



STAFF MEMORANDUM

DATE: JUNE 11, 2014

TO: PLANNING COMMISSION, ARCHITECTURAL ADVISORY COMMITTEE
OF THE PLANNING COMMISSION AND SUSTAINABILITY COMMISSION

SUBJECT: WATER CONSERVATION

FROM: PLANNING SERVICES

BACKGROUND INFORMATION:

<i>Related Relevant Actions</i>	
1/17/2014	California Governor declares drought emergency.
2/26/2014	The Planning Commission requested a study session with the Architectural Advisory Commission and Sustainability Commission regarding water.
5/7/2014	The City Council received a report on Water conservation issues from the Sustainability Manager.

ANALYSIS:

Water conservation is the purview of both water agencies and municipalities. In some cases, the city is the water agency.

Following upon the data provided at the Desert Sun's Water Symposium held March 20, 2014, staff has analyzed Phoenix, Tucson and Las Vegas to determine their methods to reduce water usage. The cities of Phoenix and Tucson are the water purveyors. In Las Vegas, the Las Vegas Valley Water District provides water. Phoenix and Tucson's conservation methods are listed below:

Phoenix City/Water Department:

- Since 1998 new development pays a water resource acquisition fee to fund new water supply and acquisition.
- Eliminate over-seeding turf with winter ryegrass.
- Reduce irrigation in parks and street scape.
- Change watering for dust control.
- Change cleaning of streets, sidewalks and public sites.
- Audits and change to city use of water.

- Reclaimed water for golf courses.
- Rates vary by season
 - Low (January-March, December)
 - Medium (April-May, October-November) +12%
 - Hi (June-September) +18%

Tucson City/Water Department:

- 2008 Commercial Water Harvesting Ordinance states all new commercial construction must meet 50% of landscaping demand using harvested rainwater, prepare a site water harvesting plan, meter outdoor water use and use irrigation controls.
- Zanjero Program
 - Provides free home water audits.
- Fees
 - Conservation Fees \$.07/CCF
 - Groundwater Protection Fee
- Citizens Water Advisory Committee
 - Acts as official advisory body on Water Capital Improvement Program planning, water resource planning and rate structure formulation to City Council. 15 members plus 2 ex-officials (Water Building Directors), 1 Mayoral appointee, 8 Mayor and City Council member appointees, nominated by City Manager, and 6 Ward appointees.
- Rebates
 - Grey Water
 - High Efficiency Toilet
 - Low Income Toilet replacement
- Water Smart Business Plan
- Since 1976 "Pete the Beak" mascot, Beat The Peak, summer conservation program for kids and adults.
- Reclaimed water used for irrigation in all parks, golf courses and schools.
- Division 8 of Land Use Code Native Plant Preservation and Division 7 of Land Use Code Landscaping and Screening (attachment 3).

Las Vegas Valley Water District, restrictions are shown here: (attachment 2)

- Landscape watering prohibited 11am-7pm May 1-October 1.
- Landscape watering allowed three assigned days per week March 1-April 30 &

- September 1-October 31, one day assigned per week November 1-February 28 and any day May to August.
- Misting systems May 1-August 31 only; 12 hours per day max.
- Parks March-April & September-October 7 of 14 days, November-February 2 of 7 days and May-August no watering 11am-7pm.
- Tiered billing

- Fines:
1st violation to 5th violation
 - Single Family- \$80-\$1,280
 - Largest uses \$320-\$5,120

- Rebates
 - \$50 or 50% off pool cover, \$200 or 50% off mechanical
 - \$200 or 50% off smart controller.
 - Coupons for smart car wash.
 - Grass replacement \$1.50/square feet up to 5000 square feet and \$1/square feet > 5000 square feet; with free landscape designs.

Municipalities' Ordinances:

Tucson:

The City of Tucson ordinance is comprehensive in its approach to landscaping requirements. Some requirements of note:

- Scenic corridors require native vegetation in buffer areas.
- Multi-family residential uses may only have 5% of the site or 100 square feet/unit or 8% of required open space in non-drought tolerant landscaping.
- Water conservation irrigation system required for all new landscape plantings.
- Full code section regarding Native Plant Preservation.

Las Vegas (attachment 4):

In 2003, the city of Las Vegas adopted Chapter 14.11 of the municipal code to implement the Water District's water resource plan and augment its concepts through further implementation techniques.

Key Points Include:

- Standards may not be waived or varied.
- No turf allowed in new single family and multi-family common areas. If approved as part of project development approval it may have no dimension exceeding 10 feet.

- No turf in side or rear yards less than 10 feet.
- No washing paved surfaces, buildings or equipment.
- Violations are misdemeanors.

Notable is the coordination between the city and water agency and specific requirements.

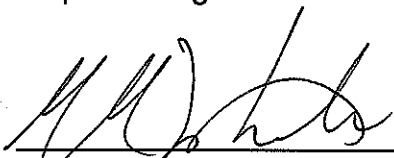
The City of Santa Monica is its own water agency, like Tucson and Phoenix (attachment 5).

- No watering 10am-4pm every day of year.
- No washing sidewalks, driveways, parking areas.
- Covers are mandatory on hot tubs, spas and pools.
- Drinking water served only upon express request.

Conclusion

There are many ideas both incentive programs and disincentives, within the information provided here that may be of interest to each of the commissions.

Staff is available to follow upon matters the commissions may wish to place on their respective agendas.



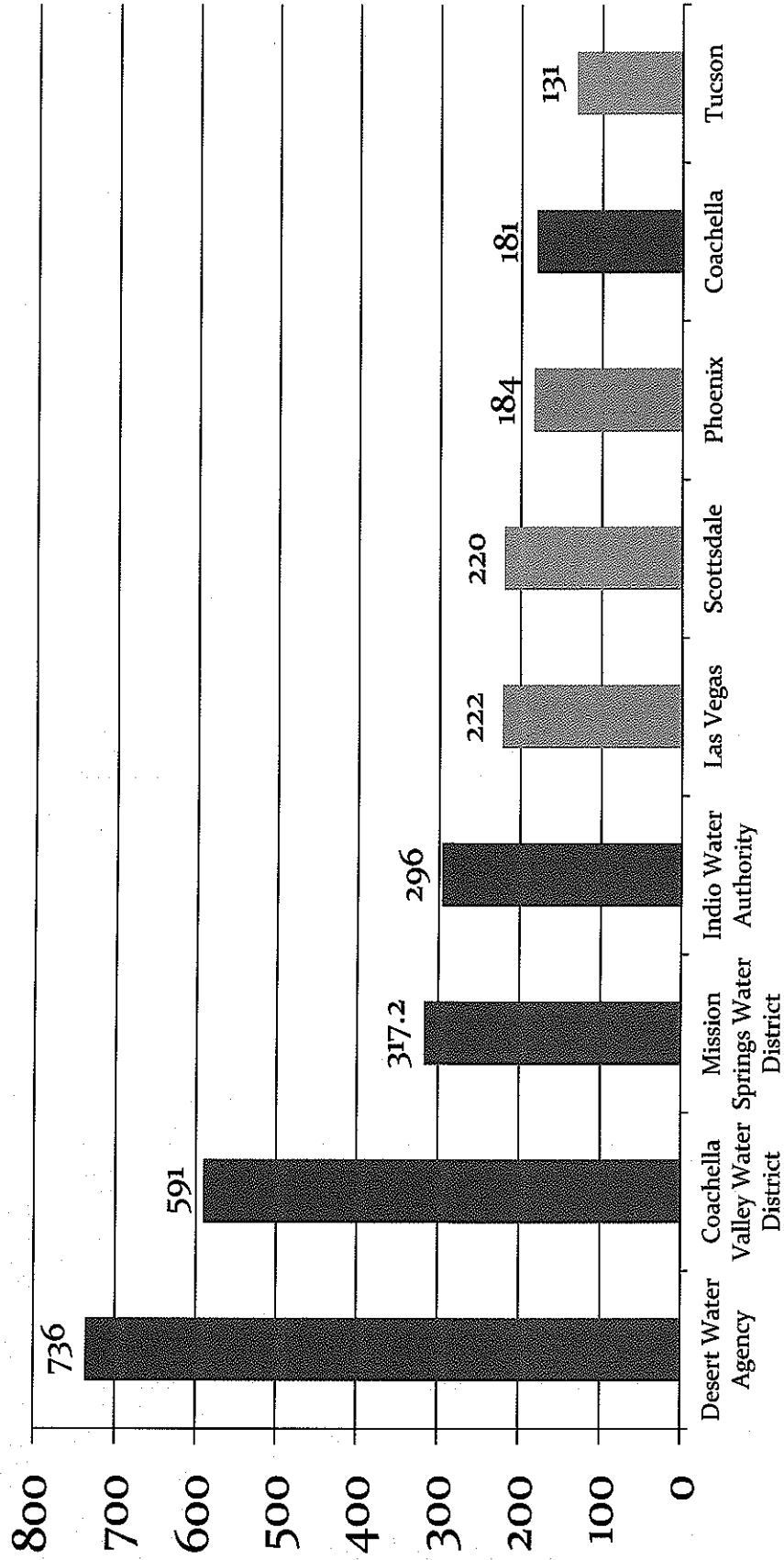
M. Margo Wheeler, FAICP
Director of Planning Services

Attachments:

1. March 23, 2014 presentation material from Water Symposium
2. Las Vegas Valley Water District Service Rules mandatory conservation measures, 2000.
3. City of Tucson Land Use Code Divisions 7 and 8.
4. City of Las Vegas Municipal Code
5. City of Santa Monica Chapter 7.16 Water Conservation

Coachella Valley vs. Arizona/Nevada

Base Per Capita Day (gpcd)

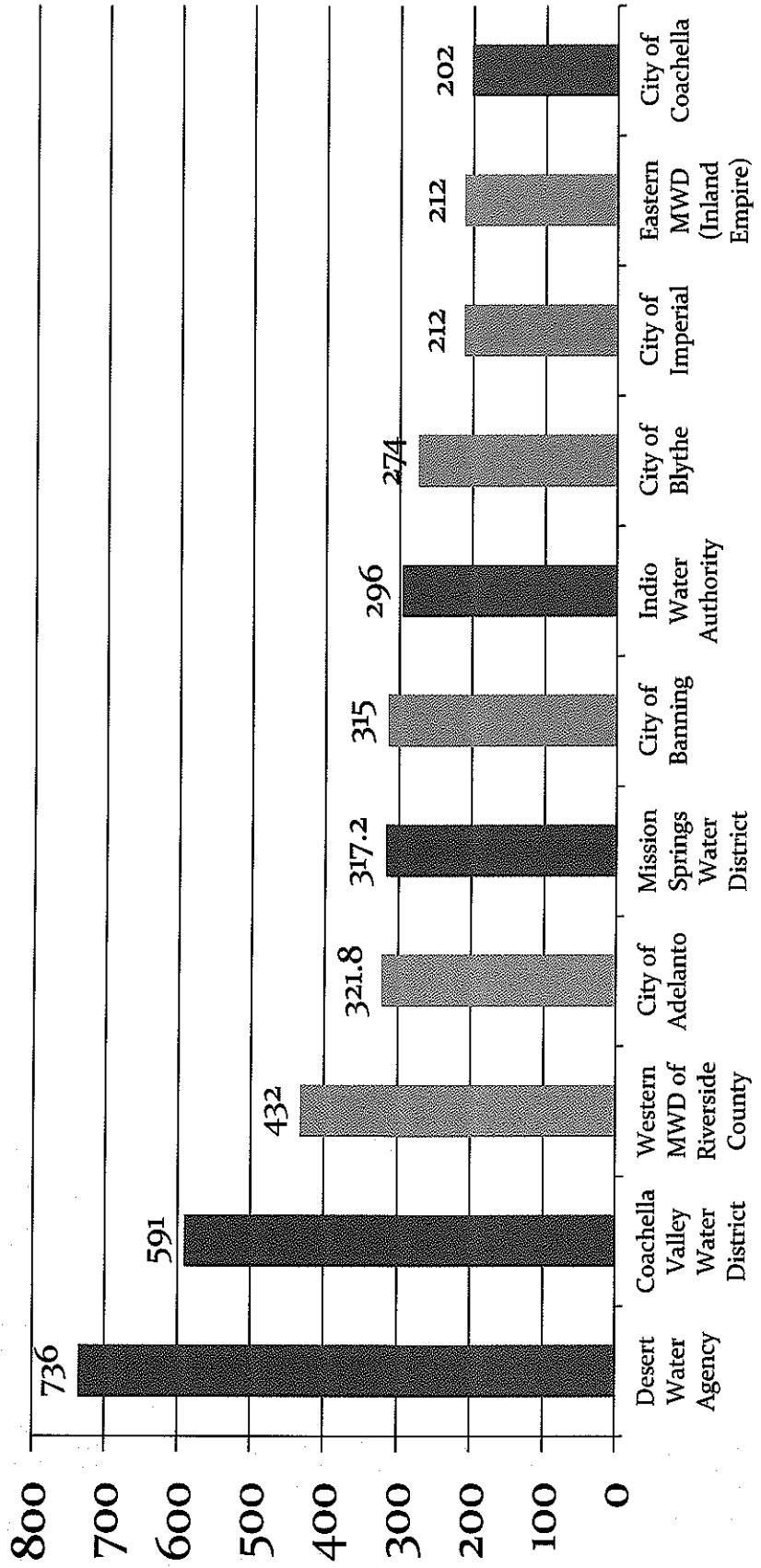


Sources:
2010 Urban Water Management Plans
<http://www.lvwvd.com/about/wr.html>
<http://tucson13.nytimes-institute.com/2013/05/30/tucson-beats-phoenix-in-conserving-water/>

Regional Per Capita Water Use

Source: 2010 Urban Water Management Plans

Base Per Capita Day (gpcd)



SECTION 12 – CONSERVATION

12.1 Introduction

Groundwater and Colorado River water are two physical resources used to meet water demands in Southern Nevada, but there is a third, tangible resource that is critical to managing and extending those physical resources over time - conservation. Conservation involves no real infrastructure challenges or significant capital costs, yet it effectively provides an additional resource by freeing up water that was previously consumed inefficiently or wasted. In this sense, it is the cheapest source of water available to the community. It is also a resource over which we have complete control, because future availability depends more on our own efforts and less on influences outside the community.

