

Introduced by _____

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF PASADENA, CALIFORNIA ADDING CHAPTER
13.11 TO TITLE 13 OF THE PASADENA MUNICIPAL CODE ESTABLISHING A
MANDATORY NON-POTABLE WATER USE ORDINANCE**

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding costs of publication, will be published by title and summary as permitted by Section 508 of the Charter. The approved summary of this ordinance reads as follows:

“SUMMARY

The purpose of Ordinance No. _____ is to establish the policy of the City of Pasadena to require the use of Non-Potable Water for landscape irrigation and other non-potable uses whenever its use is economically justified, financially and technically feasible, and in accordance with all applicable laws, rules and regulations; and consistent with the preservation of public health, safety, welfare, and the environment.

This ordinance shall take effect upon its publication.”

SECTION 2. Title 13 of the Pasadena Municipal Code is hereby amended by adding a new Chapter 13.11 which reads as follows:

“Chapter 13.11- Non-Potable Water

SECTIONS:

- 13.11.010 Short Title
- 13.11.015 Policy
- 13.11.020 Definitions
- 13.11.025 Administration
- 13.11.030 Non-Potable Water Use
- 13.11.035 Procedures for Determining Mandatory Non-Potable Water Service
- 13.11.040 Costs of Conversion to Non-Potable Water Service
- 13.11.045 Service Area
- 13.11.050 Authorized Uses and Conditions of Service
- 13.11.055 Non-Potable Water Service Application
- 13.11.060 Additional Restrictions
- 13.11.065 Enforcement and Penalties
- 13.11.070 Severability

13.11.010 Short Title

This chapter shall be known as the "Mandatory Non-Potable Water Use Ordinance."

13.11.015 Policy

Non-Potable Water shall be used for landscape irrigation and other non-potable uses whenever its use is economically justified, financially and technically feasible, and in accordance with all applicable laws, rules and regulations; and consistent with the preservation of public health, safety, welfare, and the environment.

13.11.020 Definitions

The following terms and phrases are defined for purposes of this ordinance:

1. "Administrator" shall mean the General Manager of the Pasadena Water and Power Department or his/her authorized representative.
2. "Agricultural Use" shall mean water used for irrigation of nursery plants and community gardens.
3. "Cross-Connection" shall mean any unprotected connection between any part of a potable water system and any equipment, source, or system containing Non-Potable Water or other substances not approved as potable and safe for human consumption.
4. "Non-Potable Service" is the delivery of Non-Potable Water to a user.
5. "Non-Potable Use Area" is the property, or a portion of a property, which has been approved by the Administrator for Non-Potable Service.
6. "Non-Potable Water" is water not suitable for human consumption and includes Recycled Water, untreated tunnel water, raw Arroyo Seco stream water or any other source, conveyed through the City's non-potable distribution system that may be used for a beneficial purpose in compliance with the applicable laws and standards for Non-Potable Water uses.
7. "Off-Site Facilities" are all facilities under the control of the City of Pasadena.
8. "On-Site Facilities" are all facilities under the control of the customer.
9. "Potable Water" is water suitable for human consumption which conforms to the latest California State Water Resources Control Board Division of Drinking Water standards, the California Safe Drinking Water Act, and any other applicable federal and state standards and regulations.

10. "Recycled Water" is water which, as a result of treatment of wastewater, is suitable for a direct beneficial use. The treatment of wastewater is in accordance with the criteria set forth in Title 17 and Title 22, Division 4, of the California Code of Regulations.

13.11.025 Administration

Except as otherwise provided herein, the Administrator shall administer, implement and enforce the provisions of this Chapter. The General Manager may, at his/her discretion, delegate any or all of these powers and duties.

13.11.030 Non-Potable Water Use

1. **Mandatory Use:** The following uses shall be required to use Non-Potable Water: landscape and agricultural irrigation, certain construction uses, and aesthetic impoundments. These uses are "mandatory" uses.
2. **Optional Use:** The following types of uses may require Non-Potable Water: commercial use including cooling towers, toilet flushing, and industrial processes.
3. **Permitting:** All prospective Non-Potable Water users shall obtain a permit from the Administrator prior to receiving the Non-Potable Water."

13.11.035 Procedures for Determining Mandatory Non-Potable Water Service

1. **New Construction:** All requests for water service for new construction projects submitted to the City will be evaluated for potential Non-Potable Water use. All projects located over groundwater basins suited for Non-Potable Water use and within five hundred (500) feet of existing or proposed Non-Potable Water system to be constructed in the next five (5) years, shall be considered for mandatory Non-Potable Water use. The City reserves the right to require customers to use Non-Potable Water in lieu of Potable Water for all mandatory uses.
2. **Existing Customers:** Existing water customers with annual landscape water use of 200,000 cubic feet per year (2,000 billing units) or more, within five hundred (500) feet of an existing or proposed Non-Potable Water system to be constructed in the next five (5) years, will be required to retrofit said property to use Non-Potable Water for landscape irrigation, if it is economically and technically feasible.
3. **Notice:** The Administrator will provide written notices ("Notice") to all applicants and existing customers who are required to use Non-Potable Water.
4. **Appeals:** Within thirty (30) days after the Notice is delivered or mailed the applicant/customer may file an objection ("Objection") with the City Clerk. The Objection must be in writing, specify the reason for the objection, and request reconsideration of the determination, modification of the proposed conditions or schedule for conversion. The preliminary determination will be final if the applicant /customer does not file a timely objection. The Administrator will review the Objection and confirm, modify, or abandon the preliminary determination and issue a final written decision within sixty (60) days after the appeal has been filed with the City Clerk.

