ORDINANCE NO. 2007-218

AN ORDINANCE OF TOWN OF WINDSOR DECLARING THE EXISTENCE OF A WATER SHORTAGE EMERGENCY CONDITION WITHIN THE TOWN OF WINDSOR, PROHIBITING THE WASTE AND NON-ESSENTIAL USE OF WATER, AND PROVIDING FOR THE CONSERVATION OF THE WATER SUPPLY OF THE TOWN OF WINDSOR

BE IT ORDAINED by the Town Council as follows:

Section 1. Declaration of a Water Shortage Emergency

The Town Council does hereby find and declare as follows:

(a) Pursuant to Resolution No. 2082-07 duly adopted by this Council on June 20, 2007, a public hearing was held on July 18, 2007, on the matter of whether the Town should declare that a water shortage emergency condition exists within the water service area of the Town, including all water service areas served by the Town outside the Town limits.

(b) Notice of said hearing was published in the Windsor Times, a newspaper of general circulation printed and published within said water service area of the Town.

(c) At said hearing all persons present were given an opportunity to be heard and all persons desiring to be heard were heard.

(d) Said hearing was called, noticed and held in all respects as required by law.

(e) The Town Council heard and has considered each protest against the declaration and all evidence presented at said hearing.

(f) This ordinance is to be an urgency ordinance in accordance with California Government Code section 36937 based on the following findings of fact and this ordinance is necessary for the immediate preservation of the public peace, health, and safety because a water shortage emergency condition exists and prevails within the territory of the Town and all water service areas served by the Town outside its territory. Said water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the Town water service area cannot be met and satisfied by the water supplies now available to this Town without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation and fire protection.

(g) This ordinance shall become effective immediately upon adoption by at least a four fifths vote of the Windsor Town Council.

(h) This ordinance shall be posted within ten (10) days from the date of its adoption within three (3) public places within the Town of Windsor.

(i) A Stage 2 water shortage emergency condition is declared to exist within the territory of the Town and all water service areas served by the Town outside its territory, as of the effective date of this ordinance, and commencing on the effective date of this ordinance all Stage 2 water shortage emergency measures specified here shall become effective and be implemented with an overall mandatory rationing requirement of 15% below usage for the corresponding period of calendar year 2004, a mandatory residential rationing requirement of 20% below usage for the corresponding period of calendar year 2004, and a mandatory irrigation rationing requirement of 20% below usage for the corresponding period of calendar year 2004. Said measures shall remain in effect and shall be implemented until such time as the Windsor Town Council either declares by resolution that the water shortage emergency has ended, or that the water shortage emergency condition shall be changed to either Stage 1 or Stage 3.

(j) At any time subsequent to the effective date of this ordinance, the Windsor Town Council may, by resolution: a) declare that the water shortage emergency has ended, b) change the Stage of the water shortage emergency, and/or c) change the mandatory rationing requirements associated with Stage 2 and Stage 3 water shortage emergencies.

Section 2. Purpose and Authority

The purpose of this ordinance is to conserve the water supply of the Town for the greatest public benefit with particular regard to public health, fire protection and domestic use, to conserve water by reducing waste, and to the extent necessary by reason of the existing water shortage emergency condition to reduce water use fairly and equitably. This ordinance is adopted pursuant to State Law including Water Code Sections 350 to and including 358, and Sections 31026 to and including 31029.

Section 3. Definitions

The terms used in this ordinance shall have the following meanings:

(a) Corresponding billing period - A similar billing period occurring in a prior designated year to which current water use is compared for the purpose of determining the percent reduction in use.

(b) Drip system - An irrigation system downstream of a reduced pressure device fitted with drip emitters, bubblers or low pressure micro-jet sprayers.

(c) ETo - Evapotranspiration demand reported as reference evapotranspiration for each California Irrigation Management Information System (CIMIS) weather station located in Sonoma and Marin Counties. (Local ETo data is available on the CIMIS website: http://wwwcimis.water.ca.gov/cimis/welcome.jsp)

(d) ETo Adjustment Factor - A factor to multiply times ETo to determine the appropriate amount of sprinkler water to apply to turf grass, garden, landscaped area, trees, or shrubs while rationing is in effect. The amount of water to apply is found by

multiplying the area of landscape to be irrigated (square ft) times the appropriate ETo Adjustment Factor (see percentage in Section 9(c)) times ETo (inches for a given period of time - typically 3 to 7 days) times 7.48/12 to convert to gallons.

