



## MEMORANDUM

**TO: CITY COUNCIL**

**FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR  
GEOFF ENGLISH, PUBLIC WORKS DIRECTOR  
DAVID HIRSCH, ASSISTANT CITY ATTORNEY**

**SUBJECT: CONSIDERATION OF ADOPTION OF AN ORDINANCE RELATING  
TO EMERGENCY WATER SHORTAGE RESTRICTIONS AND  
REGULATIONS**

**DATE: FEBRUARY 24, 2015**

### **RECOMMENDATION:**

It is recommended the City Council adopt an Ordinance repealing Section 13.05.040, amending Section 13.05.030 and adding Chapter 13.07 to the Arroyo Grande Municipal Code relating to Water Conservation and Emergency Water Shortage Restrictions and Regulations.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

There are no impacts from adoption of the Ordinance unless it is activated. At that time, implementation will be very labor intensive, which will require the use of additional temporary staffing. The City will experience a decrease in water revenue from the conservation requirements. There will also be a concurrent increase in revenue from fines and penalties. Whether the increase from fines and penalties will offset the loss from conservation will depend upon the severity of the water shortage and the extent customers reduce use in compliance with the restriction on use. Therefore, it is not possible at this time to accurately project the net financial impact.

### **BACKGROUND:**

On February 10, 2015, the City Council introduced, without modification, an Ordinance repealing Section 13.05.040, Amending Section 13.05.030 and adding Chapter 13.07 to the Arroyo Grande Municipal Code relating to Water Conservation and Emergency Water Shortage Restrictions and Regulation. The Ordinance establishes an emergency Water Shortage Contingency Plan to be in place in case mandatory water use restrictions become necessary to meet water demand.

### **ANALYSIS OF ISSUES:**

The City's water supply consists of Lake Lopez and groundwater. An extended drought could result in a reduction in delivery of Lake Lopez water and/or the threat

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of seawater intrusion. As a result, if rainfall continues below normal levels, it could result in the need for dramatic reductions in water usage. Since the City's mandatory water conservation restrictions, which are set forth in Arroyo Grande Municipal Code Section 13.05.030, were made permanent, the only remaining step currently provided for in the Municipal Code is restriction of all outside water use and other rationing if the City uses 100% of its supply. Staff believes other conditions and circumstances may occur that could warrant water use restrictions. As a result, it is proposed to adopt an Ordinance with additional restrictions that could be enacted in a more proactive and progressive manner if needed.

**This Ordinance will not enact any residential restrictions at this time. It will only put in place a framework for establishing restrictions to be enacted when necessary.** Once the Ordinance takes effect, it can be activated by Council approval of a Resolution. The authority in establishing the plan is based upon provisions of the California Water Code relating to water shortage emergencies and water conservation programs (Water Code Sections 350 et seq. and Water Code Sections 375 et seq.).

The Ordinance includes two methodologies based upon two stages of water shortage emergency:

Stage 1 Water Shortage Emergency

A Stage 1 Water Shortage Emergency shall be declared when there have been impacts to the City's water supply and/or it has been determined that it is imminent that the water supply will be less than projected demand. All customers will then be required to reduce water usage by a percentage compared to the same billing period the prior year, which will be established by Resolution.

In order to address complaints that this methodology would penalize individuals that have already instituted conservation measures, the percentage of conservation requested will be escalated for each tier. Therefore, customers in Tier 1 will be required to conserve a small percentage. Customers in Tier 2 will be required to conserve a larger percentage. Customers in Tier 3 will be required to conserve an even larger percentage. For example, Tier 1 customers may initially be required to conserve 5%, Tier 2 customers 10% and Tier 3 15%. As the emergency worsens, the percentage reduction could be increased in order to achieve the projected savings needed.

Stage 2 Water Shortage Emergency

A Stage 2 Water Shortage Emergency shall be declared when it has been determined that it is imminent that the water supply is or will be equal to or less than amounts determined necessary to meet basic minimum household health and safety requirements. Therefore, the purpose of Stage 2 requirements is to limit water usage

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to the minimum amount necessary for public health since the City will likely need to make arrangements for some type of emergency water supply deliveries.

Upon adoption of a Stage 2 Water Shortage Emergency, all households will be limited to a uniform allocation of water based upon water necessary for an average household size. One unit of water is equal to 100 cubic feet or 748 gallons. Each household shall be allowed 12 units of water per two month billing period. Households with 5 – 7 people will be allowed 20 units of water and those over 7 people will be allowed 28 units of water. The methodology attempts to account for increased needs by larger families by creating these three categories. It was determined that basing water allocation on actual number of people in each household would be infeasible because it would be too labor intensive to determine individual amounts for each account.

