

## ORDINANCE NO. CS 966

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATWATER AMENDING CHAPTER 13.13 OF THE ATWATER MUNICIPAL CODE

**WHEREAS**, Article X, Section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

**WHEREAS**, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

**WHEREAS**, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

**WHEREAS**, pursuant to Water Code § 376 and Government Code § 6061, the City of Atwater must publish in a newspaper of general circulation any ordinance or resolution adopting a water conservation program within 10 days after its adoption; and

**WHEREAS**, Water Code § 377 establishes that, from the publication of an ordinance or resolution pursuant to Section 376 until the repeal of the ordinance or end of the emergency, it is a misdemeanor punishable by up to 30 days in county jail and/or a fine of up to \$1,000 for any person to violate a requirement of the water conservation program; and

**WHEREAS**, the adoption and enforcement of a comprehensive water conservation program will allow the City of Atwater to delay or avoid declaring a water shortage emergency pursuant to Water Code § 350; and

**WHEREAS**, on May 25, 2015, the City of Atwater declared the existence of a local drought emergency; and

**WHEREAS**, Chapter 13.13 of the Atwater Municipal Code establishes a water conservation program; and

**WHEREAS**, the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety. In accordance with California Government Code § 36937, and in order to preserve the public peace, health and safety, the City Council finds it necessary to amend Chapters 13.13 of the Atwater Municipal Code to address the existence of the local drought emergency.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATWATER AS FOLLOWS:**

#### **SECTION 1:**

Pursuant to Water Code § 376 and Government Code § 6061, the City of Atwater shall publish in a newspaper of general circulation this ordinance amending the water conservation program within 10 days after its adoption; and

## **SECTION 2:**

This ordinance establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies.

## **SECTION 3:**

The City Council hereby amends Chapter 13.13 to read in full as follows:

### **13.13.010. – Purpose.**

The purpose of this Chapter is to promote the efficient use and reuse of water by all City of Atwater water service customers by requiring that all new construction projects and existing customers use water as efficiently as possible and comply with new development standards, landscape water use efficiency standards and water waste prohibition regulations.

### **13.13.020. – Rules and regulations.**

These provisions shall apply to all persons using water in the City regardless of whether any person using water shall have a contract for water service with the City.

### **13.13.030. – Prohibited uses—Mandatory.**

The Water Conservation Program shall be in effect year-round.

The following uses, methods, types or techniques of the use of water are hereby determined and declared nonessential and are prohibited:

#### **A. All Users.**

1. Water abuse is prohibited. It shall be unlawful for any person to knowingly or willingly cause or allow any water delivered by the City water system and received by such person to become water waste runoff and to flow away from property owned or occupied by such person in any gutter, ditch or other manner over the surface of the ground. The definition of water abuse is excessive water flowing over the curb resulting in water running in the gutter a distance of 50 feet or directly into a catch basin.

Water waste runoff shall mean water flowing away from property caused by excessive application(s) of water delivered by the City water system beyond reasonable or practical flow rates, water volumes or duration of application.

2. Broken or defective plumbing, sprinklers, watering or irrigation systems which permit the escape or leakage of water are prohibited. Repair all water leaks within five (5) days of notification by the City Public Works Department unless other arrangements are made with the City Public Works Department.
3. The use of water in any manner which causes, allows or permits the flooding of any premises, or any portion thereof, is prohibited.
4. All uses of non-potable water without the permission of the Public Works Department are prohibited.
5. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards, in which case, such areas shall be washed

from water contained in a bucket or container not exceeding five-gallons in capacity.

6. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
  7. Stop operating ornamental fountains or similar decorative water features unless recycled water is used.
  8. Wash vehicles using a bucket, not exceeding five-gallons in capacity, and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
  9. Serve and refill water in restaurants and other food service establishments only upon request.
  10. Offer guest in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
  11. Initial filling of swimming pools or otherwise of the full capacity of a pool over 2,500 gallons is prohibited. Emptying and refilling all pools is prohibited.
  12. The application of water from public water supply to outdoor landscapes during or within 48 hours after any measurable rainfall is prohibited.
- B. Gardens and Landscaping. Consumers shall not irrigate any lawn or landscaped area between the hours of 7:00 AM and 7:00 PM on any day of the week.
1. Even numbered addresses are assigned watering days on Tuesdays and Saturdays.
  2. Odd numbered addresses are assigned watering days on Sundays and Wednesdays .
  3. Watering on Mondays, Thursdays, and Fridays is prohibited
  4. This Section shall not apply to commercial growers or nurseries
- C. New Planting. Notwithstanding the prohibitions contained in subsection B of this section, new lawns, ground covers, or bedding plants may be watered every day between 7:00 PM and 7:00 AM provided the following conditions are met:
1. New lawns, ground covers, or bedding shall not include reseeding of existing lawns or replacement of existing ground cover, or bedding plants, and shall be newly rototilled earth.
  2. The Public Works Director may impose such other restrictions as are deemed necessary to prevent the waste of water.

### **13.13.040 – Enforcement and penalties.**

A. Any violation of this chapter is declared a public nuisance and the following penalties shall apply to such violations:

1. Each violation of this Chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days or by a fine not exceeding \$1,000, or by both as provided in Water Code § 377.
2. Each day that a violation of this Chapter occurs is a separate offense.
3. Administrative penalties may be levied for each violation of a provision of this Chapter in accordance with Water Code §§ 71590 and 71600 as follows:
  - A. For the first violation of this Chapter, the consumer shall be issued an administrative citation with a warning.
  - B. For the second violation of this Chapter within a period of one year, the consumer shall be issued an administrative citation in the amount of \$50.00.
  - C. For the third violation of this Chapter within a period of one year, the consumer shall be issued an administrative citation in the amount of \$75.00.
  - D. For the fourth violation of this Chapter, and any subsequent violation within a period of one year, the consumer shall be issued an administrative citation in the amount of \$250.00. In addition, as part of the penalty for the fourth violation, the consumer and the property owner, if different than the consumer, shall be notified that the City will be installing a water meter, if one does not already exist, at the property owner's expense. The consumer or property owner will have the right to appeal the placement of the water meter on said property pursuant to Section 13.13.040(B) below.
4. The foregoing provisions are cumulative and in addition to any other remedies or penalties authorized or imposed under any other provision of this Code or other applicable law or regulation.

B. Right to Appeal.

1. The person receiving an administrative citation under this Chapter shall have the right of appeal prior to the imposition of any penalty fee. The appeal hearing shall be informal and held before a hearing officer appointed by the City Manager, who shall make the final administrative determination regarding the matter.
2. The person receiving an administrative citation under this Chapter must request an appeal hearing, in writing, within ten days from the date of the administrative citation was served. The request for hearing shall be addressed to the City Clerk who will assign a hearing officer. Failure to properly serve a request for hearing within the ten-day period shall be deemed a waiver of rights to appeal the matter, and the penalty fee will become final and subject to collection.
3. The hearing officer shall give written notice and issue a decision in accordance with Section 8.32.080 of this Code.

C. Enforcement. The Public Works Director, or his/her designee(s), shall be responsible for the enforcement of this Chapter.

**SECTION 4. SEVERABILITY:** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**SECTION 5. EFFECTIVE DATE:** This ordinance is effective immediately upon adoption or as otherwise established by state law.

**ADOPTED: May 26, 2015**

**AYES: Bergman, Raymond, Vineyard, Price**

**NOES: Rivero**

**ABSENT: None**

**APPROVED:**

**/s/ JAMES E. PRICE, MAYOR**

**ATTEST:**

**/s/ JEANNA DEL REAL, CITY CLERK**