The Las Vegas Valley Water District, as a member agency of the Southern Nevada Water Authority (SNWA), is committed to an ongoing conservation strategic planning process that will result in the implementation of a 199 gallons per capita per day (GPCD) conservation goal by 2035. The goal focuses on reductions in Nevada's consumptive use of Colorado River water. Consumptive use is the net amount of water used each year and not returned through return-flow credit to use again to extend our Colorado River water allotment. The SNWA and its purveyor members must focus on changing the outdoor water use habits of all customers. Outdoor use accounts for the greatest consumption of water. While water resources will not be extended by conserving water indoors due to return flow credits, environmental benefits result from efficient use of water and returning as little as possible.

12.2 Water Waste Enforcement

As a condition of service, customers of the District must use water delivered through the District's system in a manner that promotes efficiency and avoids waste.

In the event of a conflict between the District Service Rules and other applicable ordinances or regulations, the most stringent will prevail.

12.3 Water Waste Prohibited

A. Water waste shall include:

1. Allowing water provided by the District to flow or spray off the property.
2. Failure to correct a malfunctioning device or supply line, where the customer or their agent has known of the problem for more than 48 hours.
3. Non-compliance with regulations regarding washing of vehicles, equipment, driveways, parking lots, sidewalks, streets or other surfaces or objects.
4. Discharging swimming pool or spa water drainage off the property where discharge into a public sanitary sewer is available.
5. Using spray irrigation (sprinklers) between the hours of 11:00 a.m. and 7:00 p.m. from May 1st through September 30th each year.

6. Non-compliance with regulations relating to ornamental water features and misters.
7. Non-compliance with watering group assignments.

B. Exemptions

Exemptions to specific provisions are outlined in Section 12.5.

C. Violations

Upon the first observation of waste, the customer will be notified and allowed a prescribed time period to take corrective action. Subsequent violations will result in a fee assessment. In addition, the District may exercise authority granted by any appropriate jurisdictions, including the issuance of misdemeanor citations.

The District has adopted specific administrative policies and procedures to support these Service Rules. These policies and procedures:

1. Specifically define water waste and exemptions;
2. Require observation and documentation of water waste by a representative of the District;
3. Require notification to the customer explaining the District's policy prior to fee assessment;
4. May allow a customer to receive additional time to pursue corrective action;
5. Provide a mechanism by which a customer may protest the fee assessment;

D. Administrative Fees

Customers issued a violation notice as defined by the District shall be assessed a fee according to the listed schedules. Violation levels shall be based upon violation history for the preceding 18 months. Administrative fees are assessed in accordance with the following schedule.

Water Waste Fee Schedule					
Meter Size	1st Violation	2nd Violation	3rd Violation	4th Violation	5th Violation and More
1" and Less	\$ 80.00	\$ 160.00	\$ 320.00	\$ 640.00	\$ 1,280.00
Over 1" but less than 3"	160.00	320.00	640.00	1,280.00	2,560.00
3" and over	320.00	640.00	1,280.00	2,560.00	5,120.00

12.4 Exemptions

Exemptions to various provisions of this section are outlined in the Water Use Exemptions table. The following exemptions shall apply.

Water Use Exemptions					
	Time of Day	Exempt		Time of Day	Exempt
<u>Handwatering</u>	Assigned Day	Exempt	<u>Non-Spray Irrigation</u>	Assigned Day	Exempt (not to exceed Maximum Water Frequency)
	Flow or Spray Off Property	Not Exempt		Flow or Spray Off Property	Not Exempt
	Time of Day	Exempt		Time of Day	Exempt
<u>New Landscape</u> ¹	Assigned Day	Exempt 30 days	<u>Irrigation of Commercial Nursery Stock</u>	Assigned Day	Exempt
	Flow or Spray Off Property	Not Exempt		Flow or Spray Off Property	Not Exempt
	Time of Day	Exempt		Time of Day	Exempt
<u>Supervised Testing</u>	Assigned Day	Exempt	<u>Water Budgeted Facilities</u>	Assigned Day	Exempt
	Flow or Spray Off Property	Exempt		Flow or Spray Off Property	Not Exempt
	Time of Day	Exempt		Time of Day	Exempt
<u>Public Health and Welfare</u>	Assigned Day	Exempt	<u>Syringing</u>	Assigned Day	Exempt
	Flow or Spray Off Property	Exempt		Flow or Spray Off Property	Not Exempt
	Time of Day	Exempt		Time of Day	Exempt

Water Use Exemptions					
<u>Residential Car Washing</u>	Time of Day	Exempt	<u>Overseeding</u> ^{1,2}	Time of Day	Exempt 30 Days
	Assigned Day	Exempt		Assigned Day	Exempt 30 Days
	Flow or Spray Off Property	Exempt for 5 Minutes		Flow or Spray Off Property	Not Exempt

¹Customer must contact District prior to change in irrigation schedule. Must be in compliance with all applicable codes and conservation restrictions.

²Exemption limited to one 30-day period per calendar year. No cool season grass plantings May – August.

12.5 Compliance with Water Efficiency and Conservation Codes

All customers of the District are required to comply with all applicable water efficiency and landscape codes. The District may reject the application for, rescind, or terminate water service to any property or use determined to be in violation of applicable codes or standards which are directly or indirectly intended to conserve or protect the waters of the District.

12.6 Conservation Restrictions

A. Irrigation Restrictions for Properties not Subject to Water Budgets

For the purpose of managing the water distribution system, specific watering days and/or schedules will be assigned to each customer by the District.

1. Between May 1st and September 30th of each calendar year, it shall be considered water waste to spray irrigate outdoor vegetation between the hours of 11:00 a.m. and 7:00 p.m.
2. It shall be considered water waste to irrigate outdoor vegetation at variance with the following table, unless the property is designated as a Community Use Recreational Turf Area, or qualifies as a property restricted by Water Budgeting as identified in this section.

Season	Watering Schedule
Winter November – February	One Assigned Day Per Week
Spring March – April	3 Assigned Days per Week
Summer May- August	Any Day
Fall September - October	3 Assigned Days per Week

3. Community Use Recreational Turf Area (CURTA).

Public or private areas designated as CURTA by government jurisdictions shall comply with the following restrictions:

- a. During the spring and fall a watering schedule for each area may not exceed seven (7) days out of 14 days and the schedule must be posted at each location.
- b. During the winter a watering schedule for each area may not exceed two (2) days out of seven (7) days and the schedule must be posted at each location.
- c. Irrigation shall be eligible to commence no earlier than 9:00 p.m. the day prior to the designated day.
- d. The District may require areas designated as CURTA to submit an irrigation schedule to the District for the current season (Spring, Winter, Fall) within 30 days of the designation. Irrigation schedules for subsequent seasons must be submitted 30 days prior to the next season.

Government bodies may approve an alternative to landscape watering restrictions on a specific CURTA, and under such circumstances the District shall defer enforcement of provisions 3 a. and b. above.

B. Water Budgeted Golf Courses

Any golf course using District supplied water shall be on a water budget, and shall be exempt from time of day and assigned watering day provisions. A golf course on a water budget shall be measured and charged based upon a specified amount of acre-feet of SNWA member agency water (including potable, raw, reuse, and non-potable) for each acre currently being irrigated. The irrigated acreage will include lakes and ponds existing within a golf course and lakes and ponds serving in total or in part, as a golf course irrigation reservoir.

A water budget is established at 6.3 acre feet per irrigated acre per year for golf courses.

In the event a golf course customer contests the calculated irrigated acreage as determined by the District, the golf course may provide calculations supported by other methods acceptable to the District. Alternative measurements would need to be determined by an independent consultant not affiliated with the golf course. In any case however, the District shall make the final determination of irrigated acreage. Once measured, the irrigated acreage shall remain fixed, thus creating an incentive for golf courses to convert unneeded turf to other styles of water efficient landscaping. However, if a golf course expands its course by increasing the number of playing holes, a new irrigated acreage will be determined.

Water used in excess of the budget will be assessed a surcharge based upon the schedule below. Surcharges will be imposed in lieu of the fourth tier of adopted rates (the third tier rate will be charged for all water used above the third tier shown in Section 8.1).

Percentage of budget	101 to 120 percent	121 to 140 percent	Over 140 percent
Surcharge to apply to water use in excess of budget.	2.0 times the highest non-potable rate.	5.0 times the highest non-potable rate.	9.0 times the highest non-potable rate.

Each golf course shall be required to submit its own water use reduction plan containing at least the following elements: a physical description of the course, including detailed descriptions of all irrigated areas; an itemized accounting of calendar year 2002 water use; a review of spray irrigation efficiency; and a description of key water use reduction strategies and timelines for implementing those strategies.

C. Mist System Restrictions

Residential mist systems used for human comfort are not restricted. However, commercial use is allowed only under the following conditions:

1. From May 1st to August 31st and,
2. Between noon and midnight

D. Water Feature Conditions and Exemptions

Water features may not be operated and will not be required to be drained. It can maintain a re-circulating water pool to sustain pumps, pond liners, surface coatings, and ancillary equipment. The water feature may be operated only between 1:00 a.m. and 4:00 a.m., or whenever freezing conditions require system preservation. This

shall include the use of District water that has been recycled or reprocessed by the customer.

The following uses are exempt:

1. Residential

A water feature of less than 25 feet surface area:

- a. At a single-family residence, or
- b. Centrally located within a residential development. No feature incorporated into an entryway or streetscape, as defined by local government, will be allowed.

2. Non-Residential

Government bodies may approve exemptions to water feature restrictions, and establish any other conditions or requirements that may apply.

3. Swimming pools and recreational water parks, both public and private.
4. Water features that are necessary and functional components serving other allowable uses (e.g., storage ponds on a golf course, or aeration devices).
5. Indoor water features or features with the majority of the total water volume contained indoors or underground. If practical alternatives exist for separating indoor and outdoor components, they shall be separated and managed accordingly.
6. Recreational water parks, both public and private.
7. Fountains and water features at resorts as defined by the governing jurisdiction.
8. Fountains or water features necessary to sustain aquatic animals provided that such animals are of significant value and have been actively managed within the water feature.
9. Fountains and water features supplied by privately owned water rights, unless restricted by the code of the applicable jurisdiction.

E. Other Outdoor Water Use Restrictions

1. Surface, Building, and Equipment Washing (excluding motor vehicles).

Surface, building, and equipment washing is prohibited, unless the water is discharged to a sanitary sewer through approved methods, or contained on site.

2. Personal Vehicle Washing

Washing of personal vehicles upon residential properties is limited to once per week, per vehicle and requires a positive shut-off nozzle on the garden hose.

3. Commercial Vehicle Washing

Commercial vehicles may only be washed at a commercial facility where water is discharged to the sanitary sewer through approved methods or, with the use of a high-pressure, low volume sprayer using less than ten (10) gallons per vehicle. There is no limitation on frequency.

F. Manmade Lake Provisions

All man-made lakes with over one acre of surface area shall pay the same rate as metered construction water, as defined by Section 8.6(e). Lakes that serve, in whole or part, as a functional reservoir for a golf course are included in the calculation of a golf course water budget.

G. Governmental Facility Provisions

1. Government facilities shall be subject to landscape water restrictions.
2. Government facilities shall be subject to District water rates and water waste fees.
3. Government facilities with greater than five (5) acres of turf must conduct a self-assessment of water conservation potential and implement a plan to maximize outdoor water use efficiency.

12.7 Water Budgets

In addition to, or in lieu of, any provisions of this section, the District reserves the right to assign specific water budgets to customers, and the right to prescribe rates and/or surcharges for varying levels of use related to the budget. The District shall provide written notification to each individual water budgeted customer of the amount of water provided for the budget and associated provisions. Where a water budgeted customer is served by more than one SNWA member agency, the District may collaborate with any of those member agencies for purposes of administering the water budget. The District may assign water budgets for any specified period of time and may prorate the amount of water at its discretion. If conditions at a property change such that an alteration in the water budget may be merited, the District may reconsider the budget. Water budgeted customers are exempt from time and day, assigned day, and watering frequency restrictions described elsewhere in this Section.

DIVISION 7. LANDSCAPING AND SCREENING REGULATIONS

SECTIONS:

3.7.1	PURPOSE, INTENT, AND APPLICABILITY
3.7.2	LANDSCAPE REQUIREMENTS
3.7.3	SCREENING REQUIREMENTS
3.7.4	USE OF WATER
3.7.5	SPECIAL REQUIREMENTS
3.7.6	MAINTENANCE
3.7.7	ADMINISTRATION

3.7.1 PURPOSE, INTENT, AND APPLICABILITY.

3.7.1.1 Purpose and Intent: Xeriscape Approach to Landscaping. The purpose of this Division is to establish regulations for the installation and maintenance of landscaping and screening according to recognized xeriscape principles and to provide for the protection of native vegetation. The regulations are intended to accomplish the following.

- A. Implement Mayor and Council policy to conserve energy, water, and other natural resources through the use of xeriscape landscaping principles, to promote air quality, to improve community aesthetics, and to protect the public health, safety, and general welfare as follows.
 1. Help achieve city water conservation goals through the use of drought-tolerant plantings and xeriscape principles in landscape design.
 2. Reduce air pollution and dust by encouraging the use of vegetation for air filtration and absorption of carbon dioxide and production of oxygen.
 3. Reduce the heat and glare radiated by the built environment.
 4. Reduce soil erosion by slowing storm water runoff.
 5. Assist in ground water recharge.
 6. Limit the use of allergenic, pollen-producing plants.
- B. Establish or retain a neighborhood character by providing design criteria to:
 1. Buffer the potential negative effects that more intensive land uses may have upon adjacent land uses.
 2. Where development is subject to neighborhood or area plan requirements, incorporate the adopted landscape policies of neighborhood or area plans to the extent they are consistent with the provisions of this Division.
- C. Contribute to and enhance the economic welfare of the city and the quality of life of citizens and visitors through the following.
 1. Promote the image of the southwestern desert environment.

