

## RESOLUTION NO.16-

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO ADOPTING REGULATIONS RESTRICTING WATER USE IN COMPLIANCE WITH STATE EXECUTIVE ORDER B-37-16

WHEREAS, On May 9, 2016, Governor Edmund G. Brown Jr. issued Executive Order B-37-16 – Making Water Conservation a California Way of Life, that modified the orders and provisions of the April 25, 2014 Emergency Proclamation, Executive Orders B-26-14, B-28-14, B-29-15, B-36-15; and

WHEREAS, Executive Order B-37-16 requires:

- The State Water Resource Control Board is to propose a mandatory reduction in potable urban water usage that builds off of the mandatory 25% reduction called for in Executive Order B-29-15 and lessons learned through 2016.
- The Department of Water Resources to work with the State Water Resource Control Board to develop water use targets that are customized to the unique conditions of each water agency; and

WHEREAS, On June 14, 2016, Santa Clara Valley Water District (Water District) established a 20% water use reduction goal; and

WHEREAS, The City receives potable water from two urban water suppliers who, in turn, receive the majority of their water from the Water District. The City further demonstrates its commitment by responding to Water District's voluntary water consumption reduction request and achieved an approximate 30% reduction in City operation water use in 2015 relative to 2013 and establishes a 20% City operation reduction requirement for 2016 relative to 2013; and

WHEREAS, The City supports the Water District's efforts to encourage conservation, with an emphasis on outdoor water use, to the extent it may do so within the context the Cupertino Municipal Code; and

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, Cupertino Municipal Code Section 15.32.040 provides that the City may adopt Regulations for water conservation or for other public purposes.

WHEREAS, the Council declares that the present year has been preceded by prior dry years; and

WHEREAS, the Council determines that regulations are necessary to promote further conservation efforts during this critical time of drought; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA"), the City determines that the provisions of this Resolution are exempt as a project intended to protect the environment and natural resources(14 Cal.Reg. 15307, 15308);

The Council of the City of Cupertino RESOLVES as follows:

#### SECTION 1. Regulations

A. Attachment A, "2016/17Regulations Restricting Water Use" is hereby adopted in compliance with Executive Order B-37-16 (Attachment B) and incorporated.

SECTION 2. Council directs the City Manager to establish an implementation process for 2016/17 Water Use Regulations by August 1, 2016.

SECTION 3. The 2016/17Regulation Restricting Water Use will remain in effect until March 1, 2017 or as extended by the City Council or the Water Board. =

SECTION 4. Council directs staff to further promote water conservation by coordinating educational outreach with urban water suppliers and the Water District to ensure that Cupertino customers fully understand drought restrictions and receive a consistent conservation message within the City.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 5<sup>th</sup> day of July, 2016, by the following vote:

Vote

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Grace Schmidt, City Clerk

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Barry Chang, Mayor

## ATTACHMENT A

### 2016/17 REGULATIONS RESTRICTING WATER USE

Despite near average rainfall in much of Northern California this past winter, 60 percent of California remains in severe drought. Groundwater basins and many reservoirs are badly depleted as the State's drought continues into a fifth year. The June 1-7 2016 U.S. Drought Monitor reports that the long term drought remains in California, with Santa Clara County considered abnormally dry. In May, local county reservoir storage was at 91 percent of the 20 year average and 86 percent of restricted storage capacity. Compared to recent prior years, overall water supplies are less constrained and the Santa Clara Valley Water District has been able to increase groundwater recharge operations.

Implementation of individual regulations shall be carried out at the direction of the City Council, in response to its assessment of local water supply conditions, feasibility, and consumption trends. The Council may, in its discretion, opt to revise, delete or include different elements than those described below, so long as the restrictions implemented serve the overall purpose of reducing local consumption.

Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws. Pursuant to this power and Cupertino Municipal Code Section 15.32.040, the City Council of the City of Cupertino adopts the following Regulations in addition to any requirements set forth in Cupertino Municipal Code Chapter 15.32. These regulations are effective August 1, 2016 through March 1, 2017, or until repealed by Council, whichever comes first.

#### Section A:

To prevent the waste and unreasonable use of water and to promote water conservation, the following acts are prohibited, except where necessary to address an immediate health and safety need:

1. Using potable water to wash sidewalks and driveways;
2. Allowing runoff when irrigating with potable water;
3. Using hoses with no shutoff nozzles to wash cars, trailers, boats;
4. Using potable water in decorative water features that do not re-circulate the water;
5. Irrigating outdoors during and within 48 hours following measurable rainfall;
6. Irrigating ornamental turf on public street medians;
7. Using outdoor irrigation during and 48 hours after rain;
8. Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than three days per week. Irrigation will be allowed on Monday, Thursday & Saturday for odd number addresses and numberless addresses; and Tuesday, Friday & Sunday for even number addresses;
9. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the

California Building Standards Commission and the Department of Housing and Community Development.

10. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
11. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
12. Other restrictions on use of potable water as prescribed from time to time by the Water Board or other governing body or agency.
13. None of the restrictions apply to the use of recycled or grey water. These restrictions also shall not apply to commercial nurseries, golf courses, or other water-dependent businesses, unless specifically included by the Water Board or other governing body or agency.

