not limited to: installation of flow restriction devices, installation of remote read water meters, devices, and associated equipment, reducing the City's target water system pressure to reduce usage, increasing enforcement and engagement of the administrative citation procedure, and/or implementing additional water use reduction measures via resolution or ordinance of the City Council.

(3) **Penalties**: In the course of seeking compliance with Article VII, Chapter 3.5 of the Downey Municipal Code as it relates to Water Conservation Regulations and Restrictions, the City may engage the Administrative Citation process resulting in notices of non-compliance and/or imposition of fines as defined in Article I Chapters 2 and 4 of the Downey Municipal Code. In furtherance of the measures provided in Article VII, Chapter 3.5 of the Downey Municipal Code the City may also implement additional penalties and/or fees for non-compliance which may be established by resolution and/or ordinance of the City Council.

SECTION 7353. WATER CONSERVATION.

(a) **Applicability**: This section of the Code emphasizes some fundamental requirements to maximize water conservation at all new developments and existing property renovations in addition to those required by other sections of the Downey Municipal Code.

(b) **Landscape and Irrigation Definitions**:

(1) **Hydrazone:** A portion of a landscaped area having plants with similar water needs,that are served by an irrigation control valve or set of valves, with the same watering schedules.

(2) **Infiltration Rate**: The rate at which water is absorbed into soil expressed as a measure of the depth of water units over time (inches per hour).

(3) **Overspray:** Irrigation water which is delivered beyond landscape areas wetting non-landscaped areas or hydrazones not intended to be watered by the irrigation system being utilized.

(4) **Recycled Water**: Reclaimed or treated sewage effluent water which has been rendered suitable for non-potable water use for landscape irrigation and other approved non-potable water purposes such as dual plumbing for toilets, urinals, cooling, and industrial/commercial process water. Such water is not for human consumption.

(5) **Irrigation Runoff:** Irrigation water which is not absorbed by the soil or landscape to which it is intended to be applied and flows from the area to adjoining properties, non-irrigated areas, streets, sidewalks, or other hardscape areas.

(6) **Turf**: A surface layer of earth containing grass, its roots, and the soil within the roots.

(c) **Design Standards**: Landscaping and potable water irrigation at newly constructed homes and buildings and existing property renovations shall be designed to fully comply with the City's landscaping and irrigation provisions as listed in the Downey Municipal Code as well as the latest regulations and requirements of the California Building Standards Commission and the Department of Housing and Community Development to maximize water conservation. Should requirements set forth in this Chapter ever conflict with Federal and State regulations, Federal and State regulations shall supersede this Chapter. Conservation measures shall include, but not necessarily be limited to, the following:

(1) **Turf:** Limiting or eliminating turf areas on project sites subject to City review and approval.

(2) **Infiltration**: All irrigation systems shall be designed and documentation submitted which will ensure that proper water infiltration will occur based on soil and grading conditions.

(3) **Irrigation Efficiency:** All irrigation systems shall be designed and documentation submitted that ensures such irrigation systems will supply only the necessary quantity of water needed and that such systems are fine tuned to avoid the use of unneeded water as well as elimination of overspray and run off.

(4) **Drip and Microspray Irrigation**: New irrigation systems shall maximize the use of drip irrigation and microspray systems to the maximum extent possible.

(5) **Drought Tolerant Landscaping**: New landscaping shall incorporate drought tolerant plants, ground covers, shrubs and trees to the maximum extent possible.

(6) **Trees:** Where appropriate, developers should plant fast growing, broad head trees (which shall be 24" box size trees or greater at the time of their planting) in order to provide shading and to reduce evaporation.

(7) **Hydrazones**: Plantings shall be grouped into hydrazones to maximize irrigation system efficiency.

(8) **Recycled Water**: Where recycled water infrastructure is adjacent to new developments and existing property renovations, such projects shall be required to use recycled water for landscape irrigation and/or for other non-potable water purposes as approved by the City, State, and other local recycled water jurisdictions unless such requirements are deemed by the City to be overly burdensome and subsequently waived by the City.

(d) **Drought Tolerant Plant List**: The City's Community Development Department may develop a list of drought tolerant trees, shrubs, ground covers, and other plants that can be used as a guide for new developments and existing property renovations when designing their landscape/irrigation systems. Such list may be amended by the Director of Community Development from time to time as needed by the City.

SECTION 2. The City Council finds, pursuant to State CEQA Guidelines Section 15378(a), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a "Project" as defined by CEQA. This Ordinance is further exempt from environmental review pursuant to the "general rule" at State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

SECTION 3. Pursuant to the City Charter Section 511, the City Council hereby declares, on the basis of the findings set forth above, that an urgency exists and that this Ordinance is necessary for the preservation of the public peace, health and safety. Accordingly this Ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. Should any provisions of this chapter conflict with State and/or Federal regulations, State and Federal regulations supersede. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall be adopted by four-fifths (4/5) vote of the City Council. Upon adoption, the Mayor shall sign this Ordinance and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted in the manner required by law.

APPROVED AND ADOPTED this 9th day of June, 2015.

LUIS H. MARQUEZ
Mayor

ATTEST:

ADRIA M. JIMENEZ, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DOWNEY)

I HEREBY CERTIFY that the foregoing Urgency Ordinance No. 15-1340 was introduced and adopted at a regular meeting of the City Council of the City of Downey held on the 9th day of June, 2015 by the following vote, to wit:

AYES:	Council Members:	Ashton, Brossmer, Vasquez, Saab, Mayor Marquez
NOES:	Council Member:	None.
ABSENT:	Council Member:	None.
ABSTAIN:	Council Member:	None.

I FURTHER CERTIFY that a Summary of the foregoing urgency Ordinance No. 15-1340, was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on June 9, 2015 (after adoption, including the vote thereon). It was also posted in the regular posting places in the City of Downey on the same dates.

ADRIA M. JIMENEZ, CMC
City Clerk