(e) Healthcare and public safety use - Use of water by customers whose principal purpose is to provide health services to the public (such as hospitals, clinics, invalid and senior care facilities and homes, and doctor, dentist, optometrist and chiropractor offices, etc.) or which provide vital public safety services (such as police stations, jails, fire stations, utility services, etc.). Not included in this class are office buildings that provide solely administration services (such as health insurance organizations, etc.) or landscaping uses at any healthcare or public safety site.

(f) Irrigation only use - Water use downstream of a Town owned billing meter whose principal purpose and design is to serve irrigation use.

(g) Overall mandatory rationing requirement - The percent reduction in overall withdrawals from the water system determined by the Town Council to be necessary in order to achieve and to safely survive the water shortage emergency.

(h) Run-time - The duration in minutes either programmed or set for each valve controlled by an irrigation system clock (controller) or manually operated.

(i) Shop unit - A type of residential unit which is separately metered and which involves a dwelling unit that is incorporated into the premises of a business - sometimes also referred to as a shop house or live/work unit.

(j) Sprinklers - As used in this ordinance the term sprinklers means an irrigation sprinkler connected to a hose, irrigation sprinklers connected to an in-ground pipe system, and soaker hoses or porous pipelines operating off of normal service pressure.

Section 4. Effect of Ordinance

This ordinance shall take effect immediately, shall supersede and control over any other ordinance or regulation of the Town in conflict herewith, and shall remain in effect until the Town Council declares that the water shortage emergency has ended.

Section 5. Suspension of New Connections to the Town's Water System

(a) From the effective date of this ordinance until the date the Town Council by resolution declares that the water shortage has ended, which period is hereinafter referred to as the suspension period, no new or enlarged connection shall be made to the Town's water system except the following:

(1) Connection of fire hydrants.

(2) Connection of property previously supplied with water from a private water source (such as a well or spring) upon submittal and approval of the Town Engineer evidence that the private source has

failed or dried up or has otherwise been impaired by the drought or water shortage event to such a degree that the source no longer can meet minimal potable water needs of the applicant.

(3) During Stage 2 and 3 if the overall mandatory rationing requirement is equal to or less than 30%, connection of property for which the applicant has obtained all approvals required for development, except potable water supply, and agrees to defer installation of turf landscaping until after the suspension period.

(4) During Stage 2 and 3 if the overall mandatory rationing requirement is greater than 30%, connection of property for which the applicant: has obtained all approvals required for development except potable water supply; agrees to defer installation of turf landscaping until after the suspension period; and, either retrofits good quality water conservation fixtures and devices (1.28 gallon per flush toilets, *2.5* gallon per minute shower heads, and 1.5 gallon per minute faucet aerators for kitchen sinks and lavatories) in five existing single family detached dwelling units served by the Town, or pays the Town $1,500 per equivalent single family detached dwelling unit for which water service is being applied. These payments shall be used by the Town to help fund its expanded water conservation program efforts during the suspension period. If an applicant chooses the retrofit option and a selected home already has some water conserving fixtures, applicant shall install conservation fixtures in additional dwellings as determined necessary by the Town's Water Conservation Coordinator.

(b) During the suspension period, applications for water service will be processed only if the applicant acknowledges in writing that such processing shall be at the risk and expense of the applicant and that if the application is approved in accordance with the Town's regulations, such approval shall confer no right upon the applicant or anyone else until the suspension period has expired, and that the applicant releases the Town from all claims of damage arising out of or in any manner connected with the suspension of connections.

(c) Upon the termination of the suspension period, the Town will make connections to its water system in accordance with its regulations and the terms of connection agreements for all said applications approved during the suspension period. The water supply then available to the Town will be apportioned equitably among all the customers then being served by the Town without discrimination against services approved during the suspension period.

(d) Nothing herein shall prohibit or restrict any modification, relocation or replacement of a connection to the Town's system if the Town Engineer determines that the demand upon the Town's water supply will not be increased thereby.

Section 6. Waste of Water Prohibited

(a) No water furnished by the Town shall be wasted. Waste of water includes, but is not limited to, the following:

(1) Washing of sidewalks, walkways, driveways, parking lots and other hard-surfaced areas by direct hosing.

(2) Escape of water through breaks or leaks within the customer's plumbing or private distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy two (72) hours after the customer discovers such a break or leak or receives notice from the Town, is a reasonable time within which to correct such break or leak or, as a minimum, to stop the flow of water from such break or leak.

(3) Irrigation in a manner or to an extent which allows excessive run-off of water or unreasonable over-spray of the areas being watered. Every customer is deemed to have his water system under control at all times, to know the manner and extent of his water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner.

