

AGENDA SUBMITTAL

To: GCSO Board of Directors
From: Directors Steve Perreira (to be presented by Bob Swan if Dir. P. is absent)

Date: September 22, 2016

Subject: Action Item:

1. **Revise the Drought Ordinance for Fair per EDU allocations**
2. **Revise the UWMP to include the Revised Drought Ordinance principles into the Water Shortage Contingency Planning section**

BACKGROUND:

The current Drought Ordinance was stitched together by the GM excerpting elements from drought ordinances found in other agency ordinances. The current ordinance allows higher water use for customers who have historically used (and wasted) the most water. Hence those who have historically conserved water may well be punished for lower water usage, while the wasters get higher use before penalties apply to them. It also recommends lightweight, delayed enforcement to begin with, however culminates with punishment that may include imprisonment for chronic water wasters (even though the District has the authority to restrict water use by such violators). The Ordinance was adopted as proposed with my dissent. It is unfair and deeply flawed.

In mid-2015, the Board considered revising the Drought Ordinance. Bob Swan and Steve Perreira produced competing proposals that eventually grew together based on 5 principles:

1. Equal Allocations per EDU for all customers (No Water Waster "historical use" privilege)
2. Frequent Meter Reading with quickly applied, substantial Fines (up to daily) for water wasters
3. Restrict water flow (installed at customer expense) for chronic wasters
4. Commercial, Industrial, Institutional allocation can be appealed to GM (Board Approved)
5. No Jail for water wasters

As the revised ordinance was on the cusp of approval in 2015, early summer water conservation numbers were reported by the GM, and he suggested the existing ordinance was working well enough. Since the new ordinance would require more staff effort to inform the public about, and possibly more effort to enforce, the Board stuck with the current ordinance. The District achieved a water conservation rate of greater than the 24% State Mandate in 2015, just barely. We note that virtually no fines were applied to water wasters in 2015. We note that virtually no fines were applied to water wasters in 2015. Likely it was GCSO's media campaign that informed the majority of good citizens to conserve while the water wasters skated free. The flawed, unfair drought ordinance remains in place.

PROPOSAL - REVISE THE DROUGHT ORDINANCE FOR FAIRNESS

New legislation and the Urban Water Management Plan call for applying a water waster sur-charge for excessive water use. With an allocation based system, the sur-charge can be easily applied at a per-gallon rate for any water use exceeding the allocation.

Suggested steps to improve the 5 Drought Principles already agreed to:

- A. Verify (with legal counsel) that a Water Wasting Sur-Charge is allowed per gallon
- B. Add a Water Wasting Sur-Charge to a Drought Rate Allocation System per EDU
- C. Apply the Water Wasting Surcharge to any volume use above the Baseline Rate (over Tier 1)
- C. Make the **Baseline Water Allocation Annual** (NOT MONTHLY)
- D. Update the UWMP accordingly

Attachments: (None)

Recommended Action:

1. Directors Bob Swan and Steve Perreira to bring a Revised Drought Ordinance before the Board at the next regular Board meeting for consideration
2. Revise the UWMP to include the Revised Drought Ordinance principles into the Water Shortage Contingency Planning section

**GROVELAND COMMUNITY SERVICES DISTRICT
AMENDMENT NO. 1 TO
WATER ORDINANCE NO. 2-10**

**ORDINANCE ESTABLISHING WATER SHORTAGE EMERGENCIES
REGULATIONS**

WHEREAS, California Government Code section 61100, subdivision (a) incorporates Water Code sections 71000 et seq., including sections 71640 et seq., into the Community Services District Law; and

WHEREAS, California Water Code section 71642 authorizes the governing body of a municipal water district to find the existence or threat of a drought emergency or other threatened or existing water shortage, and that finding is prima facie evidence of the fact or matter so found, and such fact or matter shall be presumed to continue unchanged unless and until a contrary finding is made by the board by resolution or ordinance; and

WHEREAS, pursuant to Water Code section 71640, the District may restrict the use of district water during the drought emergency or other water shortage condition and may prohibit the wastage of district water or the use of district water during such periods for any purpose other than household uses or other restricted uses as the District determines to be necessary; and

WHEREAS, the Board of Directors (“Board”) of the Groveland Community Services District (“District”) desires to adopt an ordinance regulating the use of water during water shortage emergencies as they may occur from time to time

NOW THEREFORE, the Board of Directors of the Groveland Community Services District ordains as follows:

Section 1. The above recitals are true and correct, and are hereby incorporated as part of this ordinance.