Commercial Properties and Irrigation Meters

Commercial customers will be exempted from the overall water restrictions unless they have an irrigation meter. Many commercial businesses are unable to institute conservation measures without impacting public health and safety and the economic vitality of the City. In addition, they account for a relatively small percentage of the City's water use.

In a Stage 1 Emergency, irrigation accounts will be required to reduce water use by a specified percentage or be subject to a financial penalty. In a Stage 2 Emergency, no irrigation of outdoor landscaping with potable water will be allowed by commercial properties, and their meters will be shut off and billing will be suspended.

Ongoing Mandatory Conservation Measures

All existing mandatory conservation restrictions will continue. In addition, Arroyo Grande Municipal Code Section 13.05.030 will be amended to require water to be served in restaurants only upon request and hotels will be required to display signs in rooms instructing visitors to place towels on the floor only if they need to be replaced. Additional amendments to Section 13.05.030 are included relating to swimming pools by clarifying that new pools may be constructed, but that they must have covers to provide a barrier to evaporation.

Billing and Adjustments

The Ordinance sets forth criteria for adjustments to the water allocation or water reduction requirements if a customer can provide evidence of unique circumstances. If the criteria are met, the Public Works Director will have the authority to grant the adjustment. The existing Utility Billing Adjustment Committee shall be empowered to act as the Water Shortage Appeal Board (WSAB). Appeals of the WSAB decision can be made to the City Manager and City Council.

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The Ordinance also enables the City to change to billing on a monthly basis so customers can better monitor their water use. It should be noted that the change to monthly billing will result in increased cost and staff work.

**Penalties and Enforcement**

Under a Stage 1 Water Shortage Emergency, mandatory financial penalties will be assessed on the customer's water bill when they have not achieved the required reduction. Under a Stage 2 Water Shortage Emergency, customers in non-compliance will also be subject to mandatory financial penalties. Continued non-compliance will lead to potential prosecution as a misdemeanor, placement of a flow restrictor on the household's service, and/or disconnection of service. Flow restrictors, however, will not be installed on residences that have fire sprinkler systems since that would make such systems inoperative.

**ALTERNATIVES:**

The following alternatives are presented for consideration:

- Adopt the Ordinance;
- Direct staff to modify and re-introduce the Ordinance;
- Do not adopt the Ordinance and direct staff to pursue alternate strategies; or
- Provide staff other direction.

**ADVANTAGES:**

The advantages of the recommended Ordinance are as follows:

1. It will enable the City to proactively address the City's water needs and impose restrictions when supply is impacted or projected to be impacted by drought or other water emergency conditions. By adopting the Ordinance now, it can be implemented in a much more flexible and timely manner when necessary.
2. Stage 1 recommendations balance the need for everyone to participate in water savings with recognition that those who have already conserved should not have the same restrictions as those that have not.
3. Recommendations have been structured to recognize different needs based on household size, but is also designed to ensure it is feasible to implement by placing accounts into three categories based upon household size.

**DISADVANTAGES:**

The Ordinance will be labor intensive to implement. It is also difficult to design without arguments that some households are treated unfairly with regard to their required savings compared to others.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

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**PUBLIC NOTIFICATION AND COMMENTS:**

The agenda was posted in front of City Hall on Thursday, February 19, 2015 and on the City's website on Friday, February 20, 2015. No comments were received.

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE REPEALING SECTION 13.05.040, AMENDING SECTION 13.05.030 AND ADDING CHAPTER 13.07 TO THE ARROYO GRANDE MUNICIPAL CODE RELATING TO WATER CONSERVATION AND EMERGENCY WATER SHORTAGE RESTRICTIONS AND REGULATIONS**

**WHEREAS**, The City of Arroyo Grande's limited water supply consists of Lake Lopez and groundwater, and an extended drought could result in a reduction in delivery of Lake Lopez water and/or the threat of seawater intrusion. Therefore, if rainfall below normal levels continues to occur there will be the need for dramatic reductions in water usage in the City; and

**WHEREAS**, Chapter 13.05 of the Arroyo Grande Municipal Code contains permanent mandatory water conservation restrictions, and therefore there are limited options available to significantly reduce water use in a water shortage emergency; and

