

Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: May 18, 2009

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING WATER SHORTAGE PROCEDURES ORDINANCE, CHAPTER 13.10 OF THE PASADENA MUNICIPAL CODE, TO ESTABLISH WATER WASTE PROHIBITIONS AND WATER SUPPLY SHORTAGE PLANS.

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING WATER SHORTAGE PROCEDURES, CHAPTER 13.10 OF THE PASADENA MUNICIPAL CODE, TO ESTABLISH WATER WASTE PROHIBITIONS AND WATER SUPPLY SHORTAGE PLANS.

PURPOSES OF THE ORDINANCE:

The City Council directed the preparation of this ordinance on April 13, 2009. The purpose of this ordinance is to replace the water shortage procedures ordinance with permanent water waste prohibitions and to establish a sequential process for handling water supply shortage conditions. A detailed description of how the ordinance will accomplish these purposes is contained in the Agenda Report dated April 13, 2009.

The City Council gave first reading to this ordinance on April 27, 2009; however, the text of the ordinance did not include the option for customers to request water conservation options in lieu of fines which is addressed in the revised Section 13.10.075. This new provision came about as a result of concerns expressed by the City Council and the public about imposing fines and enhances the message that the objective of the ordinance is to conserve water rather than collect fines. The revised ordinance is presented for first reading.

MEETING OF 05/18/2009

AGENDA ITEM NO. 8.A.1.

REASONS WHY LEGISLATION IS NEEDED:

Water shortage procedures are presently set forth in Chapter 13.10 of the Pasadena Municipal Code. Code amendment is necessary to permanently prohibit certain water uses and also to revise the manner in which the Water and Power Department addresses water conservation under water shortage conditions.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

Water customers taking service from the Water and Power Department and persons who use water served by the Department will be responsible to comply with the ordinance. Customers will be subject to monetary penalties for violation and, if needed for compliance, installation of flow restrictors.


FISCAL IMPACT:

As stated in the Agenda Report dated April 13, 2009, the cost of staffing and other resources necessary to implement the proposed ordinance are estimated to be \$810,000 for FY 2010, which includes approximately \$180,000 for equipment and contract resources.

POLICY CHANGES:

This ordinance does not result in any policy changes.

Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Scott D. Rasmussen
Senior Assistant City Attorney

13.10.010 Short Title.

This Chapter shall be known as the City of Pasadena Water Waste Prohibitions and Water Supply Shortage Plans ~~“water shortage procedures”~~. (Ord. 6275 § 1 (part), 1988).

13.10.015 Policy and Purpose.

~~It is declared that because of the conditions prevailing in the city of Pasadena and in the areas of this state and elsewhere from which the city obtains its water supplies, the general welfare requires that the water resources available to the city be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interests of the people of the city and for the public welfare. The purpose of this chapter is to provide water shortage procedures with voluntary and mandatory provisions to minimize the effect of a water shortage to the customers of the city and, by means of this chapter, to adopt provisions that will significantly reduce the consumption of water over an extended period of time thereby extending the available water required for the customers of the city while reducing the hardship of the city and the general public to the greatest extent possible. (Ord. 6275 § 1 (part), 1988)~~

A. The purpose of this Chapter is to establish a water conservation and supply shortage program that will reduce water consumption within the City of Pasadena and its service territory through conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the City of Pasadena and its service territory to avoid and minimize the effect and hardship of water shortage to the greatest possible extent.

B. This Chapter establishes permanent water waste and conservation standards intended to alter behavior related to water use efficiency at all times and further establishes four levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

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13.10.020 Definitions.

The following words and phrases whenever used in this Chapter shall have the meanings defined in this section:

As used in this chapter:

A. "Base period" means that period of time over which the base is computed.

B. "Base" means the amount of water used on a customer's premises during the corresponding billing period in the calendar year preceding the water shortage period, as established by the department. In event a base cannot be established using actual recorded amounts of water used on a customer's premises during the corresponding billing period in the calendar year preceding the water shortage period, the department shall assign a base. For purposes of assigning such base, the department may consider water usage data applicable to similarly situated customers or data for such customer's premises before or after the water shortage period. The department shall have the further discretion to adjust a customer's base in the event the customer's use of the premises is substantially different from the previous use thereof during the base period.