2. Create an attractive appearance along city streets.
3. Carry out the intent of design criteria for development along Scenic Routes and Gateway Routes.

3.7.1.2 Applicability, Exceptions. The provisions of this Division apply to the following.

- A. All new development.
- B. Expansion of existing development.
 1. On sites where the gross floor area of the existing building(s) is more than ten thousand (10,000) square feet, expansion in square footage of land area, floor area, lot coverage, or vehicular use area as follows.
 - a. If the expansion is less than twenty-five (25) percent, the requirements of this Division apply only to the proposed expansion. Existing development on the site is subject to the zoning regulations in effect at the time the existing development received zoning approval.
 - b. If the expansion is twenty-five (25) percent or greater or if expansions as of February 15, 1991, cumulatively result in a twenty-five (25) percent or greater expansion in land area, floor area, lot coverage, or vehicular use area, the requirements of this Division apply to the entire site.
 2. On sites where the gross floor area of the existing building(s) is ten thousand (10,000) square feet or less, expansions in square footage of land area, floor area, lot coverage, or vehicular use area as follows.
 - a. If the expansion is less than fifty (50) percent, the requirements of this Division apply only to the proposed expansion. Existing development on the site is subject to the zoning regulations in effect at the time the existing development received zoning approval.
 - b. If the expansion is fifty (50) percent or greater or if expansions as of February 15, 1991, cumulatively result in a fifty (50) percent or greater expansion in land area, floor area, lot coverage, or vehicular use area, the requirements of this Division apply to the entire site.
- C. Exceptions. The provisions of this Division do not apply to the following.
 1. Single-family dwelling units or duplexes on separate lots, except commonly owned areas in Flexible Lot Development (FLD). (Ord. No. 10636, §13, 2/24/09)
 2. Approved subdivision plats for which a development plan was approved or development subject to an approved site plan or development plan on file with the City prior to February 17, 1991, if:
 - a. The site is developed in accordance with the approved plat or plan; and
 - b. Development complies with the requirements of Sec. 3.7.2.2, Use of Drought-Tolerant Vegetation.

3.7.2 LANDSCAPE REQUIREMENTS.

3.7.2.1 Development Standards. Development subject to this Division is also subject to the provisions of Development Standard 2-06.0 and Development Standard 2-16.0. (Ord. No. 9967, §3, 7/1/04)

3.7.2.2 Use of Drought-Tolerant Vegetation.

- A. Except as otherwise provided by this Division, all plant material used for landscaping shall be selected from the Drought Tolerant Plant List in Development Standard 2-16.0. (Ord. No. 9967, §3, 7/1/04)
- B. Areas of reseeding or hydroseeding after grading are subject to the seed list requirements of Development Standard 2-16.0. (Ord. No. 9967, §3, 7/1/04)
- C. Plants not listed on the Drought Tolerant Plant List may be used as follows.
 1. Existing Plants. Existing trees and shrubs may be incorporated in a landscaped area, if their locations do not conflict with the plant location requirements of this Division or Development Standard 2-06.0.
 2. Scenic Routes. Within a Scenic Corridor Zone (SCZ), native vegetation must be used in the buffer areas adjacent to a Scenic Route as required by Sec. 3.7.5.2.
 3. Oasis Allowance. An oasis is an area where nondrought tolerant landscaping designs are permitted. Plants not listed on the Drought Tolerant Plant List may be used in an oasis if the plants are grouped in separately programmed irrigation areas according to their water requirements. The location and maximum area on a site that may be used for oasis areas, including those located in a street landscape border, are determined as follows.
 - a. Multifamily Residential Uses. Up to five (5) percent of the site, or one hundred (100) square feet per dwelling unit, or eight (8) percent of the required open space, whichever is greater.
 - b. All Other Uses. Equal to, but not more than, two and one-half (2.5) percent of the site.
 - c. General locational standards for oasis areas are provided in Development Standard 2-06.0. Oasis areas may be located in the street landscape border only if:
 1. The oasis areas do not total more than five (5) percent of the area of the street landscape border; and
 2. The nondrought tolerant plants used in the oasis area are flowering bedding plants.
 4. The oasis area limitations in Sec. 3.7.2.2.C.3 and turf area restrictions in Sec. 3.7.2.5 do not apply to:
 - a. Public parks and botanical gardens;
 - b. Outdoor recreation facilities, whether under public or private ownership, for public use, schools, day care centers;
 - c. The playing areas of golf courses;
 - d. Cemeteries; or
 - e. Mobile home parks, except in street landscape borders.

Note: Turf areas of ten (10) acres or more are regulated by the state. The State Department of Water Resources shall be notified of cases where proposed turf or other high water uses exceed ten (10) acres. (Ord. No. 9392, §1, 5/22/00)

3.7.2.5 Use of Turf.

- A. Except as provided by Sec. 3.7.2.2.C.4, turf areas are allowed only within the oasis.
- B. Turf areas will be located to mitigate glare and reduce heat near buildings and their openings, including windows and patios, or to serve as an active play area.

3.7.2.6 Plant Size, Location, and Spacing.

- A. Required plant characteristics, sizes, and standards for various landscape applications are contained in Development Standard 2-06.0.
- B. Trees and shrubs are to be selected and located so that, at maturity, they do not interfere with existing on-site or off-site utility service lines or utility easements or with solar access, as defined in Sec. 6.2.19, to an adjacent property.

3.7.2.7 Plant Cover/Dust Control. All disturbed, grubbed, graded, or bladed areas not otherwise improved shall be landscaped, reseeded, or treated with an inorganic or organic ground cover to help reduce dust pollution.

- A. Ground surfaces in planting beds, planters, medians, or tree understory within a landscaped area that are not covered with shrubs, accent plants, vines, ground cover, or other vegetation from the Drought Tolerant Plant List shall be treated with an inorganic ground cover.
- B. Unless maintained as undisturbed natural desert, all portions of a site not occupied by buildings, structures, vehicular use areas, oasis areas, pedestrian circulation areas, or required landscape elements shall be landscaped with vegetation from the Drought Tolerant Plant List, reseeded with a native seed mix, or treated with an inorganic ground cover and maintained in a clean condition. All portions of a site including common areas, natural areas, and revegetated or landscaped areas are to continuously be maintained to remove populations of buffelgrass (*Pennisetum ciliare*). (Ord. No. 10632, §1, 2/3/09)
- C. Unless maintained as undisturbed natural desert, future building pads within a phased development shall be temporarily landscaped with vegetation from the Drought Tolerant Plant List, reseeded with a native seed mix, or treated with an inorganic ground cover and maintained in a clean condition. All portions of a site including common areas, natural areas, and revegetated or landscaped areas are to continuously be maintained to remove populations of buffelgrass (*Pennisetum ciliare*). (Ord. No. 10632, §1, 2/3/09)

3.7.2.8 Design for Safety. Vehicular and pedestrian safety factors must be incorporated into all landscape designs. Safety factors include plant materials that at maturity do not present hazards to passersby or obstruct visibility of pedestrians or vehicles and other factors as listed in Development Standard No. 2-06.0.

3.7.2.9 Use of the Public Right-of-Way. Nonrequired landscaping may be placed in the public right-of-way, if the following requirements are met.

- A. The landscaping is approved by the City Engineer or designee and complies with the City Engineer's requirements on construction, irrigation, location, and plant type. (Ord. No. 9392, §1, 5/22/00)
- B. All vegetation complies with the requirements of Sec. 3.7.2.2.
- C. The landscaping does not interfere with the use of the sidewalk.

3.7.3 **SCREENING REQUIREMENTS.** The purpose of screening is to provide visual barriers, noise reduction, and to provide privacy. (Ord. No. 9967, §3, 7/1/04)

CITY OF TUCSON *LAND USE CODE*
ARTICLE III. DEVELOPMENT REGULATIONS
DIVISION 7. LANDSCAPING AND SCREENING REGULATIONS

3. Nonwood fences must have wooden slat inserts to provide opacity.

3.7.4 USE OF WATER. The following requirements conserve water and assist in carrying out xeriscape design principles.

3.7.4.1 Water Conservation Design. Landscape plans shall incorporate water-conserving designs. A water-conserving design takes into account soil and drainage factors and microclimates, includes grouping of plants with similar water requirements and use of efficient irrigation systems, and attempts to preserve on-site vegetation as more fully described in Development Standard 2-06.0.

3.7.4.2 Use of Reclaimed Water.

- A. Reclaimed water is to be used in new and expanded development in accordance with the adopted Mayor and Council Water Policies and other applicable state and local requirements.
- B. Prior to development plan approval or the issuance of a building permit, the Tucson Water Department will review the landscape plan for compliance with adopted City Water Policies.
- C. The availability of a reclaimed water service shall not confer any right to plant turf areas except as permitted under this Division.

3.7.4.3 Storm Water Runoff.

- A. Storm water detention/retention basins not integrated with paved vehicular use areas shall be landscaped to enhance the natural configuration of the basin. Plants located in the bottom one-third (1/3) of the detention/retention basin must be adaptable to periods of submersion. Design criteria are set forth in Development Standard 10-01.0.
- B. Grading, hydrology, and landscape structural plans are to be integrated to make maximum use of site storm water runoff for supplemental on-site irrigation purposes. The landscape plan shall indicate use of all runoff, from individual catch basins around single trees to basins accepting flow from an entire vehicular use area or roof area.

3.7.4.4 Ornamental Water Features.

- A. Ornamental water features, such as fountains or ponds, may be used, if all the following conditions are met.
 - 1. The total water surface area does not exceed one (1) percent of the net site area of the development.
 - 2. The water feature is located within the oasis area.
 - 3. The sum of the square feet of water surface area and the square feet of turf area does not exceed the total allowed square feet for the oasis allowance.
 - 4. Water in moving water features is recycled through the feature.
 - 5. The water feature is designed to prevent water seepage or leaking.
- B. This Section does not apply to swimming pools or spas.

3.7.4.5 Irrigation.

- A. A water-conserving irrigation system is required for all new landscape plantings. For sites that are larger than one (1) acre and on which the gross floor area of all buildings is more than ten thousand (10,000) square feet, an underground irrigation system is required.
- B. Storm water and runoff harvesting to supplement drip irrigation are required elements of the irrigation system for both new plantings and preserved vegetation.
- C. An irrigation plan shall be submitted together with the landscape plan required in Sec. 3.7.7.2.
- D. Temporary irrigation proposals will be reviewed on a case-by-case basis.

3.7.5 **SPECIAL REQUIREMENTS.** Certain areas of Tucson have been designated by the MS&R Plan for special landscape treatment to complement existing adjacent development. These areas include development along Gateway and Scenic Routes and development within the boundaries of adopted neighborhood and area plans containing specific landscape design criteria. (Ord. No. 9517, §3, 2/12/01)

3.7.5.1 Gateway Routes. Landscape plans for Gateway Routes are reviewed for conformance with landscaping and screening requirements of this Division.

3.7.5.2 Scenic Routes. The following landscape requirements apply to streets designated as Scenic Routes by the City's adopted MS&R Plan and regulated under Sec. 2.8.2.

- A. *Scenic Routes Buffer Area.* Adjacent to the MS&R right-of-way line, a buffer area thirty (30) feet wide shall be preserved and maintained in its natural state. In areas where public safety or the delivery of public services precludes preservation of existing vegetation, the buffer area shall be restored as closely to its natural state as possible. No development may occur in a Scenic Route buffer area except as provided in Sec. 3.7.5.2.C.
- B. *Measurement of the Scenic Routes Buffer Area.* Where the ultimate MS&R roadway design includes installation of a sidewalk, pedestrian way, or bike path, the buffer may be measured from the MS&R projected back of the sidewalk, pedestrian way, or bike path if the buffer does not encroach more than ten (10) feet into the MS&R right-of-way. The use of the MS&R right-of-way is permitted only if the area can be landscaped.
- C. *Permitted Improvements.* The following improvements may be located in the Scenic Route buffer area.
 1. Driveways, if they do not exceed twenty (20) percent of the Scenic Routes buffer area. If, due to topographical or engineering constraints, the driveway area exceeds twenty (20) percent of the buffer area, the width of the buffer area must be increased so that the area, exclusive of driveways, is at least twenty-four (24) times the frontage along the Scenic Route measured at the MS&R right-of-way line.
 2. Trenching for the placement of utility lines, if the area is revegetated in accordance with Sec. 3.7.5.2.D.
 3. An area not larger than eighteen (18) square feet and not exceeding thirty (30) inches in height per lot or parcel for the placement of utility transformers, pedestals, and service meters and hookups for utilities.
 4. Selected vegetation may be removed when the Department of Transportation determines that removal is necessary for public safety, if the removed plants are replaced with native vegetation.

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D. *Revegetation of Site.*

1. Within the Scenic Route buffer area and the MS&R right-of-way, all areas between the MS&R right-of-way line and the existing street right-of-way that are disturbed by development shall be revegetated with native vegetation.
2. Within the SCZ, excluding the Scenic Routes buffer area, all disturbed areas on the site that are visible from the Scenic Route and are not covered by permanent improvements shall be revegetated with native plants, plants from the Drought Tolerant Plant List, or a combination of both.

E. *Cut and Fill.* Exposed cut or fill slopes shall be no greater than a one (1) foot rise or fall over a three (3) foot length.