(4) Washing cars, boats, trailers or other vehicles and machinery directly with a hose not equipped with a shutoff nozzle.

(5) Water for non-recycling decorative water fountains.

(6) Water for single pass evaporative cooling systems for air conditioning in all connections installed after July 18, 2007 unless required for health or safety reasons.

(7) Water for new non-recirculating conveyor car wash systems.

(8) Water for new non-recirculating industrial clothes wash systems.

(b) Waste of water shall also include failure to put to reasonable beneficial use any water withdrawn from the Town's water system as determined by the Town Engineer.

Section 7. Prohibition of Non-Essential Use of Water

(a) No water furnished by the Town shall be used for any purpose declared to be non-essential by this ordinance. The restrictions in this section shall not apply to use of recycled wastewater furnished by a government agency.

Stage1 Water Shortage Emergency Measures - Introductory Stage (15% voluntary reduction)

(b) At any and all times that a Stage 1 water shortage emergency condition is declared to exist by the Town Council, all customers are asked to voluntarily reduce consumption of water furnished by the Town by 15% and all customers of the Town are requested to:

(1) Apply irrigation water only during the evening and early morning hours to reduce evaporation losses.

(2) Inspect all irrigation systems, repair leaks, and adjust spray heads to provide optimum coverage and eliminate avoidable over-spray.

(3) For irrigation valves controlling water applied to turf grass, vary the minutes of run-time consistent with fluctuations in weather.

(4) Reduce minutes of run-time for each irrigation cycle if water begins to run-off to gutters and ditches before the irrigation cycle is completed.

(5) Become informed about and strictly adhere to the Town's Water Waste Prohibitions (refer to Section 6 hereof).

(6) Utilize water conservation incentive, rebate and giveaway programs to replace water guzzling plumbing fixtures and appliances with water efficient models.

(7) Take advantage of the free information available from the Town on how to use water efficiently, read a water meter, repair ordinary leaks, and how to apply water efficiently to the landscape.

(c) At any and all times that a water shortage emergency condition of Stage 1 or greater is declared to exist by the Town Council, the following uses are declared to be non-essential:

(1) Refilling a swimming pool drained after the date on which the initial water shortage emergency condition was originally declared to exist,

(2) Water escaping from a broken pipe or leak once discovered and after passage of a reasonable amount of time to determine how to shut off the water;

(3) Non-commercial washing of motor vehicles, trailers and boats except from a bucket with use of a hose equipped with a shutoff nozzle for a quick rinse.

Stage 2 Water Shortage Emergency Measures - Mandatory Rationing - Community Cooperation Method

(d) At the time of declaration of a Stage 2 or greater water shortage emergency, an overall mandatory rationing requirement for customers to collectively meet shall be established. In determining compliance, the Town shall rely on water production records comparing current production trends to trends that would normally be expected to occur. Individual customers who can conserve more than the mandatory conservation requirements established by this ordinance are requested and strongly encouraged to do so voluntarily in order to help those customers who would incur economic hardship in order to meet the rationing level.

(e) At any and all times that a water shortage emergency condition of Stage 2 or greater is declared to exist by the Town Council, the following additional uses are declared to be non-essential :

(1) Any residential use (excluding irrigation only use) in excess of that resulting from application of the mandatory residential rationing requirement established by the Windsor Town Council.

(2) Any irrigation only use in excess of that resulting from application of the mandatory irrigation rationing requirement established by the Windsor Town Council.

(3) Any non-residential use (excluding irrigation only use and healthcare and public safety use) in excess of that resulting from application of the overall mandatory rationing requirement established by the Windsor Town Council.

(4) Any water used for healthcare and public safety (excluding irrigation only use) in excess of the minimum amount required to adequately provide for healthcare and public safety.

(5) Any use of water from a fire hydrant except for fighting fires, human consumption, stock water, essential flushing and clean-up purposes, and water used for construction needs. If the overall mandatory rationing requirement is greater than 30%, a permit issued by the Town Engineer shall be required for all hydrant use except for water used for fighting fires or for other emergency use deemed essential by the fire chief.

(6) Watering of any existing turf grass, ornamental plant, garden, landscaped area, tree, shrub or other plant except from a hand-held hose or container or drip irrigation system except as provided in Section 9 hereof.

(7) Watering of new turf grass or replacement turf grass. If the overall mandatory rationing requirement is greater than 30%, this

restriction is extended and applies to watering of any new landscape or replacement landscape except in cases where the replacement landscapes will use less water than the original landscape.

(8) Initial filling of any swimming pool for which approval of a construction permit issued by the Town was made after the date on which the initial water shortage emergency condition was originally declared to exist.