Section 2. That Article XVIII of Water Ordinance No. 2-10 is hereby added as follows:

“ARTICLE XVIII – WATER SHORTAGE EMERGENCIES

Section 18.01 Definitions.

The following terms are defined for the purpose of this article:

- A. "Allocation" means the calculated percentage of the amount of water delivered to each customer's property during the corresponding monthly billing period of the base year for which no penalty or surplus use charges shall be imposed.
- B. "Applicant" means a customer, firm, partnership, business, corporation, district or governmental agency that requests or receives water from the District.
- C. "Board of Directors" means the Board of Directors of the Groveland Community Services District.
- D. "Customer" or "water consumer" means any customer, firm, partnership, business, corporation, district, or governmental agency that receives water from the District.
- E. "District" means the Groveland Community Services District.
- F. "General Manager" means the General Manager of the District duly appointed by the Board of Directors.
- G. "Water" means potable water supplied by the District to customers within its jurisdiction.

Section 18.02 Purpose and Scope.

This article sets forth water shortage emergency conditions which exist within the boundary of the Groveland Community Services District as declared by resolution of the Board of Directors. These regulations shall become effective with the effective date of the ordinance that includes the provisions of this article. A water shortage emergency declaration shall be in effect upon proper findings made by the Board of Directors after a public hearing and shall remain in effect until the Board of Directors finds and declares by resolution that the water shortage emergency condition has abated, has changed in degree or no longer exists.

Section 18.03 Findings.

The Board of Directors shall make the findings below prior to enforcement of the provisions of this article:

- A. The Board of Directors shall conduct duly noticed public hearings for the purpose of determining whether a water shortage emergency condition exists and, if so, the degree of the emergency and what regulations and restrictions should be enforced in response to the shortage.
- B. The Board of Directors shall adopt a resolution which declares that a water shortage emergency condition exists, the facts and conclusions which support

such a declaration and that the ordinary water demands and requirements of water consumers within the District cannot be satisfied.

- C. The regulations set forth in this article are necessary and proper to protect and conserve the water supply for human consumption, sanitation, and fire protection during the duration of the water shortage emergency condition.
- D. The regulations set forth in this article shall remain enforceable to the extent declared by the Board of Directors and until such time as the Board of Directors finds that the water shortage emergency no longer exists.

Section 18.04. Phases of Water Shortage Emergencies.

The following phases of water shortage emergencies are established. Upon declaration of the Board of Directors that an emergency condition exists, the Board of Directors shall declare the degree of emergency and identify the applicable phase and the regulations, which shall be enforceable for each respective phase. The District recognizes 4 phases of a water shortage emergency as set forth in this section.

- A. Phase 1—Ongoing Water Conservation. The District shall implement the following Phase 1 water conservation measures at all times regardless of the existence of a water shortage emergency:
 - 1. Education programs
 - 2. Promotion of water-saving landscaping.
 - 3. Requirement of low-flow fixtures in new developments.
 - 4. Meter and/or flow control for all customer accounts and plant production activities.
 - 5. Maintain tiered water rates for treated water.
 - 6. Prohibit wasteful use of water.
 - 7. Review water measuring and/or metering devices for accuracy.
- B. Phase II – Voluntary Conservation Measures. Upon the findings of the Board of Directors in accordance with Section 18.03 that there is a potential threat of an emergency or water shortage based on forecasted precipitation, snowpack and reservoir levels, or if San Francisco Public Utilities Commission calls for Phase II conservation measures, the District shall adopt a resolution that implements the following measures:
 - 1. Declare a threat of emergency or shortage exists; and
 - 2. Identify a water reduction goal of ten percent (10%); and
 - 3. Immediately implement the following Phase II conservation measures:
 - i. Increase public awareness.
 - ii. Prohibit fire hydrant flow testing.
 - iii. Restaurants shall serve water only upon customer request.

