

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### Agenda Item:

Ordinance 352

### Question Before Council:

Consideration of changes to Yachats Municipal Code Chapter 8.22

### Person/Group Initiating Request:

City Manager

### Item Summary/Background:

Based upon citizen input, Councilors Tooke & Berdie met and made the attached recommendations.

These recommendations were forwarded to the City Attorney for comment in the relevant sections raised by the review. The attorney's thoughts/responses are in the attached memo, as well as, a revised ordinance and comparison document (red-lined version).

On 8/27 Councilor Tooke and I met to review citizen input on revisions to Ordinance No.352, Chapter 8.22 Our recommendations follow.

#### **Section 8.22.10 Definitions**

“Approved City agents” Suggestion is to strike text “ for the purpose of...ordinance”

We assume that the phrase “for the purpose ...ordinance” was intended to limit the city agents role to checking meters during a water shortage. We recommend leaving as is

Commercial water meter sizes.

We agree and suggest that the first definition be changed to “smaller than 1-1/2”.

Water Shortage reference to 8.22.100. Concern is that it is unclear how shortage designation ceases

We recommend leaving as is. 8.22.100 states that the Public Works Director may declare a shortage and terminate the shortage declaration. That decision is subject to approval of the Council. Once the Council approves the termination, the water shortage is over.

Grey Water needing fuller definition

Grey Water is subject to ORS 454.610 rules and permits. Therefore, no further definition is required in city code.

Drip Irrigation not defined

True, but common usage is apparent. We recognize this as an issue but there are many nouns that could be subject to definition, so we suggest leaving.

General comments on redundant use of “users” throughout definition and other sections

While “users” is indeed redundant, our assumption is that it is a proper legal reference. If so, it should remain. Perhaps the city attorney can provide brief clarification

General comment re. including definitions where used as some terms are only used once

We recommend leaving as is. This is common practice in other ordinances. Changing it here could lead to revisions in all city ordinances which would be an unnecessary cost.

#### **8.22.030 Phase 1**

B: (Also Phase 2 and Phase 3) usage is “City water users shall receive written notice” Suggestion is to change “receive” to “be sent”

We would like clarity on this. The city has no control over users’ receipt of the notice but can be responsible for sending the notice. Perhaps this is the correct wording in law but is confusing to a lay reader.

C:1 Include *be permitted to water* rather than *shall water* in odd/even sentences.

We agree that this would be clearer. (I.E. not forcing people to water). Clarification appreciated or revised if appropriate.

## **8.22.040 Phase 2**

Comment: Add allowing grey water and water from outside city as in Phase 3

Not necessary as all uses except those explicitly not allowed are permitted.

D: Suggestion is to add "post....in a conspicuous location *on the serviced lot* within twenty four..."

This could be changed as it makes sense to a lay reader. However, if the attorney feels it is implied, leave as is.

## **8:22:050 Phase 3**

C:4 Suggested changes to wording to clarify that only dirty linens must be laundered outside city.

Our recommendation is to leave as is. "for laundering" implies the need.

D: Change "vacation rental residential" to "transient water"

We agree with this change. This is show-through from existing ordinance. Vacation Rental was changed to Transient.

E: Concern that paragraph does not address new users/houses with no history over same calendar time

We agree. Add something like "New owners may be restricted to a percentage of usage of previous owners. New houses with no history may be restricted to a percentage of city-wide residential median usage."

G: Concern with clarity and consistency of posting requirements

We need alignment with the council. In Phase 2, large meter, commercial and transient users were given 24 hours to post in a conspicuous location. In phase 3 they are given two days but must post in each rental unit. No posting is required in Phase 1. Is this the will of the council?

Suggest adding "*on the serviced lot* if no rental units and in each rental unit" to address cases where there is only non-rental commercial use.

## **8:22:060 Phase 4**

Concern with lack of succession plan for City Manager. (Note: not part of submitted changes)

No change needed. The city Emergency Operations Plan (EOP) section 1.6: Authorities addresses this situation.



DATE: September 18, 2018

TO: Yachats City Council

FROM: Shannon Beaucaire, City Manager

SUBJECT: City Attorney's thoughts on proposed recommendations to Ordinance 352

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From Ross Williamson, City Attorney:

Based upon the notes, here is a revised ordinance and a new comparison document showing changes in comparison to the current Code.

I believe I've tackled each of the comments – although I did not always adopt the specific suggested wording for changes.

There was a comment about the use of the word “user” in the definitions. The comment thought that the term was redundant. I'm not sure I see the term being used redundantly. Yes, it is used multiple times, but I don't think using a term multiple times means it is redundant. If there is confusion about the term or concern with its use, I'm happy to offer my thoughts.

I included a new change of 8.22.020(E) to address the gray water issue. Rather than addressing gray water (and water sources other than City water) in each Phase, I just added a clarification sentence that the Chapter is not intended to regulate the use of gray water.