**WHEREAS**, California Water Code Sections 350 et. seq. authorizes water suppliers, after holding a properly noticed public hearing and after making certain findings, to declare a water shortage emergency and to adopt such regulations and restrictions to conserve the water supply for the greatest public benefit with particular regard for domestic use, sanitation, and fire protection; and

**WHEREAS**, the framework to adopt restrictions and regulations on water use contained in this Ordinance are intended to provide an effective and immediately available means to implement the conservation of water that is essential during periods of a declared water shortage emergency, to ensure a reliable and sustainable minimum supply of water for public health, safety, and welfare, preserve limited water supplies, avoid depletion of water to an unacceptably low level and provide mechanisms to address critical water shortages if dry conditions continue or worsen; and

**WHEREAS**, the City Council has determined that creating procedures for the implementation of usage allotments and restrictions, as provided herein, will provide a fair and equitable mechanism to spread the burden when it has been determined that the City's water supply is so limited that a water shortage emergency exists and available water supply is less than projected demand in the case of a Stage 1 Water Shortage Emergency, or in the case of a Stage 2 Water Shortage Emergency, equal to or less than amounts that have been determined necessary to meet basic household health and safety requirements; and

**WHEREAS**, the provisions of Chapter 13.07, as adopted by this Ordinance, are intended to only take effect when the City Council, by Resolution, and based upon the

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recommendations of City staff and its analysis of the City's water supplies, finds and determines that the conditions justifying the declaration of a Stage 1 or Stage 2 Water

Shortage Emergency exists or is imminent, and when so declared the restrictions and regulations shall remain in effect for the duration of the water shortage emergency set forth in the Resolution.

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Arroyo Grande as follows:

**SECTION 1.** Section 13.05.040 of the Arroyo Grande Municipal Code is hereby repealed.

**SECTION 2.** Section 13.05.030 of the Arroyo Grande Municipal Code is hereby amended to read as follows:

The following water conservation requirements are effective at all times. Violations of this section shall be considered waste and an unreasonable use of water. Penalties for noncompliance are listed in Sections 13.05.050 and 13.05.060.

- A. Use of water which results in excessive gutter runoff is prohibited.
- B. Outdoor Water Use - Except Irrigation.
  - 1. No water shall be used for cleaning driveways, patios, parking lots, sidewalks, streets or other such use except where necessary to protect the public health and safety;
  - 2. Outdoor water use for washing vehicles shall be attended and have hand-controlled watering devices.
- C. Outdoor Irrigation.
  - 1. Outdoor irrigation is prohibited between the hours of ten a.m. and four p.m.
  - 2. Irrigation of private and public landscaping, turf areas and gardens is permitted at even-numbered addresses only on Mondays and Thursdays and at odd-numbered addresses only on Tuesdays and Fridays. No irrigation of private and public landscaping, turf areas and gardens is permitted on Wednesdays. Irrigation is permitted at all addresses on Saturdays and Sundays however, in all cases customers are directed to use no more water than necessary to maintain landscaping.
- D. Emptying and refilling swimming pools and commercial spas is prohibited except to prevent structural damage and/or to provide for the public health and safety. New swimming pools may be constructed, however, they shall have a cover that conforms to the size and shape of the pool and act as an effective barrier to evaporation. The cover must be in place during periods when use of the pool is not reasonably expected to occur.

- E. Use of potable water for soil compaction or dust control purposes in construction activities is prohibited unless specifically approved by the city.
- F. Hotel, motel or other commercial lodging establishment shall offer their patrons the option to forego the daily laundering of towels, sheets and linens.
- G. Restaurants or other commercial food service establishments shall not serve water except upon the request of a patron.

**SECTION 3.** Chapter 13.07 is hereby added to the Arroyo Grande Municipal to read as follows:

**Chapter 13.07 Emergency Water Shortage Restrictions and Regulations**

**13.07.010. Definitions.**

- A. "Director" refers to the City of Arroyo Grande Public Works Director or his or her designee.
- B. "Water" refers to water produced and served by the City of Arroyo Grande water department.
- C. "City" refers to the City of Arroyo Grande.
- D. "Water department" refers to the City of Arroyo Grande Water Department.
- E. "Customer" shall refer to any account customer of the City of Arroyo Grande Water Department as well as to any consumer of City water who may not be a City of Arroyo Grande Water Department account customer.
- F. "Household Allocation" refers to the establishment of a water allocation amount, to be established by resolution of the City Council, and which allocation amount, if exceeded, is subject to mandatory financial penalties that escalate based upon the level of water use and as further set forth in the resolution.
- G. "Historical Use" refers to the establishment of a baseline amount of water that is equal to the amount of water used in the same billing period for the prior year, and which will subject the customer to mandatory financial penalties if specified percentages of water savings are not met, as further set forth in a resolution adopted by the City Council.

