

RESOLUTION NO. 5119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING A STAGE 1 WATER SHORTAGE EMERGENCY IN ACCORDANCE WITH CALIFORNIA WATER CODE SECTION 350 AND ARROYO GRANDE MUNICIPAL CODE SECTION 13.07.030

WHEREAS, Chapter 13.07 of the Arroyo Grande Municipal Code (AGMC), Emergency Water Shortage Restrictions and Regulations, provides for stages of action that will be undertaken in response to water supply shortages and related triggering conditions, consistent with the City of Arroyo Grande's Urban Water Management Plan and for the imposition of regulations and restrictions, including, but not limited to, requirements to reduce consumption of water, that are necessary in order to protect the health, safety and welfare of the community; and

WHEREAS, the stages of action have been created in recognition of the fact that the City's water supply consists of a combination of water from Lake Lopez and groundwater sources, and that a variety of specific factors can result in the need to implement a stage of action, as well as the potential for unanticipated interruptions of local water deliveries or the imposition of additional State mandated reductions in water use; and

WHEREAS, AGMC Section 13.07.030(A) provides that 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 and institute reductions in water usage, based upon a determination that triggering conditions exist or 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 regarding the available water supply being less than projected demand, necessitating the institution of reductions in water usage; and

WHEREAS, triggering conditions for a Stage 1 Water Shortage Emergency under AGMC Section 13.07.030(A) may include, but are not limited to, a determination that the water level at Lake Lopez is at or below fifteen thousand (15,000) acre feet; there have been six quarterly continuous events of sentry well level readings below the deep well index trigger level of seven and one-half feet; and/or the imposition of mandatory reductions in water use by the City by the state water resources control board.; and

WHEREAS, The City of Arroyo Grande has a limited water supply that consists of two sources: Lake Lopez and groundwater. The San Luis Obispo County Flood Control and Water Conservation District has developed the Lake Lopez Low Reservoir Response Plan (LRRP), which provides for a series of management procedures that are to be followed when the reservoir level drops below 20,000 acre feet, which includes reduced municipal water deliveries. In addition, significant concerns exist regarding groundwater pumping and the potential for seawater intrusion; and

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WHEREAS, on July 8, 2021, Governor Gavin Newsom issued a Proclamation of a State of Emergency, pursuant to the California Emergency Services Act, due to extreme drought in additional counties in the State, including San Luis Obispo County; on July 13, 2021, the San Luis Obispo County Board of Supervisors declared a local drought emergency; and on August 24, 2021, the Board of Supervisors initiated the LRRP for Lake Lopez. Under the LRRP, the City will now be subject to a 10% reduction in Lopez deliveries, which equates to 216,000 gallons per day; and

WHEREAS, as of July 14, 2021, the United States Drought Monitor shows San Luis Obispo County in an extreme drought and rainfall to date for the period from July 1, 2020 through June 30, 2021 was 9.11 inches at the City's Corporation Yard rain gauge and based on the severity of the drought, the upcoming rainy season may not be sufficient to replenish the City's normal available water supply; and

WHEREAS, as of September 22, 2021, Lopez Lake is at 15,426 acre-feet of storage, and has been dropping at the rate of approximately 150 acre-feet per week and is therefore expected to fall below the triggering threshold of 15,000 acre-feet by approximately October 14, 2021; and

WHEREAS, California Water Code Section 350 et seq. authorize the governing body of a public water supply distributor to declare that water shortage emergency conditions prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and Water Code Section 353 provides that when such a water shortage emergency is declared the governing body shall adopt necessary regulations and restrictions on the delivery and consumption of water; and

WHEREAS, the City of Arroyo Grande is granted authority by Water Code Section 350 et seq. and AGMC Chapter 13.07 to declare a Stage 1 Water Shortage Emergency and adopt by resolution regulations and restrictions on the delivery and consumption of water; and

