

Resolution No. 2015-05-04

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
CASCADE METROPOLITAN DISTRICT NO. 1

ADOPTING THE CITY OF COLORADO SPRINGS, COLORADO
WATER SHORTAGE ORDINANCE

WHEREAS, the Cascade Metropolitan District No. 1 (the “District”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the District’s Board of Directors (the “Board”) is empowered to have the management, control and supervision of all of the business and affairs of the District and all construction, installation, operation and maintenance of the District’s improvements; and

WHEREAS, pursuant to § 32-1-1001(1)(m), C.R.S., the Board is permitted to adopt, amend and enforce rules and regulations not in conflict with the constitution and laws of the State of Colorado for carrying on the business, objects and affairs of the Board and of the District; and

WHEREAS, the District receives raw water from the Colorado Springs Utilities (“CSU”), an enterprise of the City of Colorado Springs, Colorado (the “City” or “City of Colorado Springs”); and

WHEREAS, pursuant to a Settlement Agreement among CSU, the City of Colorado Springs, Colorado, RMG Properties, LLC, the District and other private parties, dated April 3, 2015, the District desires CSU to ultimately take over the ownership, operation and maintenance of the District’s water system, provided that the District meets the criteria established in the Settlement Agreement; and

WHEREAS, pursuant to Section 12 of the Agreement for Short-Term Water Service by and between the District and CSU, dated April 1, 2015 (the “Water Services Agreement”), which Water Services Agreement is Appendix 10 of the Settlement Agreement, the District is required to establish formal restrictions regarding the use of water by its customers which are no less restrictive than the water use restrictions imposed by CSU on its customers; and

WHEREAS, in order to ensure that water is properly conserved during times of abnormally high demand, drought conditions and/or system constraints, the City of Colorado Springs has adopted a water shortage ordinance (the “Water Shortage Ordinance”), which Water Shortage Ordinance is codified in the City of Colorado Springs, Colorado Code Sections

12.4.1301-12.4.1317, inclusive, and attached hereto as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, the Water Shortage Ordinance sets forth a layered contingency plan to provide for a systematic response restricting customer water use and moderating water waste to meet the essential needs of the community served by the City and, more particularly, CSU; and

WHEREAS, in order to comply with the provisions of the Water Service Agreement and in order to help conserve water resources in times of abnormally high demand, drought conditions and/or system constraints, the Board desires to adopt the Water Shortage Ordinance for its customers; and

WHEREAS, the Board recognizes that, until the point at which CSU accepts the District's water system for ownership, operation and maintenance, and except as set forth below, those references in the Water Shortage Ordinance which reference the City of Colorado Springs, CSU or their respective boards, as the entity with jurisdiction for implementation and enforcement will be the District and will not be the responsibility of the City of Colorado Springs, CSU or their respective boards.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. ADOPTION OF WATER SHORTAGE ORDINANCE. The Board hereby adopts the Water Shortage Ordinance promulgated by the City of Colorado Springs, Colorado, as set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, and as may be amended from time to time. Until such time as CSU accepts the District's water system for ownership, operation and maintenance, and except with respect to declarations of water shortage stages, all references in the Water Shortage Ordinance to the City of Colorado Springs, CSU or their respective boards, shall be replaced with the "Cascade Metropolitan District No. 1" or "the District" or "the Board," as applicable, and the District shall have all of the rights, obligations, responsibilities and authorities established thereunder as those set forth for the City of Colorado Springs, CSU or their respective boards. Notwithstanding the foregoing, in the event the City of Colorado Springs has not declared a water shortage stage or has declared a water shortage stage which is lower than the Board determines to be appropriate for the District's customers, the Board may declare a water shortage stage or a water shortage stage which is higher than that declared by the City of Colorado Springs. In no event shall the District implement a water shortage stage or policy which has lower standards and requirements than set forth in the Water Shortage Ordinance. Notwithstanding anything herein to the contrary, the City of Colorado Springs, CSU and their respective boards shall retain the powers set forth in the Water Shortage Ordinance with respect to enforcement of the Water Shortage Ordinance against the District as a customer of CSU.

2. EFFECTIVE DATE. The provisions of this Resolution shall take effect as of the date of this Resolution.

3. SEVERABILITY. If any term or provision of this Resolution or if any rule or regulation is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the

validity of the remainder of the Resolution or rules and regulations, as a whole, but shall be severed, leaving the remaining terms or provisions in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

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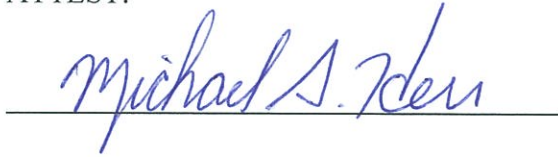
ADOPTED this 26th day of May 2015.