~~C.~~ A. "Billing unit" means the unit amount of water used to apply water rates for the purposes of calculating commodity water charges for a Customer's water usage and equals one hundred cubic feet (HCF) or 748 gallons.

~~D.~~ B. "Customer" means any person, persons, association, corporation, or governmental agency supplied and billed for water service by the Department.

~~E.~~ C. "Department" means the City of Pasadena Water and Power Department.

F. "Process water" means water used to manufacture, alter, convert, clean, heat or cool a product or the equipment used for such purposes; water used for plant and equipment washing and for transporting raw materials and products; and water used to grow trees or plants for sale or installation.

G. "Water shortage" means a condition in which the existing or projected water supply available to the city is not anticipated to meet the ordinary water requirements of customers of the department. This condition may be the result of factors including but not limited to voluntary or mandatory curtailment of Pasadena's water allocation from the metropolitan water district, emergency conditions, and/or failure of the city's or its supplier's water distribution systems.

H. "Water shortage period" means the period beginning on the effective date of the board of directors' implementation of a water shortage plan as provided in this chapter and

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~~ending on the date of the board's finding that a water shortage no longer exists. (Ord. 6425 § 1, 1991; Ord. 6275 § 1 (part), 1988)~~

~~D. "Person" means any individual person or persons, corporation, public or private entity, governmental agency or institution, including all agencies and departments of the City of Pasadena, or any other user of water provided by the Department.~~

~~E. "Potable Water" means water that is suitable for drinking.~~

~~F. "Recycled Water" means the reclamation and reuse of non-potable water for beneficial use.~~

~~G. "Single Pass Cooling Systems" means equipment where water is circulated only once to cool equipment before being disposed.~~

~~H. "Water Conservation Target" means the necessary percentage reduction in the Department's total water sales to eliminate or mitigate a water supply shortage.~~

13.10.025 Authorization.

The various officers, departments, commissions, and agencies of the city are authorized and directed to implement the applicable provisions of this chapter upon the effective date hereof. (Ord. 6275 § 1 (part), 1988)

13.10.030 Application.

~~The provisions of this chapter shall apply to all customers and property served water by the department wherever situated, and shall also apply to all property and facilities owned, maintained, operated, or under the jurisdiction of the various officers, departments, commissions, and agencies of the city. (Ord. 6275 § 1 (part), 1988)~~

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~~The provisions of this Chapter apply to any person in the use of any Potable Water provided by the Department, except for the following water uses:~~

~~A. Water necessary for water system or fire suppression system testing and maintenance, or fire suppression and other similar emergency services affecting public health and safety.~~

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B. Water necessary to protect public health and safety as determined in the sole discretion of the Department.

C. Any use of Recycled Water.

D. The use of water by commercial nurseries and commercial growers to sustain plants, trees, shrubs, crops or other vegetation intended for commercial use.

13.10.032 Permanent Water Conservation Requirements.

The following water conservation requirements are effective at all times and are permanent. Violations of this section constitute waste and an unreasonable use of water.

A. Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area is prohibited between the hours of 9:00 a.m. and 6:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

B. No Watering During Periods of Rain: Watering or irrigating of lawn, landscape or other vegetated area during periods of rain is prohibited.

C. No Water Flow or Runoff: Watering or irrigating any lawn, landscape or other vegetated areas in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.

D. No Washing Down Hard or Paved Surfaces: Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except as follows: (i) where necessary to alleviate safety or sanitary hazards and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a water shut-off nozzle or device; or (ii) when

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using a low-volume high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

E. Obligation to Fix Leaks, Breaks or Malfunctions: Loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the Department is prohibited.