(9) Use for service of drinking water at any restaurant, cafe, cafeteria or other public place where food is sold, served or offered for sale, unless expressly requested by a patron.

(f) Except in cases of blatant non-compliance, as solely determined by the Administrative Services Director, individual billing records will generally not be used during Stage 2 to determine compliance with the provisions of Subsections (e) (1); (2), (3) and (4), it being assumed that customers will cooperate to do the best that they can to individually meet or exceed the overall mandatory rationing requirement. Violations of non-essential uses that come to the attention of the Administrative Services Director however, will be enforced pursuant to the provisions of Section 11 hereof.

Stage 3 Water Shortage Emergency Measures - Mandatory Rationing - Allotment Method

(g) From and after the date that the Windsor Town Council, declares that a Stage 3 water shortage emergency exists, water use in excess of the following allotments established for each meter are in addition declared to be non-essential:

(1) Residential meters serving single family detached homes including mother-in-law or second units that are served by the same meter: 65 gallons per capita per day times the number of permanent occupants. Permanent occupants shall be a whole number. Babies, children, adults and senior citizens whose principal place of residence is in the dwelling in question shall each count as one occupant. In determining the number of permanent occupants, the Town shall rely upon data it has acquired from the customer or other sources. Provided sufficient time is available, the Town will attempt to canvas customers to obtain current data on permanent household occupants.

(2) Residential meters serving multiple units: any use in excess of that resulting from application of the mandatory residential rationing requirement established by the Windsor Town Council.

(3) Irrigation only meters: any use in excess of that resulting from application of the mandatory irrigation rationing requirement established by the Windsor Town Council.

(4) Meters serving any non-residential use (excluding irrigation only metered use and healthcare and public safety use): any use in excess of that resulting from application of the overall mandatory rationing requirement established by the Windsor Town Council.

(5) Meters serving water used for healthcare and public safety (excluding irrigation only use): any use in excess of the minimum amount required to adequately provide for healthcare and public safety.

(6) Meters serving mixed uses: An allotment to be determined by the Town Engineer based upon the criteria contained in items (1) through (5) immediately above.

(h) Any customer exceeding their allotment, based on metered billing records, shall be billed and required to pay a penalty established by the Windsor Town Council by resolution at the time the Stage 3 Water Shortage Emergency is declared. This penalty charge shall be waived for the first bill received after Stage 3 is implemented and shall terminate the day the suspension period ends.

(i) If a connection to the Town's system was not in existence or used in the year established for determination of the mandatory rationing requirement, the Town will estimate use in such year based on other historic records and/or water use by customers having similar end uses.

(j) The Administrative Services Director may increase or decrease the allotment for any customer if he determines that special circumstances exist and that to do so would better achieve equity in allocation of available water or better meet health and safety concerns.

Section 8. Signs on Lands Supplied from Private Sources or Supplied With Recycled Water

The owner or occupant of any land within the water service area of the Town that is supplied with recycled wastewater or water from a source not owned or operated by the Town (such as a well, spring or legal surface diversion) which is used to irrigate landscape which is visible to the general public, will be requested to post and maintain in a conspicuous place thereon a sign furnished by the Town giving public notice of the private supply.

Section 9. Use of Sprinklers Conditional

(a) Any customer of the Town may use sprinklers to apply water furnished by the Town to irrigate any turf grass, garden, landscaped area, trees or shrubs provided said application is properly controlled and performed in a non-wasteful and efficient manner confined to the nighttime hours of 7:00 p.m. and 9:00 a.m. of the next day. In the event

low pressure micro-jet sprayers are present in a drip system, irrigation by the valve(s) controlling same shall also be confined to the nighttime hours noted above.

(b) The amount of water normally applied for landscape irrigation shall not exceed 80% (or such percent as specified by resolution). This condition shall not apply to residential customers if Stage 3 allotments are implemented.

(c) In determining the amount of water to apply to turf grass, customers are encouraged to use the following formula:

Applied water for turf grass (gallons) =

Area of turf grass (square-ft)
x ETo (inches for a given period of time - typically3 to 7 days)
x ETo Adjustment Factor of 0.64
x conversion factor of 0.62

The ETo Adjustment Factor is based on the assumption that overall irrigation efficiency is 65% and that the crop coefficient for turf grass is 0.8. Use of this formula to determine applied water will yield the appropriate amount of water to apply while rationing is in effect.