WHEREAS, pursuant to AGMC Chapter 13.07, based upon the foregoing determinations, City staff has recommended that the City Council declare a Stage 1 Water Shortage Emergency and implement reductions in water usage based upon Historical Use, as defined in Section 13.07.010 and as further set forth in Exhibit A to this Resolution; and

WHEREAS, in accordance with the requirements of AGMC Section 13.07.030 and Water Code Sections 351 and 352, a public hearing regarding this declaration was duly noticed and held on September 28, 2021 and a continued public hearing was held on October 12, 2021

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Arroyo Grande does hereby declare, determine, and order as follows:

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SECTION 1. The foregoing Recitals are true, correct and are incorporated herein.

SECTION 2. Pursuant to AGMC Section 13.07.030 and Water Code Section 350, et seq., and for the reasons set forth herein, the City Council of the City of Arroyo Grande hereby declares that a Stage 1 Water Shortage Emergency now exists throughout the area served by the City of Arroyo Grande and that as a result of the historic severe drought, the implementation of the LRRP and the 10 % reduction in water deliveries from Lopez Reservoir, and the imminent falling of Lopez Reservoir to below 15,000 acre-feet of storage, that there has or will be impacts on the City's water supply such that the available water supply is less than projected demand and that the demands and requirements of the City's water consumers cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation and fire protection. Based on this condition and on concerns regarding the anticipated prolonged drought conditions, and pursuant to the Arroyo Grande Municipal Code and the authority in Water Code Section 353, the City Council hereby implements reductions in water usage based upon Historical Use, as further set forth in Exhibit "A," which exhibit is attached hereto and incorporated herein by this reference, which the City Council finds are necessary and appropriate to protect the health, safety and welfare of the public.

SECTION 3. In accordance with the provisions of AGMC Section 13.07.030(A), and as further set forth in Exhibit A, all residential water customers shall be assigned a baseline amount of water based upon the amount of water used during the same billing period of the year prior to the adoption of this Resolution. All residential customers shall reduce water usage by the percentage amount set forth in Exhibit A. Such percentages may be modified or amended by the City Council as deemed necessary and appropriate. Commercial customers with irrigation meter accounts shall also reduce water use as set forth in Exhibit A. Residential and Commercial customers shall be subject to mandatory penalties for failing to meet required water use reductions, as provided in Exhibit A.

SECTION 4. All other water conservation rules, regulations, restrictions, definitions, enforcement procedures, violation provisions and appeal procedures, including, but not limited to, those contained in AGMC Section 13.05.030, shall remain in full force and effect.

SECTION 5. The adoption of this Resolution declaring a Stage 1 Water Shortage Emergency is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to 15307 of the State CEQA Guidelines (Actions by Regulatory Agencies for Protection of Natural Resources.)

SECTION 6. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such determination shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid without

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regard to whether any portion of the Resolution would be subsequently declared invalid or unconstitutional.

SECTION 7. The restrictions and regulations adopted herein shall remain in effect for the duration of the Stage 1 Water Shortage Emergency declared through this Resolution, and until it is rescinded or modified by the City Council. This Resolution shall be effective immediately upon its adoption.

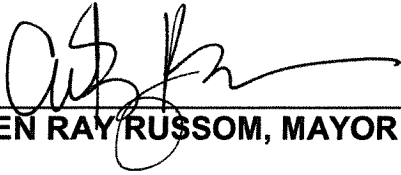
On motion of Council Member Storton, seconded by Council Member Paulding, and by the following roll call vote, to wit:

AYES: Council Members Storton, Paulding, Barneich, George, and Mayor Ray Russom

NOES: None

ABSENT: None

the foregoing Resolution was passed and adopted this 12th day of October, 2021.