F. Recirculating Water Required for Water Fountains and Decorative Water Features: Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

G. Limits on Washing Vehicles: Using water to wash a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

H. Drinking Water Served Upon Request Only: Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar or other public place where food and drinks are sold, served or offered for sale, are prohibited from providing drinking water to any person unless expressly requested by the patrons.

I. Restaurants Required to Use Water Conserving Dish Wash Spray Valves: Food preparation establishments, such as restaurants, cafes and cafeterias, are prohibited from using non-water conserving dish wash spray valves.

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J. Commercial Lodging Establishments Shall Provide Guests Option to Decline Daily Linen Services: Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linens laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

K. No Installation of Single Pass Cooling Systems: Installation of Single Pass Cooling Systems is prohibited in buildings requesting new water service.

L. No Installation of Non-recirculating equipment in Commercial Car Wash and Laundry Systems: Installation of non-recirculating water systems is prohibited in new commercial conveyor car washes and new commercial laundry systems.

M. Commercial Car Wash Systems: Effective July 1, 2011, all commercial conveyor car wash systems must have installed operational recirculating water systems or must have secured a waiver of this requirement from the City of Pasadena.

13.10.035 Water Shortage Plan Implementation.

The Department shall monitor and evaluate the projected supply and demand for water by its Customers. In the event of a water shortage, the Department shall recommend ~~that~~ the City Council make a determination that a water shortage exists and which such water shortage plan or plans level as provided in this Chapter ~~which permit~~ permits the Department to prudently plan for and supply water to its Customers. ~~The environmental advisory commission shall review the department's recommendation.~~ Prior to implementation of a water shortage ~~plan~~ level as provided in this Chapter, the City Council shall hold a public hearing for the purposes of determining: (i) whether a water shortage exists and the water shortage plan or plans; (ii) the Water Conservation

~~Target that is necessary; and, (iii) which may be level of water supply shortage provided in this Chapter is appropriate to address the water shortage. Notice of the time and place of said public hearing shall be published not less than ten (10) days before the hearing in a newspaper of general circulation within the city. The city council may, upon finding that a water shortage exists, order implementation of such water shortage plan or plans as provided in this chapter which it deems appropriate to address the water shortage. Said order. The City Council's determination shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective immediately upon such publication. The provisions of Section 13.10.050 shall take effect with the first full billing period commencing on or after the effective date of the city council's public proclamation. At any time during the water shortage period the City Council may discontinue any plan level or may implement another plan level as provided in this Chapter. Upon a finding by the City Council that a water shortage no longer exists, any water shortage plan level then in effect shall terminate. (Ord. 7082 § 6, 2007; Ord. 6289 § 1 (part), 1988; Ord. 6275 § 1 (part), 1988)~~

~~13.10.040 Level 1 Water Supply Shortage. Water shortage plan I.~~

~~All persons and customers of the department shall, on a voluntary basis, reduce water usage by taking the following water conservation measures:~~

~~A. Refrain from hosing or washing sidewalks, walkways, driveways, parking areas or other paved surfaces;~~

~~B. Refrain from cleaning, filling, or maintaining levels in decorative fountains, ponds, lakes, and similar structures unless such structure is equipped with a water recycling system;~~

~~C. Refrain from serving drinking water, unless at the express request of a customer, in all restaurants, hotels, cafes, cafeterias, or other public places where food is sold, served or offered for sale;~~

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~~D. Promptly repair all leaks from indoor and outdoor plumbing fixtures, including but not limited to sprinkler systems;~~

~~E. Refrain from allowing water to run off landscape areas into adjoining streets, sidewalks, parking lots or alleys;~~

~~F. Refrain from allowing water to run off into adjoining streets, sidewalks, parking lots or alleys while washing vehicles;~~

~~G. Refrain from landscape watering more often than once every 3 days;~~

~~H. Refrain from landscape watering between the hours of 10:00 a.m. and 5:00 p.m.;~~

~~I. Refrain from filling or refilling a swimming pool. (Ord. 6289 § 1 (part), 1988; Ord. 6275 § 1 (part), 1988)~~

A. A Level 1 water supply shortage exists when the City Council determines, in its sole discretion, that due to drought or other water supply conditions a water supply shortage or threatened shortage exists and demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City Council of a Level 1 water supply shortage, the Department shall implement the mandatory Level 1 conservation measures identified in this section.