CASCADE METROPOLITAN DISTRICT NO. 1



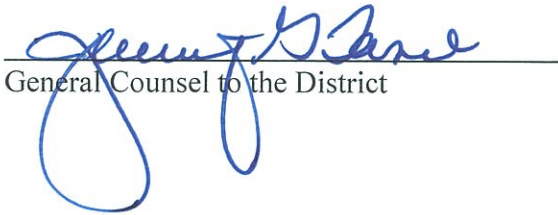
Officer of the District

ATTEST:



APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



General Counsel to the District

Signature Page to Resolution Adopting the City of Colorado Springs, Colorado Water Shortage Ordinance

EXHIBIT A

City of Colorado Springs, Colorado Code Sections 12.4.1301-12.4.1317, inclusive

PART 13 WATER SHORTAGE

12.4.1301: LEGISLATIVE FINDINGS:

The City Council does hereby find, determine and declare as follows:

- A. Utilities' water supply system has been built over a period of one hundred thirty (130) years, with new increments of supply being added as water demand has grown;
- B. Utilities has systematically obtained and developed water rights to supply the community with water for its future needs;
- C. Utilities has developed extensive storage, pumping and pipeline systems to convey water from remote areas to the community;
- D. The City of Colorado Springs is located in a high desert, semiarid climate where drought conditions periodically occur and where practices to conserve water are necessary;
- E. Abnormally high demand, together with drought conditions and/or system constraints, may reduce the water available to Utilities' water supply system to the point of creating a water shortage;
- F. Utilities has proactively developed a drought response plan that is a layered contingency plan to provide for a systematic response restricting customer water use and moderating water waste to meet the essential needs of the community; and
- G. It is necessary to provide Utilities with flexibility to implement measures to restrict water use as deemed appropriate to conserve the water supply of the City of Colorado Springs to protect the health, safety and general welfare of the citizens during periods of potential water shortage. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1302: PURPOSE AND INTENT:

It is the purpose and intent of this part to proactively establish procedures for systematically managing water demand through conservation measures and measures designed to limit water use during a system constraint or drought related shortage. The procedures listed in this part are designed to be used during atypical and irregular events, and are not intended for use as a substitute for developing water supply projects. This part shall be liberally construed to effectuate this purpose and intent. Nothing in this part may be construed to prohibit any person having a direct legal right or owning an appropriated water right from using water in accord with the express terms and conditions of any permit to use or appropriate water issued under authority of the State Engineer or pursuant to any lawful court order or decree. Nothing in this part shall be construed to supersede the tariffs of Utilities. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1303: DEFINITIONS:

Unless the context specifically indicates otherwise, the following terms, as used in this part, shall have the following meanings:

CERTIFIED COMMERCIAL CAR WASH: Commercial car washes that have completed a certification program developed by Utilities that will require implementation of industry best management practices or achieve a thirty percent (30%) water saving as compared to a nonrecycling car wash.

CHIEF EXECUTIVE OFFICER: The Executive Director of Utilities or the Executive Director's designees, if any. The Chief Executive Officer is the Utilities Director appointed by City Council pursuant to City Charter section 6-10.

COMMUNITY GARDEN: A single premises gardened collectively by a group of natural people to produce edible produce, for noncommercial purposes, and operated by a nonprofit entity registered with the State of Colorado.

DRIP IRRIGATION: Low pressure, low volume irrigation applied slowly, near or at ground level to minimize runoff and loss to evaporation, including the use of a bubbler, drip emitter, in-line tubing or soaker hose. Does not include microsprays.

HAND WATERING: The use, expenditure, or application of water supplied to a water customer through a hose or container held by a person where the water is used for any exterior purposes or is otherwise expended outside any dwelling, building or structure.

HIGH USE SPORTS FIELD: A playing field where sporting events take place on a regular basis, that is available for use by the public or club, school or professional sports teams, including, but not limited to, fields, sport complexes and stadiums designed for baseball, football, soccer, track and golf, where adequately watered turf grass is necessary to maintain the safety of participants and the public. Practice fields and neighborhood parks are

not considered high use sports fields.

HOSE END SPRINKLER: A device used to irrigate that is attached to the end of a hose that can be set in place and periodically moved from one location to another.

IRRIGATE: To apply or to expend water onto land, whether by channels, by flooding, by sprinkling or by any other means whatsoever, except hand watering. This term shall also refer to any act of irrigation.

LANDSCAPE: Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, vegetables, gardens or turf grass.

NONPOTABLE WATER: Water not meeting State drinking water standards that can include, but not be limited to, water from streams, rivers, lakes, groundwater or reclaimed water.

OBSERVED VIOLATION: A violation of this part that is observed by a designated Utilities' employee that has been trained in the administration of this part.

POND: Artificially constructed outdoor pond used for decorative or aesthetic purposes.

POP UP FIXED SPRAY SPRINKLER: A type of fixed spray sprinkler that pops up from underground and waters a set pattern, usually from five to fifteen feet (5 - 15') in range.

POP UP ROTARY TYPE SPRAY SPRINKLER: A type of spray sprinkler that rotates where a stream of water is moved back and forth across the area being watered. Pop up rotary type spray sprinklers can be impact or gear driven.

POTABLE WATER: Water suitable or intended for human consumption.

SHORTAGE: A condition that exists when the estimated supplies of water available from Utilities' water system are not projected to meet customer demands within an acceptable safety margin. Shortage conditions may be the result of a prolonged drought, unplanned outages of major delivery systems, or other factors affecting water supply.

SPRAY IRRIGATION: Irrigation utilizing hose end sprinklers, pop up fixed spray sprinklers, and pop up rotary type spray sprinklers.

SPRINKLER SYSTEM: An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location.

SPRINKLER ZONE: Section of an irrigation system served by a single control valve.

STAGE I SHORTAGE (WATCH): The first level of voluntary water shortage response measures intended to reduce water demand placed upon the water supply system.

STAGE II SHORTAGE (WARNING): The second level of water shortage response measures intended to reduce water demand placed upon the water supply system.

STAGE III SHORTAGE (SEVERE): The third level of water shortage response measures intended to reduce water demand placed upon the water supply system.

STAGE IV SHORTAGE (CRITICAL): The fourth level of water shortage response measures intended to reduce water demand placed upon the water supply system.

TURF GRASS: Continuous plant coverage of grasses that, when regularly mowed, form a dense growth of leaf blades and roots.

WATER: All potable and nonpotable water supplied from the water supply system to any water customer.

WATER CUSTOMER: The person designated on the records maintained by Utilities as the person responsible for payment of charges incurred for the use of the water supply system on public or private premises being served, or any person of lawful age who uses water at the premises served.

WATER FEATURE: Any fountain or waterfall used for decorative or aesthetic purposes.

WATER SHORTAGE RESPONSE MEASURES: Measures, such as restrictions on the use of water and short term water conservation measures, implemented to achieve temporary water savings that should not be confused with ongoing water conservation efforts, which are intended to achieve long term savings. Water shortage response measures may be severe and affect different customer classes, businesses, and industries to differing degrees. (Ord. 02-59; Ord. 03-41; Ord. 03-85; Ord. 13-10; Ord. 14-23)

12.4.1304: WASTE OF WATER PROHIBITED:

- A. No water customer shall allow, permit or cause the waste of water, which shall include any use of water in violation of this part.

- B. During any water shortage declared under this part, no person or association or other entity shall impose or enforce private covenants, conditions, restrictions, deed clauses or other agreements between private parties which require any person to retain existing turf grass, to install new turf grass or to irrigate existing turf grass in a manner inconsistent with this part. (Ord. 02-59; Ord. 03-41)

12.4.1305: AUTHORIZATION:

- A. Utilities is authorized to enforce this part.
- B. The City Council may declare a Stage I, Stage II, Stage III or Stage IV shortage when either a hydrologic or emergency shortage exists as defined below.
1. Hydrologic Shortage: If total system storage is projected to be below 1.5 years of demand in storage on April 1, then an analysis will be conducted by Utilities' staff. The analysis will take into account system demands, water supply indicators such as long range weather forecasts, snowpack, precipitation, temperature, evaporation, stream flow, soil moisture, projected storage levels, response of other water suppliers, operational constraints, and risk tolerance. If the analysis reveals a substantial risk of shortage, then the results will be reported to the City Council with a recommendation for implementation of water shortage response measures, including declaration of a Stage I, Stage II, Stage III or Stage IV shortage.
 2. Emergency Shortage: An emergency shortage exists when emergency conditions such as infrastructure failure, natural disaster, regulatory issue or other factors hinder Utilities' ability to meet customer water demands.
- C. The Chief Executive Officer may propose and implement additional water shortage response measures (beyond those contained in this part) or modify existing water shortage response measures as deemed necessary. However, the City Council must formally approve proposed additional or modified water shortage response measures.
- D. During a declared shortage, the City Council shall have the authority to approve the implementation of a water shortage tariff as part of an overall program to increase customer awareness of the shortage severity and the importance of saving water. All water shortage tariffs must be set by City Council pursuant to section 12.1.107 of this chapter. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1306: STAGE I SHORTAGE (WATCH):

A Stage I shortage may be declared when the Chief Executive Officer informs the City Council that the analysis required by subsection 12.4.1305B1 of this part or the existence of an emergency shortage indicate that proactive measures should be taken to avoid or reduce the severity of a shortage. During a Stage I shortage, Utilities will increase public communication and education efforts aimed at water conservation, will encourage the community to conserve water wherever possible and will evaluate the adjustment of water rates to promote the efficient use of water. During a Stage I shortage, water customers are encouraged to follow the voluntary water conservation measures set forth below:

- A. Water landscaped areas with spray irrigation only between the hours of six o'clock (6:00) P.M. and ten o'clock (10:00) A.M. during the period from May 1 to October 14.
- B. Only water landscaped areas with spray irrigation no more than three (3) days per week.
- C. Not apply water intended for irrigation to an impervious surface, such as a street, parking lot, alley, sidewalk or driveway.
- D. Not use water to clean outdoor impervious surfaces such as sidewalks, driveways and patios, except when cleaning with water is necessary for public health or safety reasons or when other cleaning methods are impractical.
- E. Not allow water to pool or flow across the ground or into any drainageway, such as gutters, streets, alleys or storm drains.
- F. Not wash motor vehicles, trailers, boats and other types of equipment with a hose that lacks an active positive shutoff nozzle.
- G. Not fail to repair or disable, for a period of more than ten (10) calendar days, leaking or damaged irrigation system components, service lines or other plumbing fixtures.
- H. Install a rainfall sensor, with a battery backup, capable of turning off an automatic clock controlled irrigation system. A list of recommended devices is available from Utilities.
- I. Properly prepare soil before installation of plant material. Proper soil preparation is the equivalent of adding compost at a rate of four (4) cubic yards per one thousand (1,000) square feet of permeable area, incorporated (rototilled) to a depth of six inches (6").
- J. Restaurants, hotels, cafes, cafeterias or other public places where food is sold, served or offered for sale, are encouraged not to serve drinking water unless expressly requested by a patron. (Ord. 02-59; Ord. 03-41; Ord. 13-10; Ord. 14-23)

12.4.1307: STAGE II SHORTAGE (WARNING):

A Stage II shortage may be declared when the Chief Executive Officer informs the City Council that the analysis required by subsection 12.4.1305B1 of this part or the existence of an emergency shortage indicates that the Stage I response is insufficient to reduce demands to a level in proportion to the severity of the shortage. The following restrictions on the use of water by water customers and water conservation measures shall be in effect and required during a Stage II shortage:

- A. 1. Except as provided in subsection A4 of this section, outdoor landscape watering shall only be allowed in accord with this section. The Chief Executive Officer will determine the appropriate level of outdoor landscape watering based on several criteria, including, but not limited to, the severity of the shortage and the need to reduce demand on the water system. However, the City Council must formally approve the applicable level of outdoor landscape watering, whether for potable and/or nonpotable water, by resolution.

Level A:

Outdoor landscape watering shall only be allowed three (3) days per week.

Level B:

Outdoor landscape watering shall only be allowed two (2) days per week on designated days as follows: a) residential users with even numbered addresses may only irrigate on Sunday and Wednesday; b) residential users with odd numbered addresses may only irrigate on Tuesday and Saturday; and c) commercial users may only irrigate on Monday and Friday.

Level C:

Outdoor landscape watering shall only be allowed one day per week on designated days as follows: a) residential users with even numbered addresses may only irrigate on Sunday; b) residential users with odd numbered addresses may only irrigate on Saturday; and c) commercial users may only irrigate on Friday.

2. Outdoor landscape watering shall not exceed: twenty (20) minutes per sprinkler zone or area for pop up fixed spray sprinklers and forty five (45) minutes per zone or area for pop up rotary type spray sprinklers (including, but not limited to, impact or gear drive) each watering day. Outdoor landscape watering with hose end sprinklers shall not exceed three (3) hours each watering day.
3. Watering of landscaped areas with spray irrigation shall not occur between the hours of ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. during the period from May 1 to October 14, except for watering essential to preserve turf grass associated with high use sports fields, except as otherwise prohibited by other applicable laws, ordinances, codes, rules and regulations.

4. Outdoor landscape watering with a drip irrigation system, handheld hose equipped with an active positive shutoff nozzle or handheld container is allowed for trees, shrubs, and plants (including community gardens, vegetable and flower gardens, but excluding turf grass) at any time.
5. If there is no street address associated with the premises, such as a parkway or median (private or public), the outdoor landscape watering schedule for commercial users shall be followed.

- B. In a Stage II shortage, irrigation with nonpotable water shall not exceed four (4) times per week per zone or area during Level A; three (3) times per week per zone or area during Level B; and two (2) times per week per zone or area during Level C. The foregoing shall not apply to the watering of tees and greens at golf courses. Water customers using nonpotable water to irrigate shall submit a watering schedule plan to Utilities for review and approval and shall comply with the approved plan. Any water customer following the nonpotable irrigation schedule shall post a notice to that effect. The notice shall be posted on the premises so as to be visible from a public street at all times. A copy of the posted notice will be provided by Utilities.

During periods of drought, nonpotable water may be more or less abundant than other water supplies. Given the potential differing circumstances, the Chief Executive Officer may implement additional restrictions or other water shortage response measures on the use of water by nonpotable customers in accord with subsection 12.4.1305C of this part.

- C. No water customer shall: 1) apply water to any turf grass, sodded or landscape area resulting in the pooling or flowing of water across the ground or into drainageways, including, but not limited to, gutters, streets, alleys and storm sewers; 2) fail to repair or disable any irrigation system, service line or other plumbing fixture that is leaking or damaged within four (4) calendar days after notice; or 3) apply water intended for landscape irrigation to an impervious surface, such as a street, sidewalk, driveway, patio or deck.
- D. Motor vehicles, trailers, boats and other types of equipment shall be washed: 1) during Level A only on Wednesdays, Fridays, Saturdays and Sundays for residential users with even numbered addresses; on Tuesdays, Thursdays, Saturdays and Sundays for residential users with odd numbered addresses; and on Mondays, Fridays, Saturdays and Sundays for commercial users, and 2) during Levels B and C only on a water customer's designated watering days as set forth in subsection A1 of this section and on Saturdays and Sundays. Further, motor vehicles, trailers, boats and other types of equipment shall be washed only with a handheld hose equipped with an active positive shutoff nozzle for quick rinses or with a bucket. Washing of motor vehicles, trailers, boats and other types of equipment may be done by a commercial car wash on any day of the week. Each commercial car wash must develop, maintain on site and comply with a best management practices plan that demonstrates optimal use of water. This plan must be

available for review and approval upon request by Utilities at all reasonable times. Utilities may require periodic reporting to demonstrate optimal use of water.

- E. Water shall not be used to wash sidewalks, walkways, patios, driveways, parking areas or other impervious surfaces, except to eliminate conditions that pose a threat to public health or safety or when required as surface preparation for the application of architectural coatings or painting.
- F. The use of water in all public and private water features and ponds is prohibited except those using recirculating water.
- G. No restaurant, hotel, cafe, cafeteria or other public place where food is sold, served or offered for sale, shall serve drinking water unless expressly requested by a patron.
- H. Temporary water service permits shall be limited to approved uses established by Utilities and shall be subject to all applicable laws, ordinances, codes, rules and regulations related to temporary water service. Utilities will maintain a list of the then current approved uses.
- I. Plants for commercial sale may be watered under a best management practices plan in lieu of compliance with restrictions contained in subsections A and B of this section. The commercial user must develop, maintain on site and comply with a best management practices plan that demonstrates optimal use of water. This plan must be available for review and approval upon request by Utilities at all reasonable times. Utilities may require periodic reporting to demonstrate optimal use of water.
- J. Any commercial user operating a golf course may irrigate under a best management practices plan in lieu of compliance with restrictions contained in subsections A and B of this section, and subsection 12.4.1312B of this part. The commercial user must develop, maintain on site and comply with a best management practices plan that demonstrates optimal use of water. This plan must be available for review and approval upon request by Utilities at all reasonable times. Utilities may require periodic reporting to demonstrate optimal use of water.
- K. A functioning rainfall sensor, with a battery backup, capable of turning off an automatic clock controlled irrigation system is required on all irrigation systems installed after April 1, 2013. A list of approved devices is available from Utilities.

- L. The approval of an application for water service at a premises where landscaping will be irrigated is contingent upon the owner of the premises agreeing to proper soil preparation before installation of plant material. Proper soil amendment is the equivalent of adding approved compost at a rate of four (4) cubic yards per one thousand (1,000) square feet of permeable area, incorporated (rototilled) to a depth of six inches (6"). (Ord. 02-59; Ord. 03-41; Ord. 03-85; Ord. 05-46; Ord. 05-49; Ord. 13-10; Ord. 14-23)

12.4.1308: STAGE III SHORTAGE (SEVERE):

A Stage III shortage may be declared when the Chief Executive Officer informs City Council that the analysis required by subsection 12.4.1305B1 of this part or the existence of an emergency shortage indicate that the Stage II response is insufficient to reduce demands to a level in proportion to the severity of the shortage. In addition to the Stage II restrictions and water conservation measures set forth above, the following restrictions on the use of water by water customers shall be in effect and required during a Stage III shortage, except that in the event of a conflict the following restrictions shall prevail:

- A. Irrigation of turf grass and all other plant material other than trees and shrubs is prohibited. Existing trees and shrubs may be watered one day per week by means of a handheld hose equipped with an active positive shutoff nozzle or low volume drip irrigation on assigned day as follows: 1) residential users with even numbered addresses may only irrigate on Sunday; 2) residential users with odd numbered addresses may only irrigate on Saturday; and 3) commercial users may only irrigate on Friday.
- B. A water customer that owns or operates a high use sports field may apply for an exemption from the turf grass irrigation prohibition. The Chief Executive Officer or designee may approve the use of water budgets for high use sports fields which will establish a maximum allowable amount of water, within which the irrigators will be permitted flexibility to choose how to irrigate without exceeding the budget. In addition to the penalties described in section 12.4.1316 of this part, violation of any term or condition of an exemption may result in immediate rescission of the exemption.
- C. Indoor industrial and commercial water use shall be reduced by an amount, to be determined by Utilities, in relationship to the severity of the shortage, which amount shall not exceed ten percent (10%).

- D. The use of water for cooling or air conditioning spaces for the purpose of personal comfort shall be restricted to that amount of water necessary to maintain a minimum air temperature of seventy eight degrees Fahrenheit (78°F), and all thermostats controlling the use of water for cooling within a building or structure shall be set at seventy eight degrees Fahrenheit (78°F) or higher.
- E. Washing of motor vehicles, trailers, boats and other types of equipment shall be prohibited, except that washing may be done by a certified commercial car wash.
- F. Vehicles contained in commercial operation or fleets may be washed no more than once per month, unless public safety requires more frequent washing. Fleet vehicles may only be washed at a certified commercial car wash.
- G. The use of water in all public and private water features shall be prohibited.
- H. Filling or refilling any pond shall be prohibited.
- I. Power washing shall only be used for protection of public health, safety or welfare. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1309: STAGE IV SHORTAGE (CRITICAL):

A Stage IV shortage may be declared when the Chief Executive Officer informs the City Council that the analysis required by subsection 12.4.1305B1 of this part or the existence of an emergency shortage indicate that the Stage III response is insufficient to reduce demands to a level in proportion to the severity of the shortage. In addition to the Stage II and Stage III restrictions and water conservation measures set forth above, the following restrictions on the use of water by water customers shall be in effect and required during a Stage IV shortage, except that in the event of a conflict the following restrictions shall prevail:

- A. All outside use of water is prohibited except that existing trees and shrubs may be watered one day per month by means of a handheld hose equipped with an active positive shutoff nozzle or low volume drip irrigation on designated days as follows: 1) residential users with even numbered addresses may only irrigate on the second Sunday

of the month; 2) residential users with odd numbered addresses may only irrigate on the second Saturday of the month; and 3) commercial users may only irrigate on the second Friday of the month.

B. No new or additional connections to the water system will be allowed.

C. Indoor industrial and commercial water use shall be reduced by an amount, to be determined by Utilities, in relationship to the severity of the shortage, which amount shall not exceed twenty percent (20%). (Ord. 13-10)

12.4.1310: DURATION OF WATER USE RESTRICTIONS:

Utilities will regularly evaluate the estimated supplies of water available to the water system to determine whether it is necessary to continue the water use restrictions of a declared stage or level. Stages and levels may be declared in accord with sections 12.4.1305, 12.4.1306, 12.4.1307, 12.4.1308 and 12.4.1309 of this part and, if water supply conditions warrant, the Chief Executive Officer may either downgrade or withdraw a declaration of a Stage I, Stage II, Stage III or Stage IV shortage, subject to City Council approval by resolution. If a declared shortage has not previously been withdrawn by the Chief Executive Officer or City Council, it shall automatically be reset to Stage I on October 15 of the year in which it was declared. (Ord. 02-59; Ord. 03-41; Ord. 13-10; Ord. 14-23)

12.4.1311: ALTERNATIVE WATER MANAGEMENT PLANS:

A. General: A water customer may request relief from applicable provisions of this part by filing an alternative water management plan with Utilities. Utilities intends to provide water customers with the ability to design water management alternatives that give water customers flexibility in meeting the requirements of this part while achieving maximum conservation goals.

B. Alternative Water Management Plan: Alternative water management plans shall contain proposed water reduction measures or otherwise demonstrate optimal use of water. Utilities may require periodic reporting to demonstrate optimal use of water. In the event a water customer submits an alternative water management plan for irrigation, the water customer's plan shall be in accord with Utilities' irrigation criteria. Alternative water management plans for irrigation shall not be allowed during a Stage III or Stage IV

shortage. Alternative water management plans previously approved by Utilities will be automatically withdrawn effective December 31 of each year.

- C. Approval: No alternative water management plan shall be approved unless the water customer affirmatively demonstrates that: 1) proposed water reduction measures achieve at least the same level of demand reduction as the applicable restrictions of this part; or 2) recently implemented water conservation measures achieve at least the same level of demand reduction or efficiency as the applicable restrictions of this part; or 3) the water customer has a critical need. Alternative water management plans must be reviewed and approved by Utilities in writing based on the then current criteria established by Utilities before a water customer may implement any alternative water management plan. The water customer shall comply with the conditions of the approved alternative water management plan unless good cause exists for changes to the plan and the plan is amended accordingly and approved as set forth in this subsection. Any water customer with an approved alternative water management plan shall post a notice of the existence of the plan on the premises so as to be visible from a public street at all times during the term of the plan. A copy of the posted notice will be provided by Utilities. Utilities may withdraw or amend approved alternative water management plans upon the movement to a different declared stage or outdoor landscape watering level.
- D. Violations: In the event a water customer violates any condition of an alternative water management plan approved under this section, then the approval granted under this section may be withdrawn, and Utilities may add a charge to the water customer's bill equal to one hundred dollars (\$100.00) for a residential user and five hundred dollars (\$500.00) for a commercial user. (Ord. 02-59; Ord. 03-41; Ord. 13-10; Ord. 14-23)

12.4.1312: EXCEPTIONS:

- A. Water customers may use water essential to protect the general public health, safety or welfare.
- B. During any level of a declared Stage II shortage, a water customer installing landscape material may obtain an establishment permit for the purpose of irrigating the installed landscape material at times other than as set forth in section 12.4.1307 of this part. Applications for establishment permits shall be submitted to Utilities on a form supplied by Utilities, and shall include all necessary supporting documentation. Applications shall be accompanied by a fifty dollar (\$50.00) permit fee. The applicant shall comply with the conditions of the establishment permit. The establishment permit shall be displayed on the premises so as to be visible from a public street at all times during the term of the

establishment permit. During Level C of a Stage II water shortage, from May 1 through September 30, there shall be no outdoor landscape watering for establishment except as set forth in section 12.4.1307 of this part, regardless of whether a water customer holds an establishment permit. In the event a water customer violates any of the requirements set forth in this section, then the establishment permit will be revoked.

- C. Irrigation systems may be operated at any time for cleaning and maintenance purposes, but this limited operation shall not exceed ten (10) minutes per zone per week. On a residential user's premises, an attendant must be on site and visible throughout the entire maintenance operation. On a commercial user's premises, an attendant must be on site and a sign indicating maintenance is being performed must be posted and visible from a public street throughout the entire maintenance operation. (Ord. 02-59; Ord. 03-41; Ord. 03-85; Ord. 13-10)

12.4.1313: SPECIAL CONTRACT SERVICE:

All contracts for water service entered into pursuant to section 12.4.304 of this article shall expressly provide that any use of water provided from Utilities' water supplies pursuant to such a contract is subject to the restrictions set forth in this part. (Ord. 13-10; Ord. 14-23)

12.4.1314: ACCESS TO PREMISES:

Whenever necessary for the purposes of investigating any alleged violation of this part, Utilities shall have the power, upon the presentation of proper credentials, to enter and inspect at any reasonable time and in any reasonable manner the exterior of a water customer's premises.

If entry to or inspection of the premises is denied or not promptly permitted, Utilities is authorized to make application to any Judge of the Municipal Court of the City for the issuance of an inspection warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired, shall state the facts giving rise to the belief that a condition which is dangerous to the public health, safety or welfare exists at the premises and shall otherwise conform to the requirements of CMCR 241 and chapter 11 of this Code. Any warrant issued pursuant to the application shall command the owner or occupant to permit entry by Utilities for the purpose stated. (Ord. 02-59; Ord. 03-41; Ord. 04-178; Ord. 13-10)

12.4.1315: LIABILITY:

Each water customer shall be responsible for compliance with this part with respect to the water customer's premises, and shall be responsible for applicable charges for noncompliance with this part. In the event of an alleged violation of this part, proof of the existence of a declared water shortage and proof of any violation of any restriction set forth in this part, together with proof that the violation originated at any water customer's premises, shall constitute a rebuttable presumption that the water customer is responsible for the violation. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1316: VIOLATIONS AND CHARGES:

- A. Utilities is authorized to enforce this part utilizing a variety of methods, including, but not limited to, conducting customer education, issuing warnings and the addition of charges to water bills. The Chief Executive Officer shall determine the stage of shortage at which the addition of charges to water bills will be used as an enforcement mechanism.
- B. In the event Utilities determines that an observed violation of this part has occurred on a water customer's premises during a Stage II, Stage III, or Stage IV shortage, the water customer may be subject to imposition of the following:
1. For a first observed violation of a Stage II, Stage III, or Stage IV restriction as set forth in sections 12.4.1307, 12.4.1308, 12.4.1309 or subsection 12.4.1312C of this part within a calendar year, Utilities shall notify the water customer in writing of the violation and issue a written warning to the water customer.
 2. For a second and any subsequent observed violation of a Stage II restriction as set forth in section 12.4.1307 or subsection 12.4.1312C of this part within a calendar year, Utilities shall notify the water customer in writing of the violation and shall add a charge to the water bill for the premises up to: a) three hundred dollars (\$300.00) for a violation of a Level A restriction; b) five hundred dollars (\$500.00) for a violation of a Level B restriction; and c) six hundred dollars (\$600.00) for a violation of a Level C restriction.
 3. For a second and any subsequent observed violation of a Stage III restriction as set forth in section 12.4.1308 of this part within a calendar year, Utilities shall notify the water customer in writing of the violation and shall add a charge to the water bill for the premises up to one thousand dollars (\$1,000.00).
 4. For a second and any subsequent observed violation of a Stage IV restriction as set forth in section 12.4.1309 of this part within a calendar year, Utilities shall notify the water customer in writing of the violation and shall add a charge to the water bill for the premises up to one thousand dollars (\$1,000.00).

- C. For repeated observed violations of this part occurring during any Stage II, Stage III, or Stage IV shortage, Utilities may, in its discretion: 1) disconnect water service to the premises on which the violations occurred in accord with the tariffs of the Utilities; or 2) restrict water flow to the water customer at the premises at which the violations occurred. Any flow restriction shall remain in place for a period determined by Utilities, based upon the severity of the violation as well as the applicable declared stage.
- D. Whenever a water customer is found by Utilities to be in violation of this part, a notice of violation must be issued. The notice of violation must be on a form prescribed by Utilities.
- E. The notice of violation must be served upon the water customer by fixing the notice to the premises of the water customer in a conspicuous place, by personal delivery, or by sending the notice electronically or by U.S. mail. If sent electronically or by mail, service shall be deemed complete upon sending or mailing. Service of the notice of violation by affixation has the same force and effect and is subject to the same penalties for disregarding a notice, as if the notice of violation were personally served on the water customer. For purposes of this part, a person who is of full legal age and who resides at the premises is deemed to be the agent of the water customer to receive a notice of violation.
- F. Any charge assessed pursuant to this part shall be collectible in the same manner as a water charge under the tariffs of Utilities and if unpaid, water service for the premises may be discontinued in accord with the tariffs of Utilities.
- G. Whenever a water customer fails to correct a violation within the correction period set forth on a notice of violation, this failure to correct shall constitute an additional violation.
- H. Except for any charge assessed pursuant to section 12.4.1311 of this part, any charge assessed a commercial user pursuant to this part shall be equal to two (2) times the applicable charge. (Ord. 02-59; Ord. 03-41; Ord. 13-10)

12.4.1317: DISPUTE RESOLUTION:

Any water customer's dispute with Utilities concerning this part shall first be addressed through review by Utilities' management. If the review by Utilities' management does not resolve the dispute, the dispute shall be resolved in accord with the dispute resolution process set forth in the tariffs of Utilities. Requests for dispute resolution must be received

by Utilities from the water customer within sixty (60) days from the date of the notice of violation or addition of a charge to a water bill, whichever comes last. (Ord. 02-59; Ord. 03-41; Ord. 13-10)