CAREN RAY RUSSOM, MAYOR

ATTEST:



JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:



WHITNEY MCDONALD, CITY MANAGER

APPROVED AS TO FORM:



TIMOTHY J. CARMEL, CITY ATTORNEY

EXHIBIT "A"

CITY OF ARROYO GRANDE RESOLUTION _____ DECLARATION OF A STAGE 1 WATER SHORTAGE EMERGENCY

A. ASSIGNMENT OF BASELINE WATER AMOUNT BASED UPON HISTORICAL USE

All residential customers and commercial customers with irrigation meters will be assigned a Baseline Water Amount based upon their Historical Use, as further set forth herein. Except when adjusted in accordance with the provisions contained in Arroyo Grande Municipal Code Section 13.07.070 A or B, the Baseline Water Amount shall be based upon the amount of water used during the same billing period of the year prior to the adoption of this Resolution.

B. IRRIGATION METER CUSTOMERS

All customers with irrigation meter accounts shall reduce water use by 25% from the amount of usage of the assigned Baseline Water Amount. Failure to reduce water use by this required percentage shall result in the imposition of the mandatory financial penalties contained in Subsection D, herein.

C. REQUIRED RESIDENTIAL CUSTOMER WATER REDUCTIONS

1. Except for customers whose bi-monthly Baseline Water Amount is 9 units or less, residential customers with bi-monthly usage of 10 to 18 units shall be required to reduce consumption by 7% from the amount of usage of the assigned Baseline Water Amount. Customers whose bi-monthly usage is 9 units or less shall not increase their usage above the amount of their assigned Baseline Water Amount.

2. All residential customers with bi-monthly usage of 19 units or more shall be required to reduce consumption by 14% from the amount of usage of the assigned Baseline Water Amount.

Failure to reduce water use by the required percentage shall result in the imposition of the mandatory financial penalties contained in Subsection D, herein.

In accordance with Arroyo Grande Municipal Code Section 13.07.030(A), the City Council may, by resolution, increase the required percentage of reduction if it deems it necessary in order to achieve the projected amount of water savings established as necessary.

D. MANDATORY FINANCIAL PENALTIES

The purpose of the mandatory penalties assessed pursuant to this Resolution is to assure compliance by the customer through the imposition of increasing 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, the intent is 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. Accordingly, the mandatory penalties contained herein are not to be construed as creating a "water pricing" structure pursuant to which customers may elect to pay for additional water at significantly higher rates.

The following mandatory financial penalties will be levied on all water users who fail to reduce consumption in the percentages required in Subsections B and C herein, and customers whose bi-monthly use is 9 units or less and whose use increases above the amount of their assigned Baseline Water Amount:

- First Violation: Written notice of violation and opportunity to correct violation.
- Second Violation: The City shall impose a penalty of \$50. Written notice shall be given to the owner by certified mail. The penalty will be billed to the customer on the regular water bill.
- Third Violation: A penalty of \$100. Written notice shall be given to the owner by certified mail. The fine will be billed to the customer on the regular water bill.
- Subsequent Violations: In addition to a penalty of \$200, continued violations may be subject to referral to the City Attorney for appropriate action, including but not limited to prosecution under the Arroyo Grande Municipal Code, as well as possible discontinuance of service.
- Failure to pay: The City may discontinue water service to any customer who fails to pay penalties billed on the regular water bill. Service will be restored upon full payment of all outstanding balances and reconnection charges. A delinquent bill shall also be increased by penalty of ten (10) percent of the amount of delinquency.

The foregoing 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.

OFFICIAL CERTIFICATION

I, **JESSICA MATSON**, City Clerk of the City of Arroyo Grande, County of San Luis Obispo, State of California, do hereby certify under penalty of perjury, that the attached Resolution No. 5119 was passed and adopted at a regular meeting of the City Council of the City of Arroyo Grande on the 12th day of October, 2021.

WITNESS my hand and the Seal of the City of Arroyo Grande affixed this 15th day of October, 2021.

A handwritten signature in cursive script, reading "Jessica Matson", written in black ink. The signature is positioned above a solid horizontal line.

JESSICA MATSON, CITY CLERK