B. Water Conservation Measures: The following water conservation requirements apply during a declared Level 1 water supply shortage:

1. Limits on Watering Days: Watering or irrigating of lawn, landscape or other vegetated area is limited to three (3) days per week from April 1 through October 31, and no more than one (1) day per week from November 1 through March 31, on a schedule established and posted by the Department. This subsection does not apply to landscape irrigation zones that exclusively use low flow drip type irrigation systems where no emitter produces more than two (2) gallons of water per hour. This subsection also does not apply to watering or irrigating by use of a hand-held bucket or similar container, or by use of a hand-held hose equipped with a water shut-off nozzle or

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device; for very short periods of time for the express purpose of adjusting or repairing an irrigation system; or for maintenance of vegetation, including fruit trees and shrubs, intended for consumption.

2. Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks or other malfunctions in the water user's plumbing or distribution system shall be repaired within seventy-two (72) hours of notification by the Department unless other arrangements are made with the Department.

13.10.045 Level 2 Water Supply Shortage. Water shortage plan II.

~~A. No customer of the department shall use or allow the use of water from the department to hose or wash sidewalks, walkways, driveways, parking areas or other paved surfaces.~~

~~B. No customer of the department shall use or allow the use of water from the department to fill or maintain levels in decorative fountains, ponds, lakes, and similar structures unless such structure is equipped with a water recycling system.~~

~~C. No restaurant, hotel, cafe, cafeteria, or other public place where food is sold, served, or offered for sale shall serve drinking water from the department unless at the express request of its customer.~~

~~D. No customer of the department shall allow water from the department to leak from any facility on his premises or on premises under his control or fail to effect a timely repair of any such leak.~~

~~E. No customer of the department shall cause or allow the use of water from the department to run off landscape areas into adjoining streets, sidewalks, parking lots or alleys due to incorrectly directed or maintained sprinklers or excessive watering.~~

~~F. No customer of the department shall use or allow the use of water from the department for landscape watering more often than once every 3 days.~~

~~G. No customer of the department shall use or allow the use of water for landscape watering between the hours of 10:00 a.m. and 5:00 p.m.~~

~~H. No customer of the department shall use or allow the use of water from the department to refill a swimming pool emptied after the commencement of a water shortage period. (Ord. 6289 § 1 (part), 1988)~~

A. A Level 2 water supply shortage exists when the City Council determines, in its sole discretion, that due to drought or other water supply conditions a water supply

shortage or threatened shortage exists and demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City Council of a Level 2 water supply shortage, the Department shall implement the mandatory Level 2 conservation measures identified in this section.

B. Water Conservation Measures: The following water conservation requirements apply during a declared Level 2 water supply shortage:

1. Limits on Watering Days: Watering or irrigating of lawn, landscape or other vegetated area with water is limited to two (2) days per week from April 1 through October 31, and no more than one (1) day per week from November 1 through March 31, on a schedule established and posted by the Department. This subsection does not apply to landscape irrigation zones that exclusively use low flow drip type irrigation systems where no emitter produces more than two (2) gallons of water per hour. This subsection also does not apply to watering or irrigating by use of a hand-held bucket or similar container, or by use of a hand-held hose equipped with a water shut-off nozzle or device; for very short periods of time for the express purpose of adjusting or repairing an irrigation system; or for maintenance of vegetation, including fruit trees and shrubs, intended for consumption.

2. Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks or other malfunctions in the water user's plumbing or distribution system shall be repaired within forty-eight (48) hours of notification by the Department unless other arrangements are made with the Department.