3.7.5.3 Compliance with Neighborhood Plans. Where a development is subject to neighborhood or area plan requirements, landscape plans shall incorporate, to the greatest extent possible, the landscape, screening, and design provisions of the adopted plan. In case of a conflict between this Division and the provisions of a neighborhood or area plan, this Division shall apply.

3.7.6 **MAINTENANCE.** All required landscaping, irrigation systems, walls, screening devices, curbing, and detention basin landscape improvements on the site or within the abutting right-of-way shall be maintained as shown on the approved plans. The property owner is responsible for proper maintenance to achieve permanent, safe, and successful landscaping as required by this Division. Failure to maintain the improvements or landscaping required by this Division constitutes a violation of the *LUC*.

3.7.7 **ADMINISTRATION.**

3.7.7.1 Design and Review Procedures. The applicant for development approval is advised to schedule a presubmittal conference with the Development Services Department and Tucson Water Department staff with reference to specific design or review procedures. (Ord. No. 9967, §3, 7/1/04)

3.7.7.2 Plan Submittal. Landscape plans are to be submitted concurrently with the initial submittal of the applicable plan or plans required for development approval.

3.7.7.3 Review Procedures. Landscape plans are reviewed in the same manner and concurrent with the applicable plan review required for development approval. Comments on the landscape plans and requests for corrections or resubmittals are made in conjunction with responses to the applicable development plan, tentative plat, or site plan. For development located along Gateway Routes and Scenic Routes, the additional review procedures set forth in Sec. 2.8.2 and Sec. 2.8.4 of the *LUC* apply.

3.7.7.4 Site Inspection and Enforcement.

A. *Inspections.* All landscaping required by this Division will be inspected by the Development Services Department (DSD) prior to a final certificate of occupancy being issued by the City or prior to the building being occupied. (Ord. No. 9392, §1, 5/22/00)

B. *Enforcement.* City staff may enter a site or any part of a site for the purpose of performing inspections to verify compliance with the requirements of this Division. (Ord. No. 9392, §1, 5/22/00)

3.7.7.5 Variances. The Design Review Board (DRB) will review all variance requests from the Landscaping and Screening Regulations as provided in Sec. 5.1.8.3.G and forward a recommendation in accordance with Sec. 5.1.8.2.F. (Ord. No. 9179, §1, 12/14/98; Ord. No. 9967, §3, 7/1/04)

DIVISION 8. NATIVE PLANT PRESERVATION

SECTIONS:

3.8.1	INTENT
3.8.2	PURPOSE
3.8.3	APPLICABILITY
3.8.4	GENERAL PROVISIONS AND REQUIREMENTS
3.8.5	PROTECTED NATIVE PLANT LIST
3.8.6	PLANT PRESERVATION REQUIREMENTS
3.8.7	ENFORCEMENT, PENALTIES, FINES, AND OTHER REMEDIES
3.8.8	ADMINISTRATION

3.8.1 INTENT. Tucson's setting is in the Sonoran Desert, a unique biological community known as the Arizona Uplands found only in southern Arizona and limited areas of northern Mexico. Some of the plants and animals living in this area are found nowhere else in the world. One of the most distinctive plants is the Saguaro cactus (*Carnegiea gigantea*), a visual symbol synonymous with Tucson and the Sonoran Desert. The Saguaro, along with certain other Sonoran genus and species, is extremely slow growing and not easily transplanted with success.

Development in the Tucson area has decreased the number of these unique native plants resulting in the loss of a natural resource. City-wide goals and policies for preservation of the native plants found in the Sonoran Desert have been established in the *Vision: A Guide for the Future of the City of Tucson*, adopted in 1989 and in the *General Plan, Section 2, Vegetation and Wildlife*, adopted in 1992. This Division addresses the preservation of native Upland vegetation that provides much of the visual character of the Sonoran Desert and supports wildlife. (Ord. No. 9517, §3, 2/12/01)

In conjunction with development, buffelgrass invasion is spreading along roadways, wash systems and into the undisturbed Sonoran Desert. Buffelgrass (*Pennisetum ciliare*) is converting a fire-resistant desert to flammable grassland. In 2005, the state of Arizona placed buffelgrass on the Arizona Noxious Weed List prohibiting its entry or sale in the state. Buffelgrass is a wildfire risk to desert ecosystems threatening life, property, tourism and the regional economy. Buffelgrass, as it burns, can kill the saguaro cactus, other native vegetation and is detrimental to desert wildlife species including the desert tortoise and mule deer. (Ord. No. 10632, §3, 2/3/09)

This Division is intended to encourage preservation-in-place of healthy native plants through sensitive site design which minimizes the disruption of areas within the site containing native plants, while allowing for salvage and transplanting plants on the site that are likely to survive. The Division also provides for replacement of plants that are removed for development at ratios to assure site revegetation and to compensate for probable loss of transplanted and replacement plants. Mitigation credits are offered to encourage preservation-in-place. Mature trees and Saguaros should be given particular consideration for preservation-in-place. When preservation-in-place is not possible, emphasis should next be given to plant salvage for use elsewhere on the site, and lastly, if plants are removed from the site, the revegetation concept should emphasize the recreation of the natural character and plant distribution similar to the undisturbed vegetation on and adjacent to the subject site.

3.8.2 PURPOSE. These regulations provide for the preservation, protection, transplanting, and replacement of existing designated native plants including cacti, succulents, trees, and shrubs through the establishment of comprehensive procedures, requirements, and standards which protect the public health, safety, and general welfare by:

- Preserving a sense of place through the potential enhancement of the community's appearance from public streets and between incompatible land uses.

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- Maintaining property values, the quality of life, and lifestyles valued and enjoyed by the community through the preservation of the unique Sonoran vegetation.
- Contributing to economic development through the maintenance of a regional identity that attracts tourism and new businesses, while promoting business retention and expansion.
- Improving air quality through the preservation of mature vegetation that removes carbon monoxide and filters dust and particulates from the air.
- Promoting water conservation through retention of existing drought-tolerant vegetation that requires no supplemental irrigation.
- Assisting in climate modification and reducing energy costs through the use of native vegetation to shade buildings, streets, sidewalks, and other outdoor areas.
- Retaining vegetative features of habitats that are important to native wildlife species.
- Stabilizing desert soils by minimizing soil erosion through preservation of or revegetation with native plants.

3.8.3 APPLICABILITY. The provisions of this Division apply to all development as listed below:

3.8.3.1 All new development.

3.8.3.2 Expansions of existing development.

- A. If the expansion is less than twenty-five (25) percent, the requirements of this Division apply only to the proposed expansion area.
- B. If the expansion is twenty-five (25) percent or greater or if expansions after March 24, 1997, cumulatively result in a twenty-five (25) percent or greater expansion in land area, floor area, lot coverage, or vehicular use area, the requirements of this Division apply to the proposed expansion area and the remaining undeveloped site area.

Editor's Note: Ord. No. 8845, Sec. 3.8.0 of the *Land Use Code*, was adopted by Mayor and Council on March 24, 1997, with an effective date of July 1, 1997.

3.8.3.3 Concurrent Applicability of Divisions. The requirements of this Division; the Hillside Development Zone (HDZ); the Environmental Resource Zone (ERZ); the Watercourse Amenities, Safety, and Habitat (WASH) ordinance; the Scenic Corridor Zone (SCZ); and the Landscape and Screening Regulations are all calculated separately. Plants or areas preserved or planted for the purposes of compliance with one regulation may be considered for the purposes of compliance with this Division.

3.8.3.4 Exceptions. The provisions of this Division do not apply to the following.

- A. Single family residential development on lots recorded before March 24, 1997, or single family residential development on a lot within a subdivision which is subject to an approved Native Plant Preservation Plan after the sale and development of a principal structure on that lot.
- B. Projects for which a site plan or a development plan as required under Sec. 5.3.8 of the *Land Use Code (LUC)* has been submitted or approved prior to July 1, 1997, provided that permits are obtained within one (1) year and that construction occurs in accordance with the site plan or development plan and within one (1) year of permit issuance.

- C. Single-family residential subdivisions for which a tentative plat has been submitted or approved prior to July 1, 1997, per Sec. 4.1.0, Subdivisions, provided the plat is recorded within one (1) year from the approval date of the final plat, infrastructure is in place, and fifty (50) percent of the lots are developed within five (5) years after July 1, 1997.
- D. Projects on a site that does not contain any plant on the Protected Native Plant List as demonstrated by the applicant per Development Standard 2-15.2.0 and subject to approval through procedures established at the Development Services Department (DSD). This application can be submitted prior to an applicable review process and approved for an exception on the site. The approved exception will be valid for up to one (1) year from the date of the approval. (Ord. No. 9246, §1, 10/11/99; Ord. No. 9392, §1, 5/22/00)
- E. Projects on a site or parcel that contains Protected Native Plants which will not be substantially impacted by development on the site as demonstrated by the applicant per Development Standard 2-15.2.0 and subject to approval through procedures established at the Development Services Department (DSD), provided that construction occurs per the approved plan. (Ord. No. 9392, §1, 5/22/00)

3.8.4 GENERAL PROVISIONS AND REQUIREMENTS.

3.8.4.1 Submittal Requirements. A Native Plant Preservation Plan per Development Standard 2-15.3.0 is required for all projects under the applicability of this Division according to the methodology selected by the applicant as outlined in Plant Preservation Requirements, Sec. 3.8.6. If buffelgrass is present, populations are to be mapped and included as part of the Native Plant Preservation Plan or the Environmental Resource Report. Continued buffelgrass eradication and monitoring methodology, including common areas, is required for developed and undeveloped portions of a site. (Ord. No. 10632, §4, 2/3/09)

- A. If the Plant Inventory Methodology is selected, a Native Plant Inventory per Development Standard 2-15.3.1, an Analysis per Development Standard 2-15.3.3, and a Plant Preservation and Salvage Plan per Development Standard 2-15.3.4 shall be submitted.
- B. If the Plant Appraisal Methodology is selected, a plant appraisal per Sec. 3.8.6.3 based on a Native Plant Inventory for each plant to be removed from the site per Development Standard 2-15.3.1 shall be submitted.
- C. If the Set Aside Methodology is selected, an Environmental Resource Report per Sec. 3.8.6.4 and Development Standard 1-07.0 shall be submitted.

3.8.4.2 Plan Approval Prior to Site Modifications. No grubbing, grading, construction, or salvaging of any plants on the site shall take place prior to the submittal and approval of the required Native Plant Preservation Plan. Protected Native Plants designated in Sec. 3.8.5 shall not be destroyed, damaged, salvaged, transplanted, or removed from the site except in accordance with the approved Plan. Once a Native Plant Preservation Plan has been approved, a salvage-only permit can be issued. The salvage-only permit can be issued upon completion of one of the following conditions:

- A. For rezoning or annexation cases, ordinance adoption by the Mayor and Council.
- B. For tentative plats or development plans, approval from all City departments and public and semipublic agencies that review the plat or plan. (Ord. No. 9392, §1, 5/22/00)
- C. For site plans, an official submittal to the Development Services Department (DSD) with all site plan review fees paid in full. (Ord. No. 9392, §1, 5/22/00)

The salvage-only permit does not allow site grubbing, grading, or construction of any kind, other than the salvaging of those materials as indicated on the approved Native Plant Preservation Plan. No protected native

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plants, even as indicated on the approved Native Plant Preservation Plan, may be destroyed or removed from the site until a grading permit has been issued for the project. (Ord. No. 9246, §1, 10/11/99)

3.8.4.3 Plan Approval Prior to Permitting. The Native Plant Preservation Plan shall be submitted prior to or concurrently with any plan(s) and applicable fees required for development approval, including a grubbing/grading plan, landscape plan, site plan, development plan, or tentative plat. No permits shall be issued prior to submittal and approval of the Native Plant Preservation Plan. Plan submittal shall conform to Development Standard 2-15.0. (Ord. No. 9246, §1, 10/11/99; Ord. No. 9392, §1, 5/22/00)

3.8.4.4 Professional Expertise. Preparation of all elements of the Native Plant Preservation Plan and on-site monitoring as required under Sec. 3.8.6.7.D shall be performed by a plant professional, such as:

- A. An arborist certified by the International Society of Arboriculture.
- B. A landscape architect.
- C. A horticulturist, biologist, or botanist with a minimum B.A. or B.S. in an appropriate arid environment natural resource field.

(Ord. No. 9246, §1, 10/11/99)

3.8.4.5 Plant Disposition. The Native Plant Preservation Plan shall indicate the disposition of Protected Native Plants in excess of those needed to meet the requirements of this Division and other applicable regulations. It is encouraged that all Protected Native Plants that are not proposed to remain on-site be salvaged and transplanted off-site. The Plan shall affirm, by a statement on the Plan, conformance with the requirements of the Federal Endangered Species Act and the Arizona Native Plant Law. Applicants are advised of required salvage permits which must be obtained from the U.S. Fish and Wildlife Service for the applicable Endangered and Threatened genus and species and required notification which must be provided to the Arizona Department of Agriculture prior to site modification. Compliance with this Division does not constitute conformance with state or federal regulations. (Ord. No. 9246, §1, 10/11/99)

3.8.4.6 Repealed. (Ord. No. 9246, §1, 10/11/99)

3.8.5 PROTECTED NATIVE PLANT LIST.

ALL CACTI	
Common Name	Latin Name
Compass Barrel	<i>Ferocactus acanthodes</i>
Crested or Fan-top Saguaro	<i>Carnegiea gigantea</i> 'Crested'
Desert Night-blooming Cereus	<i>Peniocereus greggi</i>
Fishhook Barrel	<i>Ferocactus wislizenii</i>
Needle-spined Pineapple Cactus	<i>Echinomastus erectocentrus</i> var. <i>erectocentrus</i>
*Pima Pineapple Cactus	* <i>Coryphantha scheeri</i> var. <i>robustipina</i>
Saguaro	<i>Carnegiea gigantea</i>

TREES OF A MINIMUM SIZE OF FOUR (4) INCH CALIPER	
Common Name	Latin Name
Arizona Ash	<i>Fraxinus velutina</i> var. <i>velutina</i> or <i>Fraxinus pennsylvanica</i> spp. <i>velutina</i>
Arizona Black Walnut	<i>Juglans major</i>
Arizona Sycamore	<i>Platanus racemosa</i> Nutt. var. <i>wrightii</i>
Blue Palo Verde	<i>Cercidium floridum</i> .
Catclaw Acacia	<i>Acacia greggii</i> var. <i>arizonica</i>
Desert Elderberry	<i>Sambucus mexicana</i>
Desert Hackberry	<i>Celtis pallida</i>
Desert Willow	<i>Chilopsis linearis</i>
Foothills Palo Verde	<i>Cercidium microphyllum</i>
Fremont Cottonwood	<i>Populus fremontii</i> sp. <i>fremontii</i>
Goodding Willow	<i>Salix gooddingii</i>
Ironwood	<i>Olneya tesota</i>
Net Leaf Hackberry	<i>Celtis reticulata</i>
Screwbean Mesquite	<i>Prosopis pubescens</i>
Western Soapberry	<i>Sapindus saponaria</i> var. <i>drummondii</i>
Whitethorn Acacia	<i>Acacia constricta</i>
Velvet Mesquite	<i>Prosopis velutina</i>

* Denotes plants listed as Endangered or Threatened under the Federal Endangered Species Act (ESA) as of March 24, 1997. Any plants designated by the ESA, as amended, shall be subject to the applicability of this ordinance.