**13.07.020 Stage 1 or Stage 2 Water Shortage Emergencies Defined**

- A. The provisions of this Chapter relating to Emergency Water Shortage Restrictions and Regulations are in addition to the Water Conservation Requirements contained in Section 13.05.030 and shall take effect upon adoption of a resolution by the City Council as further provided in Section 13.07.030 and 13.07.040, based upon the recommendations of City staff and its analysis of the City's water supplies that Stage 1 Water Shortage Emergency or Stage 2 Water Shortage Emergency conditions exist, as defined in this Section. Upon adoption, such resolutions shall remain in effect for the duration of the water shortage emergency conditions.



1. **Stage 1 Water Shortage Emergency.** A Stage 1 Water Shortage Emergency shall mean that there have been impacts to the City's water supply, and/or it has been determined that it is imminent that the City's water supply has or will become so limited that an emergency water shortage condition exists as far as the available water supply being less than projected demand.
  2. **Stage 2 Water Shortage Emergency.** A Stage 2 Water Shortage Emergency shall mean that that it has been determined that the projected City's water supply is, or will become equal to or less than amounts that have been determined necessary to meet basic minimum household health and safety requirements, and restrictions and limits through the implementation of water allocations are necessary for continued water use that is reliable and sustainable by providing a minimum supply for the most essential purposes for human consumption, sanitation, and fire protection during the emergency situation.
- B. During a Stage 1 or Stage 2 Water Shortage Emergency, if it is deemed in the City's interest in order to better monitor water usage, the billing period may be adjusted by City staff to provide for monthly billing, instead of bimonthly billing.
- C. Upon adoption of a resolution declaring a Stage 1 or Stage 2 Water Shortage Emergency, the provisions of this Chapter and any restrictions set forth in the resolution, shall apply to all persons using or consuming water provided by the City inside and outside of the city, regardless of whether any person using such water has a contract for water service with the City.
- D. If any other provision of the Arroyo Grande Municipal Code, whether enacted prior to or subsequent to the enactment of this Chapter, is inconsistent with the provisions of this Chapter, the provisions of this Chapter shall supersede and control for the duration of the declared Water Shortage Emergency set forth in the resolution of the City Council.

**13.07.030 Stage 1 Water Shortage Emergency and Historical Use Water Restrictions**

- A. After holding a noticed public hearing in accordance with the requirements of Water Code Section 350 et seq., the City Council may declare a Stage 1 Water Shortage Emergency based upon a determination that there has been impacts to the City's water supply,

and/or it has been determined that it is imminent that the City's water supply has or will become so limited that an emergency water shortage condition exists as far as the available water supply being less than projected demand necessitating the institution of reductions in water usage based upon Historical Use, as further set forth in subsection B.

- B. Upon adoption of a Stage 1 Water Shortage Emergency resolution, all residential customers will be assigned a baseline amount of water, based upon the amount of water used during the same billing period of the previous year prior to the adoption of the resolution. All residential customers shall reduce water usage by a percentage amount set forth in the resolution, which percentages may be modified or amended by the City Council as deemed necessary and appropriate. The percentage of required conservation shall increase depending on the billing Tier of the residential customers water use as provided in the City's tiered water rate structure. The resolution shall include provisions for the imposition of mandatory financial penalties if the amount of water in each Tier is exceeded, which penalties may also be modified or amended by the City Council as deemed necessary and appropriate based upon a determination of the severity of the Water Shortage Emergency.

The following shall be used as a general framework for the resolution establishing the baseline units for billing Tiers and penalties, subject to such revisions deemed necessary in order to achieve the desired water savings:

Residential customers in Tier 1 shall be required to reduce consumption by the lowest percentage. Residential customers in Tier 2 shall be required to reduce consumption by a larger percentage than those in Tier 1. Residential Customers in Tier 3 shall be required to reduce consumption by an even larger percentage than those in Tier 1 and Tier 2. For example, Tier 1 customers may initially be required to conserve 5%, Tier 2 customers 10% and Tier 3 15%. As the emergency worsens, the City Council, may by resolution, increase the percentage reduction deemed necessary in order to achieve the projected amount of water savings established as necessary.