3. Limits on Filling Ornamental Lakes or Ponds: Filling or re-filling

ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life.

13.10.050 Level 3 Water Supply Shortage: Water shortage plan III:

A. Phase 1. No customer shall use or allow the use of water from the department for any purpose in an amount in excess of 85 percent of that customer's base, except that process water may be used to the extent of 95 percent of that customer's base.

B. Phase 2. No customer shall use or allow the use of water from the department for any purpose in an amount in excess of eighty 80 percent of that customer's base, except that process water may be used to the extent of 90 percent of that customer's base.

C. Phase 3. No customer shall use or allow the use of water from the department for any purpose in an amount in excess of 75 percent of that customer's base, except that process water may be used to the extent of 85 percent of that customer's base.

D. Phase 4. No customer shall use or allow the use of water from the department for any purpose in an amount in excess of 65 percent of that customer's base.

E. Phase 5. No customer shall use or allow the use of water from the department for any purpose in an amount in excess of 50 percent of that customer's base.

F. Nothing contained in this section shall be deemed to require any customer of the department to reduce his consumption of water provided by the department to an amount less than 20 billing units bi-monthly at each meter during any billing period. (Ord. 6425 § 2, 1991; Ord. 6289 § 1 (part), 1988; Ord. 6275 § 1 (part), 1988)

A. A Level 3 water supply shortage exists when the City Council determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City Council of a Level 3 water supply shortage, the Department shall implement the mandatory Level 3 conservation measures identified in this section.

B. Water Conservation Measures: The following water conservation requirements apply during a declared Level 3 water supply shortage:

1. Limits on Watering Days: Watering or irrigating of lawn, landscape or other vegetated area is limited to one (1) day per week, according to a schedule established and posted by the Department. This subsection does not apply to the following categories of use, as determined by the Department in its sole discretion:

- i. Landscape irrigation zones that exclusively use low flow drip type irrigation systems where no emitter produces more than two (2) gallons of water per hour.
- ii. Watering or irrigating by use of a hand-held bucket or similar container, or a hand-held hose equipped with a water shut-off nozzle or device.
- iii. Watering for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- iv. Maintenance of vegetation, including fruit trees and shrubs, intended for consumption.
- v. Maintenance of existing landscape necessary for fire protection.
- vi. Maintenance of existing landscape for soil erosion control.
- vii. Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
- viii. Maintenance of landscape within active public parks and playing fields, school grounds, golf course greens, and day care centers, provided that such irrigation does not exceed

two (2) days per week, according to a schedule established
and posted by the Department.

ix. Actively irrigated environmental mitigation projects.

2. Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks
or other malfunctions in the water user's plumbing or distribution system shall be
repaired within thirty-six (36) hours of notification by the Department, unless other
arrangements are made with the Department.

3. Limits on Filling Ornamental Lakes or Ponds: Filling or re-filling
ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic
life.

13.10.052 Level 4 Water Supply Shortage -- Emergency Condition.

A. A Level 4 water supply shortage condition is also referred to as an
"emergency" condition. A Level 4 condition exists when the City Council declares a
Level 4 water supply shortage. Upon the declaration by the City Council of a Level 4
water supply shortage, the Department will implement the mandatory Level 4
conservation measures identified in this section.

B. Water Conservation Measures: The following water conservation
requirements apply during a declared Level 4 water supply shortage:

1. No Watering or Irrigating: Watering or irrigating of lawn,
landscape or other vegetated area is prohibited. This restriction does not apply to the
following categories of use, as determined by the Department in its sole discretion:

i. Maintenance of vegetation, including fruit trees and shrubs,
vegetation intended for consumption.

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- ii. Maintenance of existing landscape necessary for fire protection.
- iii. Maintenance of existing landscape for soil erosion control.
- iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
- v. Maintenance of landscape within active public parks and playing fields, school grounds, golf course greens, and day care centers, provided that such irrigation does not exceed two (2) days per week, according to a schedule established and posted by the Department.
- vi. Actively irrigated environmental mitigation projects.

2. Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks or other malfunctions in the water user's plumbing or distribution system shall be repaired within twenty-four (24) hours of notification by the Department, unless other arrangements are made with the Department.

3. Limits on Filling Ornamental Lakes or Ponds: Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life.

4. Limits on Filling Residential Swimming Pools and Spas: Refilling of more than one (1) foot and initial filling of residential swimming pools or outdoor spas is prohibited.

5. No New Potable Water Service: Upon declaration of a Level 4 water supply shortage, no new Potable Water service will be provided, no new temporary meters or permanent meters will be provided, and no statements of immediate ability to

service or provide Potable Water service will be issued, except under the following circumstances:

- i. A valid, unexpired building permit has been issued for the project;
or
- ii. The project is necessary to protect the public health, safety and welfare; or
- iii. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the Department.

This subsection does not preclude the resetting or turn-on of meters to provide continuation of water service or the restoration of service that has been interrupted for a period of one (1) year or less.

~~13.10.055 Exception:~~

~~The prohibited uses of water from the department provided in this chapter are not applicable to that use of water necessary for public health and safety or for essential governmental services such as police, fire, and emergency services. Nothing contained in this chapter shall be construed to require the department to curtail the supply of water to any customer when, in the discretion of the department, such water is required by that customer to maintain an adequate level of public health and safety. (Ord. 6275 § 1 (part); 1988)~~

13.10.60 Additional Water Shortage Measures.

~~The board of directors~~ The City Council may order implementation of other water conservation measures additional to those set forth in Sections 13.10.040, 13.10.045 and ~~13.10.050;~~ this Chapter. Such additional water shortage measures shall be implemented

in the manner provided in Section 13.10.035. (~~Ord. 6289 § 2 (part), 1988; Ord. 6275 § 1 (part), 1988~~)

13.10.065 Violations and Penalties: Residential Customers and All Other Customers with Water Meters Less than 1-1/2 inch.

~~A. It shall be a violation for any customer to fail to comply with any of the provisions of Sections 13.10.045 or 13.10.050 while the same shall be in effect. Following public hearing as provided in Section 13.10.035, the board of directors shall establish a schedule of penalties, up to and including reduction or termination of service, to be assessed for the violation of any of the provisions of Sections 13.10.045 and 13.10.050.~~

A. Violation: A Customer shall be responsible for all uses of water served by the Customer's water meter. Violation of any of the provisions of this Chapter shall be the responsibility of the Customer.

B. Penalties: Monetary penalties imposed under this section shall be collected by adding the same to the Customer's water bill and shall be payable at the same time and in the same manner as such bills or by such other method of collection and payment as established by the Department. Penalties for failure to comply are as follows:

1. First Violation: The Department will issue a written notice of violation. Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the Customer of his right to a hearing on the merits of the alleged violation. Notice of violation shall be sent through regular mail to the address at which the Customer is billed by the Department.

2. Second Violation: A second violation within the preceding twelve (12) calendar months is punishable by a fine of one hundred dollars (\$100).

3. Third Violation: A third violation within the preceding twelve (12) calendar months is punishable by a fine of two hundred dollars (\$200).

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4. Fourth Violation: A fourth violation within the precluding twelve (12) calendar months is punishable by a fine of three hundred and fifty dollars (\$350).

5. Fifth and Subsequent Violations: A fifth and any subsequent violation is punishable by a fine of five hundred dollars (\$500).

~~C. The penalties applicable upon violation of additional water shortage measures implemented in accordance with Section 13.10.060 and the manner in which notice of such violation shall be given shall be set forth in the order implementing such additional water conservation measures. Said order shall also specify the applicability, if any, of Section 13.10.075 and 13.10.085 to such violations. (Ord. 6425 § 3, 1991; Ord. 6289 § 2 (part), 1988; Ord. 6275 § 1 (part), 1988)~~

13.10.067 Violations and Penalties: Non-Residential Customers With Water Meters 1-1/2 inch or Larger:

A. Violation: A Customer shall be responsible for all uses of water served by the Customer's water meter. Violation of any of the provisions of this Chapter shall be the responsibility of the Customer.