- iv. Voluntary customer water usage reduction. Water customers will be notified that it is a low water year and will be requested to reduce water usage from the previous year's usage. The District will provide information on conservation methods.
- v. Contact high water users. The District will contact the highest water users to encourage use of water conservation methods.

C. Phase III – Mandatory Water Conservation Measures. Upon the findings of the Board of Directors in accordance with Section 18.03 that an emergency or water shortage exists based on forecasted precipitation, snowpack and reservoir levels, or if San Francisco Public Utilities Commission calls for Phase III conservation measures, the District shall adopt a resolution that implements the following measures:

- 1. Declare a state of emergency for the District service area until such time that the District determines that conditions no longer merit Phase III conservation measures; and
- 2. Identify a water reduction goal of twenty percent (20%); and
- 3. Immediately implement the following Phase III conservation measures:
 - i. All measures identified in Phase II.
 - ii. Establish a Phase III water reduction goal based on the severity of the emergency for approval by the District.
 - a. If the San Francisco Public Utilities Commission has declared Phase III conservation measures, the District's water reduction goal must match or exceed the water reduction goal identified by the San Francisco Public Utilities Commission. The water reduction goal will be defined as a percentage reduction of the prior year's water usage and may be updated as conditions change.
 - b. The meeting to consider the resolution adopting the Phase III measures shall be a public hearing providing customers the opportunity to be heard regarding the declaration of water shortage emergency conditions.
 - iii. Landscape watering restrictions:
 - a. Watering of lawns, gardens and other outdoor vegetation by use of irrigation systems, hoses, faucets or other outlets connected to the public water supply is prohibited, unless specified otherwise below.
 - b. Individual garden plants or trees may be irrigated only by the use of buckets, containers or properly maintained irrigation drip systems.
 - c. Watering lawns is allowed whenever the water reduction goal is forty percent (40%) or less.
 - iv. Landscape watering allowed under this section may only be undertaken at the following times:

- a. Properties with addresses ending in an even number may irrigate only on Tuesday and Thursday.
- b. Properties with addresses ending in an odd number may irrigate only on Wednesday and Friday.
- c. Irrigation may occur only between 7:00 p.m. and 9:00 a.m.
- v. Irrigation which results in water running onto driveways, gutters, streets, adjoining property, and/or any other water runoff is prohibited.
- vi. Washing of cars, boats, trailers, equipment or other vehicles by hose or by use of water directly from faucets or outlets connected to the public water supply is prohibited. Washing such vehicles may occur at District approved commercial washing facilities that utilize water recycling capabilities.
- vii. Washing of sidewalks, walkways, driveways, patios, parking lots, graveled areas, tennis courts or other hard-surfaced areas, including residential and commercial establishments, by hose or by use of water from faucets or other outlets connected to the public water supply is prohibited.
- viii. New construction service applications shall be granted upon condition that water shall be used only for interior purposes and landscaping that does not require watering. Any landscaping requiring the use of water shall be delayed until repeal of Phase III restrictions.
- ix. Use of water in decorative fountains, pools, recreational ponds and the like shall be limited to the minimum necessary to preserve aquatic life if present.
- x. Use of water for dust control, earth compaction, and other outdoor construction activities is prohibited.
- xi. Filling of new or existing swimming pools, spas and recreation ponds is prohibited.
- xii. Fire hydrants shall be used only for emergency purposes.
- xiii. Leak restrictions:
 - a. Allowing any plumbing system leak to remain un-repaired, without reasonable cause as determined by the District, for seven calendar days following written notification by the District is prohibited.
 - b. Failure to repair leaks as specified is subject to the following special enforcement:
 - 1. Water service will be shut off until such time that leak(s) are repaired.
 - 2. Reinstatement of water service will be subject to the fees listed on the District's most current rate schedule.
- xiv. Excessive Water Use:
 - a. Excessive water use, without reasonable cause as determined by the District, is prohibited.

- b. Excessive water use is defined as monthly water use that exceeds a certain percentage of the prior year’s usage for the same month. This percentage varies based on the reduction goal and is determined by the following chart:

Reduction Goal	Excessive Use Percentage
20% to 25%	90%
30% to 35%	85%
40% to 45%	80%
50%	75%

If the reduction goal is 40%, excessive water use is monthly use that exceeds 80% of last year’s monthly use.