SHRUBS OF A MINIMUM SIZE OF THREE (3) FEET IN HEIGHT	
Common Name	Latin Name
Catclaw Acacia	<i>Acacia greggii</i> var. <i>arizonica</i>
Desert Hackberry	<i>Celtis pallida</i>
Desert Willow	<i>Chilopsis linearis</i>
Greythorn	<i>Zizyphus obtusifolia</i> var. <i>canescens</i>
Kearney Condalia	<i>Condalia warnockii</i> var. <i>kearneyana</i>
Whitethorn Acacia	<i>Acacia constricta</i>

SUCCULENTS OF A MINIMUM SIZE OF TWO (2) FEET IN HEIGHT	
Common Name	Latin Name
Ocotillo	<i>Fouquieria splendens</i>
Soaptree Yucca	<i>Yucca elata</i>

3.8.6 PLANT PRESERVATION REQUIREMENTS.

3.8.6.1 Plant Preservation Methodologies. One of the following four methodologies shall be utilized to prepare a Native Plant Preservation Plan for Protected Native Plants on the project site. The applicant shall conform with all requirements of the Plant Inventory Methodology, Sec. 3.8.6.2; the Plant Appraisal Methodology, Sec. 3.8.6.3; the Set Aside Methodology, Sec. 3.8.6.4; or the Combined Methodologies, Sec. 3.8.6.5. The applicant shall state on the plans and/or in the report which methodology has been chosen. (Ord. No. 9246, §1, 10/11/99)

- 3.8.6.2 Plant Inventory Methodology. The Plant Inventory Methodology is based upon a Native Plant Inventory of all Protected Native Plants per Development Standard 2-15.3.1. The viability and transplantability of Protected Native Plants shall be rated according to Development Standard 2-15.3.2 and shall be used to determine the numbers and locations of plants required for preservation. The minimum number of Protected Native Plants required for preservation is based upon a percentage of the Viable Protected Native Plants inventoried on-site. In addition, this methodology provides for mitigation through the planting of replacement plants for Protected Native Plants which are damaged, destroyed, or removed from the site. The number of replacement plants required for mitigation is based upon the number of Viable Protected Native Plants that are removed from the site. The preservation-in-place of Protected Native Plants may be credited toward the number of mitigation plants required. Refer to Table 3.8.6-I and the Native Plant Preservation Worksheet, Exhibit I, Development Standard 2-15.3.4. The provisions of this subsection may be combined, or used in conjunction, with the Plant Appraisal Methodology or the Set Aside Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)
- A. *Minimum Protected Native Plant Preservation Requirements*. The minimum standards for the preservation of Protected Native Plants in the Plant Inventory Methodology shall be satisfied as follows.
1. *Endangered Species and "Crested" Saguaros*. One hundred (100) percent of Federal Endangered Species and "Crested" Saguaros shall be preserved-in-place or salvaged and transplanted on-site.
 2. *Saguaros and Ironwoods*. At least fifty (50) percent of all Viable Saguaros and Ironwood trees shall be preserved-in-place or salvaged and transplanted on-site.
 3. *Other Protected Native Plants*. At least thirty (30) percent of each genus and species of other Viable Protected Native Plant shall be preserved-in-place or salvaged and transplanted on-site.
- B. *Preservation Credits*. The preservation-in-place of certain Protected Native Plants, including those which are subject to the minimum requirements of Sec. 3.8.6.2.A, shall be credited toward the mitigation requirements of this Section as determined by the size of the Protected Native Plant as listed in Table 3.8.6-I. The preservation credits are in the form of the number of plants that may be used to offset the number of additional plants of that same genus and species required, based on the mitigation requirements, Sec. 3.8.6.2.C. Generally, the preservation of larger Protected Native Plants results in a greater credit toward the mitigation requirements. For example, the preservation-in-place of one twelve (12) foot saguaro results in a credit of three (3) saguaros.
- C. *Mitigation Requirements*. Viable Protected Native Plants harmed by on-site salvage and transplant, off-site removal, or damage or destruction during development shall be mitigated by replacement with a plant or plants of the same genus and species in conformance with Table 3.8.6-I. Plants used for mitigation may either be nursery grown plants, plants which are transported to the site in conformance with the state Native Plant Protection Act, A.R.S. § 3-901, et. seq., or plants salvaged from the site which are not required for the minimum preservation requirements of Sec. 3.8.6.2.A.2 or Sec. 3.8.6.2.A.3. Salvage and transplant on-site of Protected Native Plants which are in excess of the minimum requirements in Sec. 3.8.6.2.A.3 do not require any further mitigation. Each native plant which is salvaged and transplanted on-site to meet the minimum requirements of Sec. 3.8.6.2.A.2 and Sec. 3.8.6.2.A.3 shall be supplemented with one (1) additional plant of the same genus and species as listed in Table 3.8.6-I. Each Viable Protected Native Plant which is removed from the site, damaged, or destroyed during development shall be replaced on-site with an additional number of plants of the same genus and species as determined by Table 3.8.6-I. (See Table 3.8.6-I.)

TABLE 3.8.6-I							
PROTECTED NATIVE PLANT PRESERVATION CREDITS AND MITIGATION REQUIREMENTS							
Protected Native Plant ¹	Saguaro	Other Cacti	Ironwood Trees	Other Trees	Ocotillo	Yuccas	Shrubs
Inventory	All	All	≥4" C	≥4" C	≥2' H	≥2' H	≥3' H
Percent Preservation on-Site ²	50%	30%	50%	30%	30%	30%	30%
Preservation Credits ³	6-10' H = 2 >10' H = 3	≥2' H or D = 2 ⁴	6-12" C = 2 >12" C = 3	6-14" C = 2 >14" C = 4	≥6' = 2	≥4' H or D = 2	≥6' H = 2
Replacement Ratio for RFS ⁵	3:1	2:1	3:1	2:1	2:1	2:1	2:1
Mitigation Ratio for TOS ⁶	1:1	1:1	1:1	1:1	1:1	1:1	1:1
Replacement Size ⁷	From Site: ≥2' H From Nursery: ≥4' H	1' H or D ⁸	15 G	15 G	From Site: ≥2' H From Nursery: ≥4' H	5 G	5 G

≥ = greater than or equal to; C = caliper; D = diameter; G = gallon; H = height; TOS = plants transplanted on-site; and RFS = plants removed from site, damaged, or destroyed

¹See Sec. 3.8.5

²See Sec. 3.8.6.2.A

³See Sec. 3.8.6

⁴Except Pima Pineapple Cactus, Needle-spined Pineapple Cactus, and Desert Night-Blooming Cereus which are credited if preserved at a 4" H or D

⁵Ratio of number of plants required to be replaced to number of plants RFS

⁶Ratio of number of plants required to be supplemented to the number of plants TOS

⁷See Sec. 3.8.6.2.B and .C

⁸Except Pima Pineapple Cactus, Needle-spined Pineapple Cactus, and Desert Night-blooming Cereus which have a minimum replacement size requirement of 4" H or D

3.8.6.3 **Plant Appraisal Methodology.** The preservation and mitigation requirements of the Plant Appraisal Methodology shall be satisfied by the replacement of the monetary value of each genus and species of Protected Native Plant which is removed from the site, damaged, or destroyed with native plants of the same genus and species of equal value which are brought to the site in conformance with the following requirements. The provisions of this subsection may be combined, or used in conjunction, with the Plant Inventory Methodology or the Set Aside Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)

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- A. *Site Appraisal.* A plant appraisal shall be prepared which shall identify and state the financial value of each Protected Native Plant which is proposed to be removed from the site, damaged, or destroyed and shall be keyed to the Native Plant Inventory per Development Standard 2-15.3.1. The plant appraisal shall be conducted by a certified arborist according to the most current methods and procedures accepted by the Council of Tree and Landscape Appraisers. A plant professional (see Sec. 3.8.4.4) who can demonstrate competence in appraisal methodologies, through participation in an approved Western International Society of Arboriculture plant appraisal workshop, may also conduct a plant appraisal according to the most current methods and procedures accepted by the Council of Tree and Landscape Appraisers. (Ord. No. 9246, §1, 10/11/99)
- B. *Preservation and Mitigation Requirements.* Protected Native Plants which are proposed to be or are removed from the site, damaged, or destroyed during development shall be replaced by plants of the same genus and species. The Native Plant Preservation Plan shall detail the size and value of replacement plants to demonstrate that the monetary value of replacement plants shall be equal to the monetary value of each genus and species of Protected Native Plant which is removed from the site, damaged, or destroyed. Alternately, plants may be replaced on a one-to-one basis (genus, species, and size) from the site or from nursery/salvage stock to satisfy the requirement of monetary replacement value. (Ord. No. 9246, §1, 10/11/99)
- C. *Expiration of Appraisals.* Appraisals shall be current within six (6) months of submittal of the Native Plant Preservation Plan and shall be valid for a period of two (2) years after the Plan approval date. A revised appraisal value shall be required for development which does not proceed before the two (2) year time limit of the appraisal has expired.
- D. *Amendment of Appraisals.* Where any Protected Native Plant is removed from the site, damaged, or destroyed and is not identified on the appraisal prepared in conformance with Sec. 3.8.6.3.A, the Protected Native Plants shall be appraised pursuant to this Section, and the appraisal shall be amended to include all additional Protected Native Plants removed and their financial value.

3.8.6.4 Set Aside Methodology. The preservation and mitigation requirements of this Division shall be satisfied by the set aside of an area of the site as Natural Undisturbed Open Space (NUOS) in conformance with the following requirements. The provisions of this Section may be combined, or used in conjunction, with the Plant Inventory Methodology and/or the Plant Appraisal Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)

- A. *Site Assessment.* An Environmental Resource Report (ERR) per Development Standard 1-07.0 and in conformance with Development Standard 2-15.3.5 shall be prepared for the entire site to determine the general viability, density, and variety of Protected Native Plants within areas on the site. The Report shall include an assessment of such areas of NUOS and shall prioritize the natural resource value of vegetated areas on the site in conformance with the intent and purpose of this Division. Any area left undisturbed as provided in Sec. 3.8.6.4.A shall be shown in the Report, and no other assessment need be done for such areas. The natural resource value for an area shall be assessed by the consideration of factors such as: (Ord. No. 9246, §1, 10/11/99)
1. Health, size, density, and variety of native plant species; and
 2. The visual resource value of the area(s); and
 3. The potential to maximize the preservation of contiguous areas of NUOS both on- and off-site. (Ord. No. 9246, §1, 10/11/99)

- B. *Mitigation Requirements.* A minimum of thirty (30) percent of the site shall be set aside in perpetuity as NUOS area. The set aside area shall consist of the area(s) with the highest resource value as determined by the ERR or area(s) which is left undisturbed and preserved as provided in Sec. 2.8.6. (Ord. No. 9246, §1, 10/11/99)
- C. *Federal Endangered Species, Saguaros, and Ironwood Tree Mitigation Requirements.* The ERR shall include an inventory and analysis of all plants listed as Federal Endangered Species, all Saguaros, and all Ironwoods designated as Protected Native Plants according to Sec. 3.8.5. Preservation and mitigation requirements for these genus and species shall conform to Sec. 3.8.6.2.
- D. *Set Aside Protection.* Boundaries of all set aside areas shall be clearly delineated on an aerial photograph and site plan, development plan, or subdivision plat and fenced per Development Standard 2-06.2.2.F for the duration of any construction activities. (Ord. No. 9246, §1, 10/11/99)

3.8.6.5 Combined Methodologies. The preservation and mitigation requirements of this Division shall be satisfied by one of the following two options.

- A. *Set Aside Methodology Combined with Inventory and/or Appraisal Methodologies.* The preservation and mitigation requirements of this Division shall be satisfied by the set aside of an area of the site as NUOS in conformance with the requirements found in Sec. 3.8.6.4, Set Aside Methodology. An area of up to five (5) percent of the site area may be excluded from the thirty (30) percent set aside area. The excluded area must be contiguous to and within the outer perimeter of the thirty (30) percent set aside area. For the excluded area, the preservation and mitigation requirements of this Division shall be met by utilizing Sec. 3.8.6.2, Plant Inventory Methodology; Sec. 3.8.6.3, Plant Appraisal Methodology; or Sec. 3.8.6.5.B, Inventory/Appraisal Methodology.