B. Penalties: Monetary penalties imposed under this section shall be collected by adding the same to the Customer's water bill and shall be payable at the same time and in the same manner as such bills, or by such other method of collection and payment as established by the Department. Penalties for failure to comply are as follows:

1. First Violation: The Department will issue a written notice of violation. Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the Customer of his right to a hearing on the merits of the alleged violation. Notice of violation shall be sent through regular mail to the address at which the Customer is billed by the Department.

2. Second Violation: A second violation within the preceding twelve (12) calendar months is punishable by a fine of two hundred dollars (\$200).

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3. Third Violation: A third violation within the preceding twelve (12) calendar months is punishable by a fine of four hundred dollars (\$400).

4. Fourth Violation: A fourth violation within the preceding twelve (12) calendar months is punishable by a fine of seven hundred dollars (\$700).

5. Fifth and Subsequent Violations: A fifth and any subsequent violation is punishable by a fine of one thousand dollars (\$1,000).

13.10.070 Notices of violation:

The department shall give notice of violation to any customer committing a violation of any of the provisions of Sections 13.10.045 and 13.10.050. Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the customer of his right to a hearing on the merits of the alleged violation. Notice of violation of Section 13.10.095 shall be given in the following manner:

1. By giving written notice thereof to the customer personally; or

2. If the customer be absent from or unavailable at the premises at which the violation occurred, by leaving a copy with some person of suitable age and discretion at said premises and sending a copy through the regular mail to the address at which customer is normally billed by the department; or

3. If a person of suitable age or discretion cannot be found, then by affixing a copy in a conspicuous place at the premises at which the violation occurred and also sending a copy through the regular mail to the address at which customer is normally billed by the department.

Notice of violation of Section 13.10.050 shall be given by sending a copy through the regular mail to the address at which the customer is normally billed by the department. (Ord. 6289 § 2 (part), 1988; Ord. 6275 § 1 (part), 1988)

13.10.075 Right to Hearing – Stay.

Any Customer receiving a notice of violation of any of the provisions of Sections 13.10.045 or 13.10.050 shall have a right to a hearing by the general manager of the Department, or his or her designee, on the merits of the alleged violation upon that Customer's written request to the Department. Customer's written request for a hearing must be received by the Department within ten (10) days of the date of notification of the

violation or Customer's right to a hearing shall be deemed waived. The Customer shall be deemed notified of a violation upon the personal delivery of the notice to Customer or, if personal delivery is not given, the date on which the notice is placed in the regular mail. The Customer's timely written request for a hearing shall automatically stay the imposition of penalty until the general manager of the Department, or his or her designee, renders a decision. No other or further stay shall be granted by the Department. The Department ~~shall~~ may issue regulations to govern the contents of the request for hearing and the manner in which such hearings may be conducted. ~~(Ord. 6289 § 2 (part), 1988; Ord. 6275 § 1 (part), 1988)~~

A Customer may, with the concurrence of the general manager of the Department, waive the right to hearing and elect one of the following options in lieu of the imposition of a penalty: (i) complete a water efficiency training class offered by the Department; (ii) complete all recommendations presented in a landscape audit; (iii) retrofit inefficient fixtures or irrigation systems; and/or (iv) timely complete such other water savings program as the Department may establish for the Customer. The Customer and the Department shall establish a timetable for completion of the selected option. In event the Customer fails to satisfactorily and completely perform the option within the established timetable, the Department shall impose the penalty. A Customer shall not be eligible to elect the same option more than once within a twelve month period.

13.10.080 Reservation of rights.

The rights of the Department hereunder shall be cumulative to any other right of the Department to discontinue service. ~~All moneys~~ monies collected pursuant to the

penalty provisions of Section ~~13.10.065~~ this Chapter shall be deposited in the water fund.