**13.07.40 Stage 2 Water Shortage Emergency and Household Allocation Water Restrictions.**

- A. After holding a noticed public hearing in accordance with the requirements of Water Code Section 350 et seq., the City Council may declare a Stage 2 Water Shortage Emergency based upon a determination that the

projected City's water supply is or will become equal to or less than amounts that have been determined necessary to meet basic minimum household health and safety requirements, and restrictions and limits through the implementation of water allocations are necessary for continued water use that is reliable and sustainable by providing a minimum supply for the most essential purposes for human consumption, sanitation, and fire protection during the emergency situation.

- B. Upon adoption of a Stage 2 Water Shortage Emergency, restrictions and limits shall be imposed through the implementation of Household Allocations of water units for residential customers. All residential customers will be allocated units of water deemed necessary for an average household size (1 unit of water is equal to 100 cubic feet or 748 gallons). Any residential customer using over the assigned baseline unit amount shall be subject to a citation and the imposition of mandatory financial penalties, which shall be set forth in the resolution adopted by the City Council and be based upon the severity of the Water Shortage Emergency. Each household shall be allowed 12 units of water per two month billing period (which is equivalent to 150 gallons per household per day). Households with over 5-7 people will be allowed 20 units of water per two month billing period (250 gallons per day). Households with over 7 people will be allowed 28 units of water per two month billing period (350 gallons per day). The allocations contained herein may be adjusted by the City Council by resolution.

#### **13.07.050 Commercial Properties and Irrigation Meters**

During a Stage 1 Water Shortage Emergency commercial water customers shall not be subject to mandatory penalties for use, provided however, that commercial customers with irrigation meter accounts shall reduce water use by such percentages specified in the resolution declaring the Water Shortage Emergency. During a State 2 Water Shortage Emergency commercial water customers shall not use potable water for irrigation of outdoor landscaping. All commercial irrigation meters shall be shut off and billing will be suspended. The resolution shall also establish mandatory financial penalties for failing to meet required water use reductions.

#### **13.07.060 Additional Requirements and Restrictions during Stage 1 or Stage 2 Water Shortage Emergency**

Upon adoption of a resolution declaring a Stage 1 or Stage 2 Water Shortage Emergency the following shall apply:

1. Commercial, industrial or irrigation meter customers shall immediately follow any directive issued or declared by the City's Water Department to conduct water use audits, prepare water conservation plans and immediately repair any identified water system leaks, including leaks attributable to faulty pipes or fixtures. Commercial customers shall not violate any other water use restrictions intended to preclude excessive water usage, as adopted by the City.
2. Residential customers shall not violate any water use/allocation or other water rationing regulation implemented by resolution of the City Council, including such regulations intended to preclude excessive water usage and specifying maximum water usage limitations, as otherwise provided by this Chapter.

**13.07.070 Adjustments in Stage 1 Reduction Amounts, and Other Exceptions.**

- A. During a Stage 1 Water Shortage Emergency the Director, upon application made in writing by a customer on a form promulgated by the Water Department and accompanied by supporting documentation, shall be authorized to modify the percentage of water consumption reduction that is required by the customer, upon the customer's production of substantial evidence demonstrating the existence of unusual circumstances, including but not limited to the household having been vacant during a portion of the prior year billing period, resulting in the baseline water amount assigned to the household being lower than what would normally have been experienced.
- B. The percentage of reduction in water consumption during a Stage 1 Water Shortage Emergency, or the water allotments during a Stage 2 Water Shortage Emergency may also be adjusted if the existence of one or more of the following circumstances are shown and that are particular to that customer and which are not generally shared by other Water Department customers:
  1. Failure to approve the requested exception would cause a condition having an adverse effect on the health, sanitation, fire protection, or safety of the customer.
  2. Alternative restrictions to which the customer is willing to adhere are available that would achieve the same level of demand reduction as the restriction for which an exception is

being sought and such alternative restrictions are enforceable by the water department.

3. Circumstances concerning the customer's property have changed since the implementation of the subject restriction warranting a change in the customer's water usage allocation or required percentage of reduction in consumption.
- C. In order to qualify for an exception, a customer must first complete a self water audit pursuant to standards and procedures promulgated by the water department. This audit shall be made part of the customer's exception application and water conservation measures indicated by the audit may be incorporated as conditions of approval to an exception in addition to any other conditions of approval imposed by the Director in connection with the director's approval of the customer's exception application.