- c. Monthly water use less than 4,000 gallons will not be considered excessive
- d. Commercial and industrial customers may contact the District to discuss the individual water needs required to maintain their business.
- e. Excessive water use is subject to the following special enforcement:
 1. First Violation: Customer will receive a written warning from the District that a further violation will result in water restrictions and penalties.
 2. Second Violation: Payment of \$50 penalty.
 3. Third Violation: Payment of a \$100 penalty and customer’s service will be restricted by a flow restriction device for 30 days.
 4. Fourth Violation: Payment of a \$500 penalty and customer’s water service will be restricted by a flow restriction device until the District repeals the state of emergency, threat of emergency or shortage.
 5. Continued Violation: Payment of a \$500 penalty and continued water service restriction. The District may, in its discretion, pursue misdemeanor charges pursuant to Water Code Section 71644 which may result in imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$600, or by both.

D. Phase IV – Mandatory Conservation Measures for Extreme Emergency. Upon the findings of the Board of Directors in accordance with Section 18.03 that an extreme emergency or water shortage exists based on forecasted precipitation, snowpack and reservoir levels, or an emergency event, or if San Francisco Public Utilities Commission calls for Phase IV conservation measures, the District shall adopt a resolution that implements the following measures:

1. Declare a state of emergency for the District service area until such time that the District Board of Directors determines that conditions no longer merit Phase III conservation measures; and
2. Identify a water reduction goal of up to fifty percent (50%); and
3. Immediately implement the following Phase IV conservation measures:
 - i. All measures identified in Phase III.
 - ii. Establish a Phase IV water reduction goal based on the severity of the emergency for approval by the District.
 - a. If the San Francisco Public Utilities Commission has declared Phase IV conservation measures, the District's water reduction goal must match or exceed the water reduction goal identified by the San Francisco Public Utilities Commission. The water reduction goal will be defined as a percentage reduction of the prior year's water usage and may not exceed fifty 50%. The water reduction goal may be updated as conditions change.
 - b. The meeting to consider the resolution adopting the Phase IV measures shall be a public hearing providing customers for the opportunity to be heard regarding the declaration of water shortage emergency conditions.
 - iii. Immediately notify appropriate media outlets, and post local road signage notifying the public of the current water use restrictions.
 - iv. Landscape/outdoor watering by hose or by use of water directly from faucets or outlets connected to the public water supply shall be strictly prohibited.
 - v. Excessive Water Use:
 - a. Excessive water use, without reasonable cause as determined by the District, is prohibited.
 - b. Excessive water use is defined as monthly water use that exceeds a certain percentage of the prior year's usage for the same month. The percentage varies based on the reduction goal and is determined by the following chart:

Reduction Goal	Excessive Use Percentage
20%	90%
25%	85%
30%	80%
35%	75%
40%	70%
45%	65%
50%	60%

If the reduction goal is 40%, excessive water use is monthly use that exceeds 70% of last year's monthly use.

- c. Monthly water use less than 4,000 gallons will not be considered excessive.
- d. Commercial and industrial customers may contact the District to discuss the individual water needs required to maintain their business.
- f. Excessive water use is subject to the following special enforcement:
 1. First Violation: Customer will receive a written warning from the District that a further violation will result in water restrictions and penalties.
 2. Second Violation: Payment of a \$50 penalty and customer's service will be restricted by a flow restriction device for 30 days.
 3. Third Violation: Payment of a \$100 penalty and customer's water service will be restricted by a flow restriction device until the District repeals the state of emergency, threat of emergency, or shortage.
 4. Fourth Violation: Payment of a \$500 penalty and continued water service restriction.
 5. Continued Violation: Payment of a \$500 penalty and continued water service restriction. The District may, in its discretion, pursue misdemeanor charges pursuant to Water Code Section 71644 which may result in imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$600, or by both.

Section 18.05. Request for Increase in Allocation.