**Executive Department**

State of California

**EXECUTIVE ORDER B-37-16  
MAKING WATER CONSERVATION A CALIFORNIA WAY OF LIFE**

**WHEREAS** California has suffered through a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

**WHEREAS** Californians responded to the drought by conserving water at unprecedented levels, reducing water use in communities by 23.9% between June 2015 and March 2016 and saving enough water during this period to provide 6.5 million Californians with water for one year; and

**WHEREAS** severe drought conditions persist in many areas of the state despite recent winter precipitation, with limited drinking water supplies in some communities, diminished water for agricultural production and environmental habitat, and severely-depleted groundwater basins; and

**WHEREAS** drought conditions may persist in some parts of the state into 2017 and beyond, as warmer winter temperatures driven by climate change reduce water supply held in mountain snowpack and result in drier soil conditions; and

**WHEREAS** these ongoing drought conditions and our changing climate require California to move beyond temporary emergency drought measures and adopt permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply; and

**WHEREAS** increasing long-term water conservation among Californians, improving water use efficiency within the state's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change; and

**WHEREAS** these activities are prioritized in the California Water Action Plan, which calls for concrete, measurable actions that "Make Conservation a California Way of Life" and "Manage and Prepare for Dry Periods" in order to improve use of water in our state.



**NOW, THEREFORE, I, EDMUND G. BROWN JR.,** Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular California Government Code sections 8567 and 8571, do hereby issue this Executive Order, effective immediately.

**IT IS HEREBY ORDERED THAT:**

The orders and provisions contained in my January 17, 2014 Emergency Proclamation, my April 25, 2014 Emergency Proclamation, Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 remain in full force and in effect except as modified herein.

State agencies shall update temporary emergency water restrictions and transition to permanent, long-term improvements in water use by taking the following actions.

**USE WATER MORE WISELY**

1. The State Water Resources Control Board (Water Board) shall, as soon as practicable, adjust emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions across the state. To prepare for the possibility of another dry winter, the Water Board shall also develop, by January 2017, a proposal to achieve a mandatory reduction in potable urban water usage that builds off of the mandatory 25% reduction called for in Executive Order B-29-15 and lessons learned through 2016.
2. The Department of Water Resources (Department) shall work with the Water Board to develop new water use targets as part of a permanent framework for urban water agencies. These new water use targets shall build upon the existing state law requirements that the state achieve a 20% reduction in urban water usage by 2020. (Senate Bill No. 7 (7th Extraordinary Session, 2009-2010).) These water use targets shall be customized to the unique conditions of each water agency, shall generate more statewide water conservation than existing requirements, and shall be based on strengthened standards for:
  - a. Indoor residential per capita water use;
  - b. Outdoor irrigation, in a manner that incorporates landscape area, local climate, and new satellite imagery data;
  - c. Commercial, industrial, and institutional water use; and
  - d. Water lost through leaks.

The Department and Water Board shall consult with urban water suppliers, local governments, environmental groups, and other partners to develop these water use targets and shall publicly issue a proposed draft framework by January 10, 2017.

3. The Department and the Water Board shall permanently require urban water suppliers to issue a monthly report on their water usage, amount of conservation achieved, and any enforcement efforts.

#### **ELIMINATE WATER WASTE**

4. The Water Board shall permanently prohibit practices that waste potable water, such as:
  - Hosing off sidewalks, driveways and other hardscapes;
  - Washing automobiles with hoses not equipped with a shut-off nozzle;
  - Using non-recirculated water in a fountain or other decorative water feature;
  - Watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and
  - Irrigating ornamental turf on public street medians.
5. The Water Board and the Department shall direct actions to minimize water system leaks that waste large amounts of water. The Water Board, after funding projects to address health and safety, shall use loans from the Drinking Water State Revolving Fund to prioritize local projects that reduce leaks and other water system losses.
6. The Water Board and the Department shall direct urban and agricultural water suppliers to accelerate their data collection, improve water system management, and prioritize capital projects to reduce water waste. The California Public Utilities Commission shall order investor-owned water utilities to accelerate work to minimize leaks.
7. The California Energy Commission shall certify innovative water conservation and water loss detection and control technologies that also increase energy efficiency.

#### **STRENGTHEN LOCAL DROUGHT RESILIENCE**

8. The Department shall strengthen requirements for urban Water Shortage Contingency Plans, which urban water agencies are required to maintain. These updated requirements shall include adequate actions to respond to droughts lasting at least five years, as well as more frequent and severe periods of drought. While remaining customized according to local conditions, the updated requirements shall also create common statewide standards so that these plans can be quickly utilized during this and any future droughts.
9. The Department shall consult with urban water suppliers, local governments, environmental groups, and other partners to update requirements for Water Shortage Contingency Plans. The updated draft requirements shall be publicly released by January 10, 2017.



10. For areas not covered by a Water Shortage Contingency Plan, the Department shall work with counties to facilitate improved drought planning for small water suppliers and rural communities.

**IMPROVE AGRICULTURAL WATER USE EFFICIENCY AND DROUGHT PLANNING**


11. The Department shall work with the California Department of Food and Agriculture to update existing requirements for Agricultural Water Management Plans to ensure that these plans identify and quantify measures to increase water efficiency in their service area and to adequately plan for periods of limited water supply.
12. The Department shall permanently require the completion of Agricultural Water Management Plans by water suppliers with over 10,000 irrigated acres of land.
13. The Department, together with the California Department of Food and Agriculture, shall consult with agricultural water suppliers, local governments, agricultural producers, environmental groups, and other partners to update requirements for Agricultural Water Management Plans. The updated draft requirements shall be publicly released by January 10, 2017.

The Department, Water Board and California Public Utilities Commission shall develop methods to ensure compliance with the provisions of this Executive Order, including technical and financial assistance, agency oversight, and, if necessary, enforcement action by the Water Board to address non-compliant water suppliers.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**I FURTHER DIRECT** that as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this order.

**IN WITNESS WHEREOF** I have  
hereunto set my hand and caused the  
Great Seal of the State of California to  
be affixed this 9th day of May 2016.

  
EDMUND G. BROWN JR.  
Governor of California

**ATTEST:**

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ALEX PADILLA  
Secretary of State