5. **Non-Potable Water Use Permit Process:** Upon a final determination by the Administrator that a user is required to use Non-Potable Water, the applicant/customer, shall submit an application for Non-Potable Service and obtain a Non-Potable Water permit.
6. **Temporary Use of Potable Water for New Construction:** At the discretion of the Administrator, Potable Water may be used on a temporary basis for a Non-Potable Water application until such time Non-Potable Water is made available.

13.11.040 Costs of Conversion to Non-Potable Water Service

The cost of conversion of On-Site Facilities to Non-Potable Water service shall be borne by the potential user.

13.11.045 Service Area

The service area includes the areas designated by the Administrator for Non-Potable Water use within the City of Pasadena and designated areas served by the water division outside the City.

13.11.050 Authorized Uses and Conditions of Service

1. **Authorized Uses:** The use of Non-Potable Water shall be limited to only those uses approved by federal and state laws, and to those uses approved by the Administrator for the Non-Potable Water service area.
2. **Conditions of Service**
 1. The City shall not be liable for any damage caused by Non-Potable Water or resulting from: defective plumbing; broken/faulty service connections or Non-Potable Water mains; On-Site Facilities failures; high or low pressure conditions; interruptions of service; any inappropriate or illegal use or management practices by user; and/or Non-Potable Water quality.
 2. Mandatory Non-Potable Water use will not be subject to the restrictions applicable to Potable Water set forth in Chapter 13.10 Water Waste Prohibitions and Water Supply Shortage Plans.
 3. Other guidelines, rules, regulations, ordinances, and specifications that may be applied by the Administrator to govern the use of Non-Potable Water within the service area include but are not limited to:
 - a. Regulations pertaining to backflow prevention, billing, deposits, penalties, delinquencies, and metering for Potable Water as established in the City's applicable ordinances and resolutions;
 - b. Regulations related to Recycled Water, Title 17 and Title 22, Division 4 of the California Code of Regulations;

- c. Guidelines for Distributions of Non-Potable Water (California-Nevada Section, American Water Works Association ["AWWA"]).

13.11.055 Non-Potable Service Application

1. **Application for Non-Potable Service:** An application for service must be made on a form furnished by the Administrator. The applicant shall provide the Administrator with the anticipated Non-Potable Water demand (maximum gallons per minute) and shall specify the size of the meter that is desired; however, the Administrator ultimately reserves the right to determine the size of the service and meter. The applicant shall also specify the property to be served. The information supplied by the applicant shall be considered authoritative and final. If any error in such application shall cause installation of a service that is improper, either in size or location, the cost of all changes required shall be borne by the applicant.
2. **Steps to apply for Non-Potable Service:**
 1. The applicant shall submit a Non-Potable Water service application on a City-provided form, and include existing facility "as-built" drawings or proposed facility plans, and any other information pertinent to the use of Non-Potable Water. The City-provided form will also include other requirements to be met prior to the Administrator approving a Non-Potable Service.
 2. Before the Non-Potable Service is installed, the applicant shall pay all required fees and deposits.
 3. After the service is installed, the Administrator shall conduct a start-up test of the on-site Non-Potable Water system to ensure that Cross-Connections do not exist.
 4. Upon the successful completion of the start-up test and the determination that the on-site Non-Potable Water system is in full compliance with this Chapter, the Administrator shall authorize Non-Potable Service to begin.

13.11.060 Additional Restrictions

1. Non-Potable Water shall not be used for direct human consumption.
2. No customer or other party shall install or create Cross-Connections between the potable and the Non-Potable Water systems. Construction requirements shall be subject to the provisions of the City's cross-connection policy.
3. Runoff of Non-Potable Water outside of the approved use area is prohibited.
4. Drinking fountains located within an approved Non-Potable Use Area shall be protected from contact with Non-Potable Water, whether by windblown spray or by direct irrigation or other approved uses.
5. The customer shall not make any changes in or additions to the Non-Potable Water system or to On-Site Facilities without obtaining prior approval from the Administrator.

6. No customer or other party shall use or install hose bibs on any on-site Non-Potable Water facilities, regardless of the hose bib construction or identification. Quick couplers shall be permitted, subject to the approval of the Administrator.

13.11.065 Enforcement and Penalties

(a) Any person who violates any provision of this chapter is guilty of an infraction punishable by a fine in an amount not in excess of \$500. Each day each violation is committed or permitted to continue shall constitute a separate offense.

(b) Any person who intentionally or negligently violates any provision of this chapter shall be liable to the City in an amount not to exceed \$1,000 per day for each violation that occurs.

(c) The enforcement actions authorized in subsections (a), and (b) are in addition to any other remedies available under local, state or federal law.

13.11.070. Severability

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason found to be invalid or unconstitutional, such decision shall not affect the remaining portions of this Chapter.”

SECTION 3. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 4. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2016.

Terry Tornek
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council at its meeting held this ____ day of _____, 2016, by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky, CMC
CITY CLERK

Approved as to form:



Lisa Hosey
Deputy City Attorney