- A. All applicants for an increase in allocation during a declared water shortage emergency must submit an application in writing to the District on an application form provided by the General Manager.
- B. The General Manager will review all written requests for increased allocations and the General Manager shall determine if the application is approved, approved with modification, or denied.
- C. All residential applicants for an additional allocation based on additional person residing at the residence shall show proof of residency for all residents at the property.
- D. Water allocations may be adjusted by the General Manager upon written application where the requested adjustment is found to be reasonably necessary. Factors for consideration shall include without limitation:

1. Additional people residing full time at the residence.
 2. Unusual medical needs.
 3. Change of property use.
 4. Where a District audit of nonresidential customer's water-using appliances and usage shows that all reasonable conservation measures are being employed and the applicant provides a conservation plan demonstrating the measures employed and compliance with the plan.
 5. Where a nonresidential customer has demonstrated growth in business volume over the base year in providing a water-related service to the public, the allocation may be adjusted at the discretion of the General Manager.
 6. Hospitals, health care facilities, nursing care facilities, health clinics, and similar users may be excepted from the percentage reductions provided that a water conservation plan demonstrating reductions in consumption to the maximum extent feasible without jeopardizing patient care is approved by the General Manager.
- E. A decision in writing shall be mailed to the applicant within fifteen (15) days of the receipt of the application.

Section 18.06. Appeals.

- A. Procedure. Any customer may appeal for reconsideration the General Manager's written decision under Section 18.05 of this article for an increase in allocation. Appeals for reconsideration shall be processed as set forth below.
1. Any customer appealing for reconsideration of the classification or allocation shall do so in writing to the General Manager by either using forms provided by the District or by letter setting forth in detail the reasons for the appeal.
 2. The appeal for reconsideration shall be reviewed by the General Manager and a site visit scheduled if required. The General Manager shall also notice a hearing by regular mail within whereby the applicant may present their arguments. The notice of hearing to the applicant identifying the date, time and location of the hearing shall be deposited into the U.S. mailed at least 7 calendar days before the hearing.
 3. The General Manager shall issue a written decision on the appeal with his/her decision within 10 days of the hearing.
 4. If an appeal for reconsideration is sustained, a condition of approval may include a requirement for the installation of water efficient plumbing fixtures and/or irrigation systems.
 5. If an applicant disagrees with the General Manager's decision, the decision may be appealed in the same procedural manner as specified in Subsection (a) of this section to the Board of Directors. If an appeal to the Board of Directors is requested, the customer shall be notified of a hearing date by mail. Such hearing shall be scheduled within thirty (30) days of filing the

appeal. A decision shall be forwarded to the applicant within fifteen (15) days after completion of the hearing.

- B. Each appeal to the Board of Directors shall be accompanied by the payment of an appeal fee in an amount set by resolution of the Board of Directors from time to time to defray the costs of the appeal to the District.

Section 18.07. New Connections Requirements.

All applicants for new water service connections for new construction shall be required to furnish proof of installation in residential, commercial and/or industrial buildings of ultra-low flow toilets with a maximum tank size or flush capacity of 1.6 gallons and shower heads with a maximum flow capacity of 3 gallons per minute.

Section 18.08. Financial Assistance.

The District may request that federal and state agencies provide financial and other assistance to residents, water suppliers, water rights holders, ranchers, farmers, business owners and any local governments who are harmed by the drought emergency in its territorial limits to help them mitigate the effects of the persistent drought conditions.”

Section 3. Effective Date; Transitional Clause. This Ordinance shall take effect thirty days after adoption as provide by Government Code Section 36937. However, any claim that would have been timely if presented on the day before this Ordinance becomes effective which claim would be untimely under the requirements of this Ordinance may, notwithstanding this Ordinance, be presented not later than the 45th day after the adoption of this Ordinance.

Section 4. Certification. The Secretary of the Board shall certify the passage and adoption of this Ordinance and shall cause the same to be published according to law.

Section 5. Publication. Within 15 days after its final passage, the Secretary of the Board shall cause this Ordinance to be published, and the ordinance posted in full, in accordance with California Government Code Section 25124.

Passed and adopted at the regular meeting of the Board of Directors of the Groveland Community Services District on May ____, 2014, by the following votes:

AYES:

NOS:

ABSENT:

ABSTAIN:

_____, Chairman of the Board
Groveland Community Services District

ATTEST:

By: Jon Sterling, General Manager

_____, District Secretary
Groveland Community Services District