Protected Native Plants to be transplanted on-site and/or replacement plants shall be located outside of the set aside area. Protected Native Plants located outside of the set aside area which are preserved in place that are of the same size, genus, and species as those inventoried in the excluded area under Sec. 3.8.6.2 Plant Inventory Methodology may be considered as being preserved in place on a one-to-one basis.

The percent preservation on-site, outside of the set aside area, remains fifty (50) percent for Ironwoods and Saguaros. (See Table 3.8.6-1.)

- B. *Inventory/Appraisal Methodology.* Each genus and species of plants can be addressed by choosing either the Plant Inventory Methodology, Sec. 3.8.6.2, or the Plant Appraisal Methodology, Sec. 3.8.6.3. A summary table shall be submitted showing the methodology chosen for each genus and species of Protected Native Plant found on the site.

(Ord. No. 9246, §1, 10/11/99)

3.8.6.6 General Plant Standards. All replacement plants which are used on the site to satisfy the mitigation requirements of this Section shall meet the following requirements. (Ord. No. 9246, §1, 10/11/99)

- A. *Minimum Size Requirements.* All replacement plants which are brought to the site to satisfy the mitigation requirements of this Section shall meet the following minimum size requirements.
 - 1. Saguaros and Ocotillos shall be at least four (4) feet in height, or if the replacement plants are salvaged and transplanted from the project site, then such plants shall be at least two (2) feet in height.

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2. Trees shall be in at least fifteen (15) gallon containers and shall comply with the minimum sizes as provided by the Arizona Nursery Association Grower's Committee Recommended Average Tree Specifications. (Ord. No. 9246, §1, 10/11/99)
 3. Barrel Cacti (*Ferocactus acanthodes* and *Ferocactus wislizenii*) shall be at least one (1) foot in height or diameter.
 4. All other cacti, except Saguaros, shall be at least four (4) inches in height.
 5. All yuccas and shrubs shall be grown in at least five (5) gallon containers. (Ord. No. 9246, §1, 10/11/99)
- B. *Plant Health Requirements.* All Protected Native Plants which are brought to the site to satisfy the mitigation requirements of this Division shall be in good health and condition and shall be provided with the necessary irrigation and maintenance designed to ensure their establishment and good health for the duration of any stay in a temporary holding area and after placement in a permanent location on-site.
- C. *Placement Requirements.* All Protected Native Plants shall be planted in locations able to support their long-term health and survival and shall be planted in densities and configurations to approximate the natural character of the Sonoran Desert.
- D. *Salvage Requirements.* All plants which are salvaged and transplanted on-site shall be rated as Viable and Transplantable per Development Standard 2-15.3.2 prior to relocation.
- E. *Identification Requirements.* All Protected Native Plants shall be properly tagged and/or permitted in accordance with the Federal Endangered Species Act, the Arizona Native Plant Law, and this Division, as applicable.
- F. *Containerized Plant Requirements.* Containerized plants used to meet the requirements of this Division shall be protected with browse control cages or some other technique proven to be effective in deterring herbivores.

3.8.6.7 Plant Protection During Development. (Ord. No. 9246, §1, 10/11/99)

- A. *Tagging Requirements.* All Protected Native Plants designated by the approved Native Plant Preservation Plan to be preserved-in-place, salvaged and transplanted on-site, or removed from the site for transplant elsewhere shall be tagged with an identification number and flagged with color coding so that final disposition is easily identified per Development Standard 2-15.5.0. (Ord. No. 9246, §1, 10/11/99)
- B. *Fencing Requirements.* All Protected Native Plants designated by the approved Native Plant Preservation Plan to be preserved-in-place and all areas designated to remain undisturbed or as NUOS shall be fenced off per Development Standard No. 2-06.2.2.F. No plants shall be salvaged from within fenced areas per this Section. Fencing shall remain in place for the duration of construction activities. (Ord. No. 9246, §1, 10/11/99)
- C. *Plant Nondisturbance Area.* All plants designated by the approved Native Plant Preservation Plan to be preserved-in-place shall be retained at their existing grade during and after construction for a distance as outlined in Development Standard 2-15.6.0.

- D. *On-Site Monitoring.* On-site monitoring of all aspects of site clearing, grading, plant protection, preservation, salvage, and mitigation shall be provided during project construction at the expense of the developer for all residential development that is over five (5) acres and for all commercial and industrial development that is over one (1) acre. The monitoring shall be performed by an individual who is qualified in arid lands native plant resource identification and protection as specified in Sec. 3.8.4, General Provisions and Requirements. The monitor shall provide periodic progress reports to the developer outlining the status of work accomplished and any problems encountered. A copy of these reports shall be submitted to the Development Services Department (DSD) for the project file. (Ord. No. 9392, §1, 5/22/00)
- E. *Submittal Compliance.* The monitor shall be responsible for an assessment of the condition of the site's plants one (1) year after the final inspection has been performed on the site. The monitor shall visit the site and prepare a report on plant status, including general plant condition, the identification of plants under stress and the appropriate method to relieve the stress, and recommendations for replacement of plants that are dead or dying. Dead or dying plants shall be replaced with the same size plant at a one-to-one (1:1) ratio of like genus and species. Copies of the report shall be submitted to the site owner/developer and to the Development Services Department (DSD). The owner shall respond to the plant needs as outlined in the status report within six (6) months of report submittal or within a shorter period if required to improve the health of stressed plants and prevent plant loss. (Ord. No. 9392, §1, 5/22/00)

3.8.7 **ENFORCEMENT, PENALTIES, FINES, AND OTHER REMEDIES.** In addition to the provisions of Sec. 5.5.3, any violation of this Division shall be subject to the following enforcement, penalties, fines, and other remedies.

3.8.7.1 **Fines.** Any person who, individually or through the acts of another person, intentionally or negligently damages, destroys, or removes from the site any Protected Native Plant, except as authorized by an approved Native Plant Preservation Plan, shall be subject to the following.

- A. A fine as determined for the damage, destruction, or removal from the site of each Protected Native Plant based upon the following schedule:
1. For each Viable Saguaro: a minimum of two hundred dollars (\$200) per foot of main trunk and two hundred dollars (\$200) per foot of each arm with a maximum not to exceed two thousand five hundred dollars (\$2,500) per Saguaro.
 2. For each Viable Protected Native Tree or Shrub: a minimum of three hundred dollars (\$300) per caliper inch measured at six (6) inches for single-trunked specimens and twelve (12) inches for multitrunked specimens above grade level at the base of the tree with a maximum not to exceed two thousand five hundred dollars (\$2,500) per tree or shrub. (Ord. No. 9246, §1, 10/11/99)
 3. For all other Viable Protected Native Cacti or Succulents: a minimum of three hundred dollars (\$300) per specimen with a maximum not to exceed two thousand five hundred dollars (\$2,500) per cactus.
- B. A fine of not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) if plant materials are damaged, destroyed, or removed from the site prior to approval of a Native Plant Preservation Plan.

3.8.7.2 **Additional Penalties.** Any person who, individually or through the acts of another person, intentionally or negligently damages, destroys, or removes from the site any Protected Native Plant, except as authorized by an approved Native Plant Preservation Plan, may be subject to one or more of the following, in addition to any fines imposed per Sec. 3.8.7.1.

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- A. Mitigation in accordance with Sec. 3.8.6.4 and any supplemental mitigation determined to be appropriate to restore the natural habitat and plant communities which have been damaged, destroyed, or removed from the site.
- B. Supplemental maintenance and monitoring requirements for Protected Native Plants following the final inspection performed on the site for a period not to exceed eight (8) years.
- C. Revocation of zoning compliance for any building permits which have been issued for the development.
- D. Immediate suspension by the Development Services Department (DSD) Director of any permits issued by the City for development of the property. Any such suspension shall remain in effect until permits expire unless the violation is mitigated in accordance with this Division in a manner which is satisfactory to the DSD Director. The decision by the DSD Director to suspend any permit, or to reject a proposal to provide the mitigation necessary for the reinstatement of the permits, shall be appealable pursuant to DSD established procedures. (Ord. No. 9392, §1, 5/22/00)

3.8.7.3 Recording of Permit Suspension or Revocation. Where any permit issued by the City is suspended until its expiration pursuant to Sec. 3.8.7.2.D, no new permit shall be issued for the property until any fines issued pursuant to Sec. 3.8.7.1 have been fully paid and/or all mitigation required by Sec. 3.8.7.2.A has been fully performed. A notice of this requirement for the issuance of any future development permit on the property shall be recorded on the property by the Development Services Department (DSD) Director with the Pima County Recorder. (Ord. No. 9392, §1, 5/22/00)

3.8.8 ADMINISTRATION.

3.8.8.1 Review Procedures. The applicant is encouraged to schedule a presubmittal conference with staff from the Development Services Department (DSD) with reference to specific design or review procedures. Prior to approval of any permits for grubbing, grading, or construction and prior to submittal of the Native Plant Preservation Plan, approval of designated utility easement locations from the utility providers is required. The requirement to provide information on utility easement locations may be waived under hardship conditions. Native Plant Preservation Plans are reviewed in the same manner and concurrent with other applicable plan review required for development approval. Comments on the Plans and requests for corrections or resubmittals are made in conjunction with responses to the applicable development plan, tentative plat, or site plan. (Ord. No. 9392, §1, 5/22/00)

3.8.8.2 Site Inspection and Enforcement. All landscape requirements of this Division will be inspected for compliance per Sec. 3.7.7.4.

3.8.8.3 Variances. The Design Review Board (DRB) shall review all variance requests from the Native Plant Preservation regulations as provided in Sec. 5.1.8.3.I and shall forward its recommendation in accordance with Sec. 5.1.8.2.F. (Ord. No. 9179, §1, 12/14/98; Ord. No. 9967, §3, 7/1/04)

(Ord. No. 8845, §1, 03/24/97; Ord. No. 9246, §1, 10/11/99)

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CHAPTER 14.11 DROUGHT PLAN

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14.11.010 Purpose.

This Chapter is intended to establish aggressive water conservation measures and enhance efficient utilization of water resources. Water purveyors normally rely on conservation as an essential resource to help meet water needs; however, the existence of drought conditions affecting the Colorado River Basin mandates additional conservation measures. These measures are intended to implement the Southern Nevada Water Authority's (SNWA) Drought Plan, which was adopted as part of SNWA's Water Resource Plan.

(Ord. 5616 § 2, 2003)

14.11.020 Definitions.

For purposes of this Chapter, the following terms shall have the meanings ascribed to them, unless the context requires otherwise:

"Community Use Recreational Turf" refers to any private or public park facility consisting of a turf-dominated, multi-purpose recreational area that:

- (1) Has at least two acres and no dimension less than one hundred feet; or

(2) Is a field that is programmable for athletic or other recreational events.

"District" means the Las Vegas Valley Water District.

"Drought" means a condition in which the combination of many complex factors acting and interacting with the environment results in water supplies not being replenished normally. For purposes of this Chapter, a "drought" occurs when existing water supplies cannot meet established demands for a period of time.

"Non-potable water" means water not suitable for drinking.

"Potable" water means water suitable for drinking.

"Raw Water" means non-potable water diverted from a natural source, subjected to minimal or no treatment, and delivered to a user for subsequent treatment or use.

"Reclaimed Water" means municipal wastewater that has been treated to meet all applicable federal, state and local standards for use in approved applications, including without limitation landscape irrigation, construction and industrial cooling. For purposes of this Chapter, "reclaimed water" and "recycled water" are equivalent terms.

"Resort Hotel" means any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has:

- (1) More than two hundred rooms available for sleeping accommodations;
- (2) At least one bar with permanent seating capacity for more than thirty patrons that serves alcoholic beverages sold by the drink for consumption on the premises;
- (3) At least one restaurant with permanent seating capacity for more than sixty patrons that is open to the public twenty-four hours each day and seven days each week; and
- (4) A gaming area within the building or group of buildings.

"Service Rules" means the service rules that have been adopted by the District.

"Southern Nevada Water Authority" or "SNWA" means the organization by that name that has been formed by cooperative agreement among local agencies to address Southern Nevada's water needs on a regional basis.

"Spray irrigation" means the application of water by means of sprinklers or other devices that disperse droplets of water through the air.

"Water Use Reduction Plan" means a document or documents to be submitted by or on behalf of an applicant in connection with a request to exempt fountains or water features from the prohibitions contained in this Chapter. The term includes a plan that is modeled after the Water Efficiency and Drought Response Plan outline or similar document that may have been approved for use by the District or the City Manager.

"Xeriscape" means a type of landscaping that incorporates drought-tolerant and low water-use plants with an organic or inorganic surface mulch layer as a water-efficient alternative to traditional turfgrass landscaping.

(Ord. No. 6068, § 1, 12-2-09; Ord. 5765 § 1, 2005; Ord. 5647 § 2, 2003; Ord. 5616 § 3, 2003)

14.11.030 Drought plan—Adopted by Reference.

The Drought plan adopted by the SNWA in February 2003 and approved by the City Council in March 2003, and any amendments adopted by SNWA, shall serve as the basis for adopting this Chapter, and as a guideline in its interpretation. The drought plan was adopted in order to preserve, protect and encourage the conservation of water resources. In the event of conflict between the provisions of this Chapter and other applicable ordinances, regulations or the Service Rules, the most stringent provisions will prevail. However, with respect to any provision of the Service Rules that is less stringent than the provisions of this Chapter, the District may enforce that provision instead.

(Ord. No. 6068, § 2, 12-2-09; Ord. 5765 § 2, 2005; Ord. 5707 § 1, 2004; Ord. 5647 § 3, 2003; Ord. 5616 § 4, 2003)

14.11.040 Applicability.

Except as otherwise provided, the provisions of this Chapter shall apply to the use of water that is delivered by a purveyor or provider of water from or through a public water supply system, including recycled, reclaimed, raw, non-potable and potable water.

(Ord. 5707 § 2, 2004; Ord. 5616 § 5, 2003)

14.11.050 City Manager—Responsibilities.

Except as otherwise provided in this Chapter, the City Manager shall be responsible for the administration and implementation of the provisions of this Chapter. The District shall be responsible for enforcing its service rules.

(Ord. 5616 § 6, 2003)

14.11.060 Standards and requirements—Waiver by City prohibited.

The standards and requirements set forth in this Chapter may not be waived or varied by the City. A request for waiver or variance shall be considered a request to amend the requirements of this Chapter, and shall only be considered in accordance with the procedures applicable to amendments. However, the City Manager may allow an exemption from the requirements or provisions of this Chapter when, in the City Manager's opinion, the exemption will protect the public health, safety and welfare, and will be beneficial to the District's water system. Examples of activities that may be exempted include hydrant flushing, valve testing, and system maintenance.

(Ord. 5616 § 7, 2003)

14.11.070 Wasting water after notice given.

- (A) It is unlawful for any owner, occupant, or manager of real property served by a water provider to waste water after a notice of water waste has been issued. The waste of water includes without limitation the following:
 - (1) Allowing water to flow or spray into a public street, alley, right-of-way, gutter or drain; and
 - (2) Failure to repair a water leak.
- (B)

It is unlawful for anyone to permit the excess use, loss or escape of water through a break, leak or malfunction in the water user's plumbing or distribution facilities for any period of time after the excess use, loss or escape should have been reasonably discovered and corrected.

- (C) Where public sewer is available, swimming pool water, when drained, must be discharged into an approved-type receptor and subsequently into a public sewer in accordance with applicable laws and regulations.

(Ord. 5616 § 8, 2003)

14.11.080 Violation—Prima facie evidence.

Any waste of water or other violation of this Chapter, together with proof that the waste or violation originated or took place at any particular residence or place of business, shall constitute, in evidence, a prima facie presumption that the owner, current occupant, or manager of real property of such residence or place of business was responsible for the waste or other violation.

(Ord. 5616 § 9, 2003)

14.11.090 Water uses—Prohibited—Hours designated.

Between May 1st and September 30th, it is unlawful to use water for the spray irrigation of turf, gardens, trees, shrubbery, or other vegetation between the hours of eleven a.m. and seven p.m.

(Ord. 5616 § 10, 2003)

14.11.100 Spray irrigation—Frequency allowed—Violation.

It is unlawful to use water for the spray irrigation of turf, gardens, trees, grass, shrubbery, or other vegetation in residential areas, or for the spray irrigation of turf other than community use recreational turf, at a greater frequency than that described in the service rules, or on a day other than one designated by the District for that user in accordance with the service rules. The days permitted for watering for a particular user will depend on the user's location within certain regions that are or may be designated by the District. The District is authorized to divide its service area within the City into various regions for purposes of establishing watering schedules and for water conservation purposes generally, and to revise the designation and makeup of those regions as deemed necessary, with due notice to the public.

(Ord. 5616 § 11, 2003)

14.11.110 Water restrictions—Exemptions.

The following are exempt from the watering restrictions described in Section 14.11.100 above:

- (A) Hand watering for the purpose of preserving lawn or shrubbery so that vegetation does not die;
- (B) Irrigation of new lawns or re-seeding of an existing lawn, for a period of thirty days from the date of planting or installation;
- (C) Drip and/or bubbler irrigation systems, provided that they are not run more frequently than would be permitted for spray irrigation;
- (D)

Irrigation of commercial stock by commercial gardens or plant nurseries that are licensed by the City, provided that the licensee or a representative is personally on the premises at the time the irrigation is taking place;

- (E) Testing of landscape irrigation systems, provided that the person performing the test is present to observe system performance;
- (F) Municipal operations or procedures that are necessary to protect the health, safety and well-being of the public; and
- (G) Such other activities as may be exempted under the service rules, including an exemption from the mandatory watering schedule for properties that use automated weather-based controllers ("smart controllers"). The availability and duration of any such exemption shall be in accordance with the service rules and subject to the approval of the District.

(Ord. 5944 § 1, 2007; Ord. 5616 § 12, 2003)

14.11.120 Watering of community use recreational turf.

The watering of community use recreational turf and turf at other government facilities shall be in accordance with the service rules and any watering schedules adopted or approved thereunder.

(Ord. 5616 § 13, 2003)

14.11.130 Landscape materials—Generally.

Landscape materials shall be limited as described in Sections 14.11.140 and 14.11.150 of this Chapter. Landscape materials that were approved in connection with the approval of a land use application or permit for construction that was granted before August 1, 2003, are not subject to the limitations contained in those Sections.

(Ord. 5616 § 14, 2003)

14.11.140 New turf installation—Generally.

- (A) Single-family and multifamily developments are prohibited from installing new turf in common areas of residential neighborhoods. This restriction shall not apply to turf area to be installed in public parks or privately owned and maintained parks, including required usable open space in residential developments, provided that such turf area has no dimension of less than ten feet.
- (B) The installation of new turf in non-residential developments is prohibited, unless specifically permitted by the approval of a land use application or permit for construction. Any new turf permitted shall be limited to no more than fifty percent of the turf that would be permitted under non-drought conditions. This restriction shall not apply to schools or to public or private parks.

(Ord. No. 6068, § 3, 12-2-09; Ord. 5616 § 15, 2003)

14.11.150 New turf installation—Residential.

- (A) Except as otherwise provided in Subsection (B), no new turf may be installed in residential front yards. In single-family residential development, the installation of new turf shall not exceed fifty percent of the gross area of the side and rear yard or one hundred square feet,

whichever is greater (up to a maximum of five thousand square feet). No turf area may be installed in the side or rear yard if any dimension thereof is less than ten feet.

- (B) The owner of a single-family dwelling may apply to the Director for an exemption from the prohibition in Subsection (A) regarding new turf in residential front yards. Approval of an exemption authorizes the applicant to install new turf in the front yard, but only if the total quantity of turf in the front, side and rear yards does not exceed the amount otherwise allowable in the side and rear yards under Subsection (A). An application for exemption shall include such information regarding the applicant's plans as the Director may require, including authorization for City representatives to gain access to the property for purposes of determining compliance with this Section.

(Ord. No. 6068, § 4, 12-2-09; Ord. 5944 § 2, 2007; Ord. 5908 § 2, 2007; Ord. 5616 § 16, 2003)

14.11.160 Cooling system provisions.

Outdoor mist cooling systems are not restricted within residential development. In commercial operations, outdoor mist cooling systems relating to animal safety are permitted, but those relating to human comfort are permitted only during the months of June, July and August, and only between the hours of twelve noon and ten p.m.

(Ord. No. 6068, § 5, 12-2-09; Ord. 5707 § 3, 2004; Ord. 5616 § 17, 2003)

14.11.170 Washing paved surfaces, buildings or equipment.

The washing of paved surfaces, buildings, or equipment (other than vehicles) is prohibited unless the water is discharged to a sanitary sewer in accordance with applicable laws and regulations or is contained on site.

(Ord. 5616 § 18, 2003)

14.11.180 Washing personal and commercial vehicles.

The washing of personal vehicles upon residential properties is limited to once per week per vehicle and requires a positive shut-off nozzle. Commercial vehicles may be washed without limitation as to frequency, but only:

- (1) At a commercial facility in accordance with applicable laws and regulations; or
- (2) By means of a high-pressure, low volume sprayer using less than ten gallons per vehicle.

(Ord. No. 6068, § 6, 12-2-09; Ord. 5707 § 4, 2004; Ord. 5616 § 19, 2003)

14.11.190 Potable or non-potable water utilization—Prohibitions—Exceptions.

- (A) Fountains and water features are prohibited upon property that is serviced by the District. The following features, however, are exempt from this prohibition:

- (1) Swimming pools;
- (2) Fountains and water features that are supplied by privately-owned water rights, by water rights obtained by means of a State-issued permit, or by nuisance water discharged during normal facility dewatering;
- (3)

- Not more than one fountain or other water feature at any single-family residence, provided that the surface area of the fountain or other water feature does not exceed twenty-five square feet;
- (4) Not more than one fountain or other water feature within the common areas of a single-family or multi-family development, provided that the fountain or other water feature is not an entryway or streetscape feature and its surface area does not exceed twenty-five square feet;
 - (5) Fountains or water features that are necessary and functional components serving other allowable uses, such as storage ponds on a golf course or aeration devices;
 - (6) Fountains or water features within public parks and public or private recreational water parks, provided that the fountains or water features have a recreational function and are not merely decorative;
 - (7) Indoor water features, or features with the majority of the total water volume contained indoors or underground. If practical alternatives exist for separating indoor and outdoor components, they shall be separated and managed accordingly. (Example: timers on shut-off valves);
 - (8) Fountains or water features necessary to sustain aquatic animals, provided that the animals have been actively managed within the water feature prior to the declaration of drought.
- (B) The following fountains or water features may be exempted from the prohibition contained in Subsection (A) in accordance with the remaining provisions of this Section:
- (1) Fountains or water features that are integral to the operation of a resort hotel or a coalition of resort hotels; or
 - (2) Other fountains or water features that are proposed to be allowed in exchange for water use reduction activities in accordance with Subsection (D) of this Section.
- (C) In order to be eligible for an exemption pursuant to Subsection (B), an applicant must submit a request for exemption and a water use reduction plan. The request for exemption must be submitted in writing to the City Manager, to be forwarded to the City Council for consideration. The water use reduction plan must be submitted to the District, with a copy to the City, and must contain such information, and be in a format, that is satisfactory to the District. Any exemption shall be conditioned upon the posting of one or more signs in proximity to the exempted fountain or water feature stating that the fountain or water feature is operating in compliance with this Chapter and that a water use reduction plan is on file with the District and the City.
- (D) The granting of any exemption pursuant to Subsection (B)(2) of this Section shall be subject to the following conditions:
- (1) The fountains or water features for which an exemption is sought must not be operational at the time the exemption is applied for, except as permitted in Subsection (F) of this Section;
 - (2) The submitted water use reduction plan must provide for a minimum total water savings of greater than fifty times the consumptive use of the operation of the fountain or water feature;
 - (3) The water use reduction plan must have been submitted to the District and implemented by the applicant;
 - (4) In the event that the required consumptive use savings cannot be achieved on the property that has the fountain or water feature, the applicant must pay to the City a fee of ten dollars for every square foot of surface area of the fountain beyond that which is

- accounted for in the removal of turf on the property to achieve the required consumptive use savings. If there is no turf on the subject property, the ten dollar per square foot fee must be paid for the entire square footage of the water feature; and
- (5) In order to maintain an exemption beyond the calendar year in which the exemption was granted, an annual fee of two hundred fifty dollars must be paid to the City. The first annual fee is payable:
- (a) For exemptions granted during the first six months of a calendar year, at the beginning of the next succeeding calendar year.
 - (b) For exemptions granted during the last six months of a calendar year, at the beginning of the second succeeding calendar year.
- (E) In order to continue to operate any fountain or water feature that is integral to the operation of a resort hotel or a coalition of resort hotels, that is prohibited by Subsection (A) of this Section, and that is in operation on the effective date of the Ordinance codified in this Section, a request for exemption and water use reduction plan must be submitted within ninety days after the effective date of the Ordinance codified in this Section. If the exemption is not approved, the fountain or water feature may not be operated except as permitted in Subsection (F) of this Section.
- (F) Nothing in this Section that prohibits or limits the operation of fountains or water features shall be deemed to:
- (1) Prohibit the construction of fountains or water features; or
 - (2) Require a fountain or water feature to be drained if maintaining a recirculating water pool is necessary in order to maintain pumps, pond liners, and ancillary equipment, but in such a case the recirculating water pool may only be operated between the hours of one a.m. and four a.m.

(Ord. No. 6068, § 7, 12-2-09; Ord. 5707 § 5, 2004; Ord. 5647 § 4, 2003)

14.11.200 Private covenant, condition, restriction, deed clause—Enforcement.

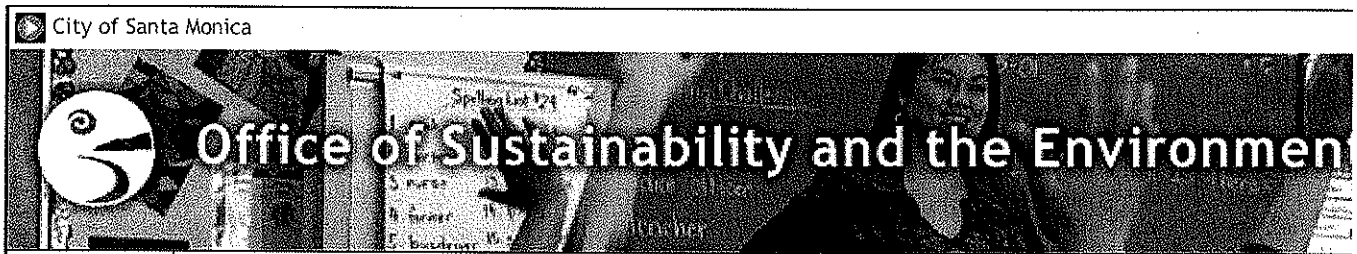
No person or association may impose or enforce any private covenant, condition, restriction, deed clause or other agreement to prevent a person from utilizing water efficient landscaping, including without limitation xeriscape, provided such landscaping receives appropriate architectural review approval. In any event, landscaping materials and designs may not be prohibited solely on the basis that they make use of water-efficient landscaping.

(Ord. 5616 § 21, 2003)

14.11.210 Violations.

Violations of the provisions of this Chapter may be prosecuted as misdemeanors or may be addressed by applicable civil administrative procedures established by the District in its service rules.