(d) In determining the amount of water to apply to landscaped areas containing a mixture of trees and shrubs, customers are encouraged to use the following formula:

Applied water for mixed trees and shrubs (gallons) =

Area of Landscape (square-ft)
x ETo (inches or a given period of time – typically 3-7 days)
x ETo Adjustment Factor of 0.48
x conversion factor of 0.62

The ETo Adjustment Factor is based on the assumption that overall irrigation efficiency is 65% and that the crop coefficient for mixed trees and shrubs is 0.6. Use of this formula to determine applied water will yield the appropriate amount of water to apply while rationing is in effect.

(e) Water applied by sprinklers shall be applied in short enough cycles to avoid run-off to gutters and drains.

(f) During the suspension period, use of water by sprinklers is a privilege and permission to use water in this way may be withdrawn if it comes to the attention of the Town Engineer that such use by a given customer is wasteful or in excess of the amount determined in Section 9 (b). A common result of wasteful application of water by sprinklers is evidence of runoff to a gutter.

Section 10. Variances

(a) Any customer of the Town may make written application for a variance. Applications shall be addressed to:

Utility Billing
Town of Windsor
9291 Old Redwood Highway
PO Box 100
Windsor, CA. 95492

Said application shall describe in detail why applicant believes a variance is justified. The Administration Services Director may grant a variance to permit a use of water otherwise prohibited by this ordinance, if he/she determines that failure to do so would cause:

(1) an emergency condition affecting the health, sanitation, fire protection or safety of the applicant or public; or

(2) an unnecessary and undue hardship on the applicant or the public, including but not limited to, adverse economic impacts, such as loss of production or jobs.

(b) The decision of the Administration Services Director to deny an application for variance under this section may be appealed to the Town Council by submitting a written appeal to the Town within fifteen (15) calendar days of the date of the decision. Variances granted by the Town Council shall be prepared in writing and contain any conditions imposed by the Town Council in granting said variance. The Town Council may require the variance be recorded at applicant's expense.

Section 11. Enforcement and Fees

(a) During Stage 2 or 3, should the Administrative Services Director become aware of any violation of any provision of this ordinance, the following enforcement procedure shall be undertaken:

(1) For the first such violation, the customer shall be given a warning, generally by phone or directly in person by a Town employee, or by leaving a door tag notice informing the customer of the problem and asking that it be corrected.

(2) If the violation continues or is repeated, a certified letter shall be mailed to the customer who receives the water bill. Said letter shall describe the violation and request that it be corrected, cured and abated immediately or within such specified time as the Administrative Services Director determines is reasonable under the circumstances. Said letter shall state the consequences of non-compliance with the request.

(3) If the violation continues, the Administrative Services Director may forthwith order disconnection of the service where the violation occurs.

(b) Before reconnection of a service, the customer must stop the violation, pay all past due charges on the account, and pay a Violation Reconnection Fee.

(c) If, during the suspension period, a water service is disconnected two or more times because of violation of this ordinance, a flow restriction device may be installed by the Town before service is reconnected. Furthermore, the customer must stop the

violation, pay all past due charges on the account, and pay a Second Violation Reconnection Fee. If a flow restriction device is installed, the Town shall remove same after expiration of the suspension period.

(d) It shall be unlawful for any customer to willfully tamper with or in any way modify or attempt to modify a Town meter or anything within the Town's meter box. Violation shall result in customer being charged a Meter Tampering Fee plus the cost of labor and materials to remedy any damage caused to the Town's equipment as a result of such tampering.

(e) Anyone who willfully takes water from the Town water system without the Town's permission or who willfully tampers with or causes damage to any Town meter or water system appurtenance is liable to the Town in the sum of time and materials, plus citation for code violation, as a civil penalty, for each subsequent act during the suspension period. This sum shall be recoverable by civil suit in a court of competent jurisdiction. This section does not limit the Town's right to recover the cost of any Town water taken without the Town's permission.

(f) All customer fees required by this section shall be set by a resolution of the Town.

Section 12. Severability

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid, the validity of the remaining portion of this ordinance shall not be affected.

Section 13. Effective Date

This ordinance shall become effective upon its adoption.

Section 14. Publication

Within ten (10) days after its adoption, this ordinance shall be published in full in a newspaper of general circulation that is printed, published, and circulated in the Town. If there is no such newspaper the ordinance shall be posted within ten (10) days after its adoption in three public places within the Town.

I hereby certify that the foregoing is a true and complete copy of an ordinance duly and regularly adopted by the Town at a regular meeting thereof held on July 18, 2007, by the following vote:

PASSED, APPROVED AND ADOPTED this 18th day of July 2007 by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, GOBLE, SALMON AND MAYOR PARKER**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**COUNCILMEMBER ALLEN**

WARIN J. PARKER, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK