

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING CHAPTER 14.20 OF THE MUNICIPAL CODE WITH RESPECT TO UNLAWFUL WATER USE AND REGULATIONS DURING WATER SHORTAGE CONDITIONS.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 14.20.130 of Chapter 14.20 of Title 14 of the Santa Barbara Municipal Code is added to read as follows:

14.20.130 Unlawful Use of Water and Meter Removal.

It shall be unlawful:

(a) for a person or entity that is not an Account Holder to use water through a Meter, unless such person or entity is authorized by agreement with the Account holder to use such water through such Meter;

(b) for a person or entity to use water from a fire hydrant, except as authorized by a permit issued by the Public Works Director;

(c) for a person or entity to use water from a dedicated fireline except in response to a fire or in the minimum amount needed to perform maintenance of such fireline, or as authorized by the Public Works Director;

(d) for a person or entity to use water from a Connection

that does not have a Meter, except as expressly authorized by the Public Works Director;

(e) for a person or entity to use water from a Meter for which there is no active Account Holder; and

(f) for any person or entity to remove a Meter from a Water Service, except as authorized by the Public Works Director.

SECTION 2. Section 14.20.215 of Chapter 14.20 of Title 14 of the Santa Barbara Municipal Code is amended to read as follows:

14.20.215 Water Use Regulations During Water Shortage

Conditions.

A. WATER SHORTAGE CONDITIONS. A Stage One Water Shortage Condition, a Stage Two Water Shortage Condition and a Stage Three Water Shortage Condition are defined as short-term conditions declared by resolution of the City Council upon being advised by staff that projected water supply conditions warrant response measures consistent with those associated with corresponding stages in the City's adopted Water Shortage Contingency Plan. The Council resolution may identify and refer to such short-term conditions in terms or titles specific to the current water shortage.

B. REGULATIONS DURING WATER SHORTAGE CONDITIONS. Upon adoption by the City Council of a resolution declaring a Stage One Water Shortage Condition, a Stage Two Water Shortage Condition or a Stage Three Water Shortage Condition, or such other titles as may be selected by Council pursuant to subsection A, the City Council may adopt a resolution containing such rules and regulations as necessary to restrict and regulate use of water from the City's water supply system in order to protect the public health and safety. Failure of any person or entity to comply with such rules and regulations as adopted by resolution of the City Council is a violation of this Code subject to the remedies and penalties provided herein and as provided by Chapter 1.28 and as otherwise provided by law.

C. EXEMPTIONS. Exemptions to the water use regulations set forth by City Council resolution during a declared Stage One, Stage Two or Stage Three Water Shortage Condition, may be granted by the Public Works Director for specific uses of water on the basis of factually demonstrated need or undue hardship and in accordance with guidelines for exemptions as may be determined by the Public Works Director.. If the Public Works Director denies a request for an exemption for a specific water use, a written request for reconsideration may be made to the Board of Water Commissioners. The decision of the Water

Commission shall be final. D. Upon the declaration of and during a Water Shortage Condition, the failure of a mobilehome park owner to introduce water into a swimming pool or spa located in a mobilehome park, in accordance with the City Council resolution, shall not be considered an increase in "rent" for purposes of Municipal Code Section 26.08.030.N.

SECTION 3. Section 14.20.225 of Chapter 20 of Title 14 of the Santa Barbara Municipal Code is amended to read as follows:

14.20.225 Violations.

A. Any failure to comply with a provision of this Chapter shall constitute a violation of this Code, regardless of whether the failure to comply is caused by an Account Holder, a Consumer or any other person or entity.

B. Where the failure to comply with this Chapter is continuing and reasonably preventable by the person or entity failing to comply, each successive hour of such failure to comply shall be a separate and distinct violation.

SECTION 4. Section 14.20.226 of Chapter 20 of Title 14 of the Santa Barbara Municipal Code is amended to read as follows:

14.20.226 Penalties and Charges.

A. In addition to the penalties and other methods of enforcement provided in Santa Barbara Municipal Code Chapter 1.28, the following penalties may also be applied to any

violation of any provision of this Chapter:

1. For the first violation within the preceding twelve (12) calendar months, the Director shall issue a written notice of the fact of such violation.

2. For a second violation within the preceding twelve (12) calendar months, the Director shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty dollars (\$250.00).

3. For a third violation within the preceding twelve (12) calendar months, the Director:

a. Shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty dollars (\$250.00); and

b. May install a flow restricter on the service where the violation occurred or is occurring, for a period to be determined by the Director.

4. For a fourth and any subsequent violation within the preceding twelve (12) calendar months, the Director:

a. Shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty

dollars (\$250.00); and

b. May install a flow restricter on or shut off water service to the property where the violation occurred or is occurring, for a period to be determined by the Director.

B. If a flow restricter is installed or water service shut off pursuant to subsection A of this section, prior to restoration of normal water service the Account Holder whose service is affected shall be required to reimburse the City for all costs it has incurred and will incur in installing and removing a flow restricter and in shutting off and turning on water service.

C. Any penalty imposed pursuant to this section shall be added to the account of the Account Holder for the property where the violation occurred or is occurring and shall be due and payable on the same terms and subject to the same conditions as any other charge for regular water service.

SECTION 5. Section 14.20.227 of Chapter 20 of Title 14 of the Santa Barbara Municipal Code is amended to read as follows:

14.20.227 Notice of Violation - Hearing.

A. For each violation of this Chapter, the Director shall give notice as follows:

1. By sending written notice through the U.S. mail to the Account Holder for the property where the violation occurred or is occurring, at the current billing address shown in the City's

water billing records; and

2. By personally giving written notice thereof to the person who committed the violation or by leaving written notice with some person of suitable age and discretion at the property where the violation occurred or is occurring; or

3. If neither the person who committed the violation nor a person of suitable age and discretion can be found, then by affixing written notice in a conspicuous place on the property where the violation occurred or is occurring.

B. Any written notice given under this Section shall contain a statement of:

1. The time, place and nature of the violation;
2. The person(s) committing the violation, if known;
3. The provision(s) of this Chapter violated;
4. The possible penalties for each violation;
5. The Account Holder's right to request a hearing on the violation and the time within which such a request must be made;

and

6. The Account Holder's loss of the right to a hearing in the event the Account Holder fails to request a hearing within the time required.

C. Any Account Holder provided a notice of violation in accordance with the provisions of this Chapter shall have the

right to request a hearing. The request must be made in writing and must be received by the Director within ten (10) calendar days of the date of the notice of violation. The Director shall conduct the hearing, at which both written and oral evidence may be presented, and shall decide whether a violation occurred and the appropriate penalty. In determining the appropriate penalty, the Director shall consider whether the Account Holder knew of the violation at the time it occurred and whether he or she took reasonable action to correct the violation upon notification of it. In addition, the Director shall exercise his or her discretion in accordance with such guidelines as the City Council may adopt by resolution.

1. For a first, second or third violation within a twelve (12) month period, the decision of the Director shall be final.

2. For a fourth or subsequent violation within a twelve (12) month period, the Account Holder shall have the right to appeal the decision of the Director by requesting a hearing before the Board of Water Commissioners ("Board"). The request for hearing before the Board shall be in writing and shall be delivered to the Director not later than seven (7) calendar days after the date of the decision of the Director. At the hearing, the Board may receive and hear both written and oral evidence and shall have the authority to affirm, reverse, or modify the decision of

the Director. The decision of the Board shall be final.

D. If an Account Holder fails to request a hearing before the Director or the Board within the period(s) provided in this Section, the action of the Director shall be deemed final.

E. Water service shall not be shut off until a notice of violation has become final or there is a final decision of the Director or the Board ordering the shut-off of water service.