(Ord. 6275 § 1 (part), 1988)

13.10.085 Application for relief:

A customer may file with the department an application for relief from the department's application of the provisions of Section 13.10.050. The department shall have the power to take such steps as it deems reasonable and to set up such procedures as it considers necessary to resolve such application for relief. In determining whether to grant relief and the nature of the relief to grant, the department shall take into consideration all factors relevant to the customer's water usage including, but not limited to:

- A. Whether any additional reduction in the customer's water consumption will result in unemployment;
- B. Whether additional members have been added to the customer's household;
- C. Whether any additional landscaped property has been added to the customer's property subsequent to the base period;
- D. Changes in vacancy factors in multi-family housing;
- E. Increased number of employees in commercial, industrial and governmental offices;
- F. Increased production requiring increased process water;
- G. Water uses during new construction;
- H. Adjustments to water use caused by emergency, health or safety hazards;
- I. First filling of a permit-constructed swimming pool;
- J. Water use necessary for reasons related to family illness or health; and
- K. Whether the customer had, prior to the water shortage, taken measures to reduce his water consumption to the greatest extent possible.

Relief shall be granted only on a showing by the customer that he has achieved the maximum practical reduction in water consumption in his residential, commercial, industrial, agricultural or governmental water consumption, as the case may be, other than in the specific areas in which relief is being sought. No relief shall be granted to any customer who, when requested by the department, fails to provide the department with information necessary for the department to resolve that customer's application for relief.
(Ord. 6289 § 3, 1988; Ord. 6275 § 1 (part), 1988)

13.10.090 Willful misrepresentation.

Notwithstanding any other provision of law, and in addition thereto, and not in lieu thereof, any willful misrepresentation of a material fact by any person to the ~~department~~Department, made for the purpose of securing relief from the provisions of this chapter for any customerCustomer, is unlawful. A violation of this section shall be punishable by a fine not exceeding the sum of \$500, or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (Ord. 6275 § 1 (part), 1988)

13.10.095 Flow Restrictors and Disconnecting Service. Reduction in water supplied.

~~If any customer fails to comply with any provision of this chapter, the department may reduce the amount of water provided to that customer to the level which that customer would be using said water if he were complying with the provisions of this chapter. The provisions of this section shall be applied in lieu of, or in addition to, any other penalties provided in this chapter, in the discretion of the department, and shall be applied without regard to the status or nature of the customer. (Ord. 6275 § 1 (part), 1988)~~

A. Water Flow Restrictor: Where necessary to achieve compliance, the Department may install a water flow restrictor device of approximately one (1) gallon per minute capacity for services up to one and one-half (1-1/2) inch meter size and comparably sized restrictors for larger services. The Department will provide the Customer with written notice of intent to install a flow restrictor a minimum of forty-eight (48) hours in advance of installation.

B. The Customer shall be responsible for payment of the Department's charges for installing and removing any flow restrictor device and for disconnection and reconnecting service. The charge for installing or removing any flow restrictor device must be paid to the Department before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water service billing.

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C. Discontinuing Service: In addition to any penalties and/or the installation of a water flow restrictor, the Department may disconnect a Customer's water service for continuing or willful violations of this Chapter.

13.10.100 Customer Water Conservation Reports.

At the written request of the general manager of the Department, all commercial and industrial Customers using 25,000 billing units per year or more shall submit a water conservation plan to the Department on a form and with a content approved by the Department. These users shall thereafter submit quarterly reports to the Department on the progress of their conservation plans. (Ord. 6275 § 1 (part), 1988) The conservation plan must include recommendations for increased water savings and the reports must include progress to date on implementation of such recommendations.

13.10.105 Public nuisance.

In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the city, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 6275 § 1 (part), 1988)

13.10.110 Severability.

If any section, subsection, sentence, clause or phrase in this Chapter is for any reason held invalid, the validity of the remainder of the Chapter will not be affected. The City Council hereby declares it would have passed this Chapter and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or is declared invalid.