**13.07.080 Water Shortage Appeals Board (WSAB)**

- A. Upon adoption of a resolution declaring a Stage 1 or Stage 2 Water Shortage Emergency, the Utility Billing Adjustment Committee shall be empowered to act as the Water Shortage Appeal Board (WSAB). Thereafter, the Water Shortage Appeal Board will remain available to convene for as long as the Water Shortage Emergency remains in effect.
- B. Any customer who considers an action taken by the Director or an enforcement official under the provisions of this Chapter, including action on adjustments to Stage 1 water consumption reduction amounts, and on exception application, or the assessment of administrative penalties which have been erroneously taken or issued, may appeal that action or penalty to the Water Shortage Appeals Board in the following manner:
  1. The appeal shall be made in writing, shall state the nature of the appeal specifying the action or penalty that is being appealed and the basis upon which the action or penalty is alleged to be in error. Penalty appeals shall include a copy of the bill or any applicable notice of violation;
  2. An appeal, to be effective, must be received by the Director not later than ten business days following the date of the notice of violation or the date that the Director took the action which is the subject of the appeal;
  3. The Director shall schedule the appeal for consideration by the WSAB. The WSAB shall hear the appeal within ninety days of

the date of the appeal and issue its decision within thirty days of the date of the hearing;

4. In ruling on appeals, the WSAB shall strictly apply the provisions of this Chapter, and shall not impose or grant terms and conditions not authorized by this Chapter.
5. Decisions of the WSAB shall be subject to appeal to the City Council in accordance with the procedures in Chapter 1.12 of this Code, including the requirement that decisions be first taken up with the City Manager.

**13.07.090 Penalties and Enforcement.**

- A. Penalties. The purpose of the mandatory penalties assessed pursuant to this Chapter and set forth in a resolution of the City Council declaring a Stage 1 or Stage 2 Water Shortage Emergency is to assure compliance by the customer through the imposition of increasingly significant penalties so as to create a meaningful incentive to reduce water use. In acknowledgment of the fact that the City's water is scarce and irreplaceable commodity and that this Chapter is intended to equitably distribute that commodity among Water Department customers and to assure that, to the extent feasible, City water is conserved and used only for purposes deemed necessary for public health and safety, such mandatory penalties are not to be construed as creating a "water pricing" structure pursuant to which customers may elect to pay for additional water significantly higher rates.
- B. Stage 2 Penalties. A customer's repeated use of excessive water during a Stage 2 Water Shortage Emergency shall result in criminal prosecution as a misdemeanor, and may result in the installation of a flow restriction device or disconnection of the customer's property from the City's water service system at the customer's cost, as further set forth herein. Flow restriction devices shall not be installed on residences that have fire sprinkler systems.
- C. Misdemeanor. In addition to, and completely separate from, the civil penalties for excessive water use, any person who knowingly and willfully violates the provisions of this Chapter during a Stage 2 Water Shortage Emergency shall be guilty of a criminal misdemeanor as provided in the general penalty provisions of this Code. In accordance with Section 1.16.010, such misdemeanor violations may, at the discretion of the City Attorney, be initially charged or subsequently prosecuted as an infraction. All previous attempts by the City to obtain compliance by the defendant may be introduced as evidence of the offender's knowledge and willfulness.

- D. **Discontinuing Service.** In addition to any penalties, misdemeanor criminal prosecution and the installation of a water flow restrictor, during a Stage 2 Water Shortage Emergency the Director may disconnect a customer's water service for willful violations of mandatory restrictions and regulations in this Chapter and Chapter 13.05. Upon disconnection of water service, a written notice shall be served upon the customer which shall state the time, place, and general description of the prohibited or restricted activity and the method by which reconnection can be made.
  
- E. **Cost of Flow Restrictor and Disconnecting Service.** A person or entity that as a result of violations of this Chapter has a flow restrictor installed or water service disconnected is responsible for payment of charges for installing and/or removing the flow-restricting device and for disconnecting and/or reconnecting service in accordance with the City's fee schedule then in effect. The charge for installing and/or removing any flow restricting device must be paid before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

**SECTION 4.** If any section, subsection, subdivision, paragraph, sentence, or clause of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, or clause thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, or clause be declared unconstitutional.

**SECTION 5.** A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council Members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

**SECTION 6.** This Ordinance shall take effect thirty (30) days after its adoption.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and by the following roll call vote to wit:

**AYES:**  
**NOES:**  
**ABSENT:**

the foregoing Ordinance was adopted this \_\_\_\_ day of \_\_\_\_\_, 2015.

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JIM HILL, MAYOR

ATTEST:

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KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

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ROBERT MCFALL, INTERIM CITY MANAGER

APPROVED AS TO FORM:

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TIMOTHY J. CARMEL, CITY ATTORNEY