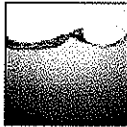
(Ord. 5616 § 22, 2003)



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Water Conservation Requirements



SMMC: 7.16.020

News & Networks



Water Efficiency Contact:

Kim O'Cain
 Sustainability Analyst
 (310) 458-8459
kimberly.ocain@smgov.net

1. No watering of lawns or landscapes between the hours of 10:00 a.m. on any day exception for drip irrigation, maintenance, hand
2. No runoff is permitted from irrigation into streets, alleys, drivewa or storm drains at any time.
3. No hosing down of sidewalks, driveways, patios, alleys, parking ar "hardscapes."
4. Water must not be used to fill or maintain levels in decorative fo ponds, lakes or displays unless a recycling system is used.
5. Swimming pools must not be filled or emptied unless it is a first f pool, or necessary leak repair work is being performed.
6. Water leaks from exterior or interior plumbing must be repaired i
7. No washing of vehicles of any kind except with a hand-held bucke equipped with a shut-off nozzle. No runoff permitted.
8. Restaurants must serve water only upon request.

To report a violation, email code.compliance@smgov.net or call 31

What is the Penalty for Violating this Ordinance?

A \$250 fine may be imposed for the first offense. Subsequent violations fines.

How Does the City Check for Violations?

On April 1, 2003, the Office of Sustainability and the Environment (OSE) enforcement of the "No Water Waste" Ordinance by patrolling the City. to take a photo of the violation as it is occurring. Often times concerne and business owners, call or email us to report violations. In those instai respond as quickly as possible by visiting the site.

City Services

How Does the City Respond to Violations?

After witnessing the violation(s), staff will send a pending violation letter if applicable, to the water account customer listed at the property where violation(s) took place. The letter states the violation(s) and actions to correct it/them. Informational letters are mailed to water account customer if a potential violation is reported by concerned residents, visitors or business owners.

What Do I Do if I Get a Violation Letter?

Follow the corrective actions. When corrected, please call the staff person who issued the letter and let him/her know that you've complied.

Who Do I Call If I Have Questions or To Report A Violation?

Please call 310-458-4984. After business hours, please call the Pollution Hotline at 310-458-8945.

Last updated: 4/22/2014

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Santa Monica Office of Sustainability and the Environment
1685 Main St., Santa Monica, CA 90401 · (310) 458-2213 · TTY (310) 917-6667
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Santa Monica Municipal Code

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Chapter 7.16 WATER CONSERVATION

Note

* **Editor's Note:** Chapter 2A, "Water Conservation," as added by Ordinance No. 1447CCS, adopted June 14, 1988, has been amended in its entirety by Ordinance No. 1490CCS, adopted August 8, 1989; Ordinance No. 1571CCS, adopted February 26, 1991; and Ordinance No. 1580CCS, adopted April 9, 1991, as amended by Ordinance No. 1585CCS § 1, adopted 5/28/91; and Ordinance No. 1616CCS § 1, adopted March 24, 1992. Additional amendments are noted where applicable.

7.16.010 Findings.

The City Council finds and declares:

- (a) The State of California, including the City of Santa Monica, suffers from recurring severe drought conditions and even during non-drought periods water is a scarce resource throughout much of Southern California.
- (b) Water shortage conditions within the State of California and within the City of Santa Monica can arise on short notice as a result of drought, natural disaster, or other emergency event that critically impacts the availability of water. As a result, the residents and business operators of the City of Santa Monica live under an almost constant threat of water shortage.
- (c) A water conservation plan is necessary to minimize the effect of the shortage of water within the City of Santa Monica. Such a plan will significantly reduce the long and short term consumption of water, thereby preserving available water for the future requirements of the City, while minimizing the hardship caused to the general public to the greatest extent possible.
- (d) A water shortage response plan is essential to effectively and equitably manage limited water resources during a water shortage emergency.
- (e) The State of California requires all urban water suppliers providing municipal water either directly or indirectly to more than three thousand customers, or supplying more than three thousand acre feet of water annually, to develop an Urban Water Shortage Contingency Plan.
- (f) The City of Santa Monica is an urban water supplier providing water directly to more than seventeen thousand customers. (Prior code § 7240; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 1, adopted 6/10/08)

7.16.020 Water conservation requirements.

The following water conservation requirements shall apply to all persons within the City of Santa Monica:

(a) **Landscape.**

- (1) **Watering Hours.** No lawn or landscape area shall be spray irrigated between the hours of ten a.m. and four p.m. on any day. This subsection shall not apply to any drip irrigation system approved by the Director of Environmental and Public Works Management (EPWM) or unless the Director of EPWM approves in writing an exemption for irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

(2) **Irrigation Overspray and Runoff.** Water shall not spray or flow to any impermeable private or public surface including but not limited to walkways, driveways, sidewalks, alleys, streets, or storm drains.

(b) **Cleaning.** No person shall:

(1) Use water to wash, clean or clear any sidewalks, streets, walkways, patios, driveways, alleys or parking areas, whether paved or unpaved, with a hose connected to a domestic water source. Exception: Pressure washing may be permitted in writing by the Director of EPWM with approved equipment and if all wastewater is recovered for recycling, disposed of in the sanitary sewer, or directed to landscaping. In no event shall any water so used be permitted to run off into streets, alleys or storm drains;

(2) Wash or clean with water any vehicle, including, but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or unmotorized, except by use of a hand-held bucket or similar container or a hose equipped with a positive action quick release shutoff valve or nozzle. This subsection shall not apply to any commercial car washing facility which utilizes a recycling system to capture or reuse water. In no event shall any water so used be permitted to run off into streets, alleys or storm drains;

(c) **Water Features and Water Recreation Facilities.** No person shall:

(1) Fill, for the first time, any water feature such as a fountain, pond, lake or water display unless the water feature is constructed with a water recycling system and, prior to the issuance of a building permit, a fee is paid to the Director of EPWM equal to the first year water consumption of the water feature as determined by the Director of EPWM.

(2) Fill, for the first time, any water recreation facility such as a hot tub, spa, permanent swimming or wading pool unless the water recreation facility is constructed, installed or equipped with a cover to reduce water loss due to evaporation and, prior to the issuance of a building permit, a fee is paid to the Director of EPWM equal to the first year water consumption of the water recreation facility, as determined by the Director. of EPWM.

(d) **Waste, Ponding and Leaks.** No person shall:

(1) Cause, permit or allow water to leak from any exterior or interior pipe, hose or plumbing fixture of any kind whatsoever.

(2) Cause, permit or allow water to flow from any source on private or public property into gutters, streets, alleys or storm drains except as a result of rainfall or from a source approved in writing by the Director of EPWM.

(3) Cause, permit or allow water from any source to pond on private or public property except as a result of rainfall or unless approved in writing by the Director of EPWM.

(4) Cause, permit or allow water to flow from any source on private or public property without beneficial use.

(e) **Eating and Drinking Establishments.** All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person upon receipt of an express request.

(f) **Exceptions.** The provisions of this Section are not applicable to the uses of water which are necessary to protect public health and safety or for essential governmental services, such as police, fire and other similar emergency services. (Prior code § 7241; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 2, adopted 6/10/08)

7.16.030 Water consumption limits.

(a) Effective April 1, 1992, the water consumption limits imposed by Section 7242 of Ordinances 1571CCS and 1616CCS shall no longer be enforced and shall be suspended.

(b) The City Council by resolution is authorized to require or reimpose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies or to respond to emergency water shortage conditions.

(c) The City Council by resolution is authorized to declare a water shortage advisory or water shortage emergency based on the actual or projected shortage of available potable water supplies for domestic, sanitary and public safety uses and by resolution may adopt a Water Supply Shortage Response Plan. (Prior code § 7242; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 3, adopted 6/10/08)

7.16.040 Excess water consumption surcharge and flow restriction.

Effective April 1, 1992, no customer of City supplied water shall be charged a surcharge for the excess use of water as authorized by Section 7243 of Ordinances 1571CCS and 1616CCS. Nothing in this Section is intended to effect in any way any of the surcharges, penalties, or remedies provided for in Section 7.16.070 of this Chapter. (Prior code § 7243; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.050 Water consumption limits and fees for new development.

Effective April 1, 1992, no person shall be issued a building permit for any development project unless:

(a) The development will not affect or alter any plumbing fixture; or

(b) The development involves a single family residence and is not a substantial remodel as defined in Santa Monica Municipal Code Section 9.04.02.030 and will not increase by more than fifty percent the square footage of the principal building; or

(c) The development involves a multi-family residence and is not a substantial remodel as defined in Santa Monica Municipal Code Section 9.04.02.030 and will not increase the number of dwelling units on the property; or

(d) The person pays in advance a fee to the of EPWM sufficient to mitigate the estimated daily water consumption rate projected for the development, except that any person requesting a building permit for any low and moderate income housing development shall be required to pay a fee sufficient to mitigate only the estimated net increase in daily water consumption rate projected for the development. The City Council shall by resolution establish or amend any fee permitted by this Section. (Prior code § 7244; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 4, adopted 6/10/08)

7.16.060 Appeals.

(a) Any customer assessed a surcharge or other penalty pursuant to this Chapter may claim that the surcharge or other penalty was not properly assessed in accordance with the provisions of this Chapter by requesting a hearing within the time and manner set forth in Section 6.16.030, provided

that no hearing request shall be deemed timely filed and no hearing shall be held unless, within the time period to request a hearing, the customer deposits with the City money in the amount of any unpaid bill, less the disputed surcharge or other penalty amount, due under this Chapter. If as a result of the hearing it is determined that the surcharge or other penalty was properly assessed, the customer shall pay any applicable surcharge. The decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council. The hearing officer's decision shall be reviewable by petition filed pursuant to California Code of Civil Procedure Section 1094.5, provided judicial review is sought not later than the ninetieth day following the date in which the decision becomes final in accordance with the provisions of Section 1.16.010 of this Code and Code of Civil Procedure Section 1094.6.

(b) It shall not be a defense to the assessment of any surcharge or other penalty or to any other civil enforcement action provided for under this Section for a customer to assert that any violation of this Chapter was caused by the actions of a person other than the customer except if the violation was caused by the criminal or negligent action of a person who was not an agent, employee or family member of the customer.

(c) Any surcharge or other penalty provided for hereunder may be added to subsequent water billings until paid and when collected by the Water Division shall be deposited in the water operating fund. (Prior code § 7245; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.070 Penalties and remedies.

(a) The violation of this Chapter shall constitute an infraction punishable by a fine not to exceed the amount set by this Code. Each day that a violation occurs shall constitute a separate offense.

(b) In addition to any other surcharge or penalty as may be provided for in this Chapter or Code, any customer who fails to comply with any provision of Section 7.16.020 may be assessed a surcharge of twenty dollars or twenty percent of the customer's total water bill for the most recent billing period, whichever is greater.

(c) Pursuant to Penal Code Section 836.5, the Conservation Coordinator or Water Resources Specialists may arrest without a warrant any person whenever the Coordinator or Inspector has reasonable cause to believe that the person to be arrested has committed an infraction in his or her presence which is a violation of this Chapter. In any case in which a person is arrested pursuant to this Section, and the person arrested does not demand to be taken before a magistrate, the Conservation Coordinator or Water Resources Specialists shall prepare a written notice to appear and shall release the arrested person on his or her promise to appear as provided for in Section 3.36.070 of this Code.

(d) **Wilful Misrepresentation.** It shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed six months or both, for any person to knowingly misrepresent any material fact to any employee, agent or representative of the City in any attempt or effort to circumvent or otherwise diminish the effectiveness of any of the requirements imposed by any part of this Chapter.

(e) A violation of any provision of this Chapter is declared to be a public nuisance and the City Attorney is authorized to abate such violation(s) by means of a civil action.

(f) The penalties and remedies established by the Chapter shall be cumulative. (Prior code § 7246; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 5, adopted 6/10/08)

7.16.080 Relief from compliance.

The Director of EPWM or his or her designated representatives may, in writing, grant variances to persons who apply in writing on forms supplied by the City for:

(a) Usages of water prohibited by Section 7.16.020 if it is found that a variance is necessary to prevent an emergency condition relating to health and safety, and if the person seeking a variance has demonstrated that he or she has implemented water conservation measures in some other manner that achieves the objectives of this Chapter. No variance may be granted for the filling of any fountain, pond, lake, display, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this Section are met.

(b) Any customer who has been assessed a surcharge pursuant to this Chapter may request a variance pursuant to subsection (a) of this Section but must first pay in full the amount of any unpaid bill, less the disputed surcharge amount, prior to filing a variance application. The request for a variance must be filed within the time period established by Section 6.16.030. If the variance application is denied in whole or in part the customer shall be assessed the applicable surcharge.

(c) No variance shall be granted to any customer unless the customer has demonstrated that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any variance granted shall be based upon the water consumption rates of similar water users, properties or businesses.

(d) Any person denied a variance in whole or in part may appeal the denial to a three-person variance review board established by the City Manager. Any such appeal shall be made in writing within ten days of the denial on a form supplied by the City and shall be accompanied by the payment of any applicable fee. The variance review board may approve, modify or deny any variance request and may uphold, modify or nullify any surcharge. The decision of the variance review board shall be final except for judicial review in accordance with the provisions of Section 7.16.060 of this Chapter and shall not be appealable to the City Council. The variance appeal board shall establish procedures for the processing and consideration of appeals. (Prior code § 7247; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 6, adopted 6/10/08)

7.16.090 City of Santa Monica voluntary water conservation plan.

In addition to the water conservation requirements established by this Chapter, the City Manager or his or her designate is authorized to develop and promulgate a voluntary water conservation plan which shall be directed to achieve at least a twenty percent reduction in water consumption from 2000 levels within the City of Santa Monica. (Prior code § 7248; added by Ord. No. 1619CCS § 1, adopted 4/14/92; amended by Ord. No. 2266CCS § 7, adopted 6/10/08)

7.16.100 Fees.

The City Council may, by resolution, establish fees for the filing, processing or approval of any application, permit or variance provided for under this Chapter. (Prior code § 7249; added by Ord. No. 1619CCS § 1, adopted 4/14/92)