There was also a concern about the posting requirements. This is a policy call for the Council, but it seems to make sense to me the way it is written. Right now there is no posting requirement for Phase 1, a 24 posting requirement for Phase 2, and a 48 hour posting requirement for Phase 3. In other words, as the intensity of the water restrictions increase, the City allows a little more seriousness in posting. That seems logical to me, but I also think the Council could choose to harmonize these requirements in some other way too.

In terms of 8.22.050(E), I added some wording to address users without 2 years of usage history. It seemed to me to be fair to take a City-wide average for similar uses, rather than looking back to prior owners. Since the current owner has no control of the prior owner, looking at a City-wide average seemed reasonable to me.

**CITY OF YACHATS  
ORDINANCE NO. 352**

**AN ORDINANCE AMENDMENT THE YACHATS MUNICIPAL CODE CHAPTER 8.22  
RELATED TO WATER USE CURTAILMENT**

**Whereas**, since 2001, the City has had water use curtailment measures in place to deal with water shortages; and

**Whereas**, the City has water rights to draw water for municipal uses from the Yachats River as well as Reedy and Salmon Creek; and

**Whereas**, the City does not currently use its water rights in the Yachats River but instead obtains all its raw water from Reedy and Salmon Creek; and

**Whereas**, through its water permit with the Oregon Water Resources Department for the Yachats River, the City has certain obligations that arise should the City draw water from the Yachats River; and

**Whereas**, the City's water curtailment measures in YMC Chapter 8.22 are potentially confusing as to the curtailment measures relate to the City's use of its water rights in the Yachats River; and

**Whereas**, the City wishes to clarify its water curtailment measures and maintain compliance with its obligations under its water permit for the Yachats River; and

**Whereas**, these amendments to YMC Chapter 8.22 will serve to clarify the Council's role in determining water shortages and will result in more thorough protection of the City's valuable water resources,

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Yachats Municipal Code Chapter 8.22.**

Yachats Municipal Code Chapter 8.22, Section 8.22.010, Section 8.22.020, Section 8.22.030, Section 8.22.040, Section 8.22.050, Section 8.22.100, and Section 8.22.110 shall be amended to read as follows:

**Section 8.22.010 Definitions.**

As used in this title:

"Approved City agents" means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.

“Commercial water” means those commercial users of meters smaller than 1-1/2” and billed under the City’s water system as “commercial water.”

“Commercial large meter” means those users of meters 1-1/2 inches or larger and billed under the City’s water system as “commercial large meter.”

“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.

“Gray water” means water from a water system for which a permit has been obtained under the authority of ORS 454.610.

“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40-gallons.

“Outside City water” means those users of residential sized meters and billed under the City’s water system as “outside City water.”

“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”

“Transient water” means those users of residential sized meters and billed under the City’s water system as “transient residential water.”

“Water shortage” means a status determined by the City Council via resolution. Except in emergencies as determined under Section 8.22.100, it is the Council’s determination of a water shortage that results in the water conservation actions set out under each phase in Sections 8.22.030 through 8.22.050.

#### **Section 8.22.020 Purposes and determinations.**

A. As the result of a drought and the threat of a continued drought or other condition, the ordinary demands and requirements of water consumers may not be satisfied without depleting the water supply of the City of Yachats to the extent that there may be insufficient water for human consumption, sanitation or fire protection.

B. The City Council finds and determines that a water shortage emergency may exist within the City’s water service area and will be likely to continue to exist for an unknown period, but that from time to time there may be sufficient water in the reservoirs from rainfall for temporary suspension of the water conservation measures provided in this Ordinance.

C. The City Council finds, determines and anticipates that a situation, or situations, may occur, or exist, from causes beyond the control of the City, and that are not related to weather, that will result in limited quantities of water being available and is likely to exist for a prolonged period that requires extreme measures to maintain the absolute minimum of treated water for human consumption, sanitation or fire protection.

D. The City Council, to protect the health, safety and general welfare of its citizens in the public interest, finds it necessary to adopt regulations necessary to mitigate any water shortage emergency.

E. During such time that the City Council of the City of Yachats determines that there is a water shortage, as declared by the City Council, no person or entity shall use water supplied by or through the City's water system for the reasons stated under each phase. The water conservation actions required by this Chapter shall not apply to gray water and water obtained from sources other than the City's water supply.

#### **Section 8.22.030 Water conservation actions—Phase 1.**

A. A water shortage is a Phase 1 water shortage when, subject to Section 8.22.110:

1. The flow in the Yachats River is recorded to be less than 35 cubic feet per second (hereafter CFS); or

2. The combined flow of Reedy and Salmon Creek is less than 0.64 CFS (275 Gallons Per Minute (hereafter GPM)); or

3. According to the Palmer Drought Severity Index, the Coastal Region is in a Moderate to Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 1 restrictions.

B. Upon determination of a Phase 1 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 1 water restrictions in force, and the penalties for non-compliance.

C. Water Alert Status - Phase 1 calls for moderate curtailment. The following non-essential uses are restricted or prohibited under Phase 1:

1. The watering of lawns, gardens and landscaping is restricted to alternative days. Specifically, houses with an address number ending in even numbers (0-2-4-6-8) shall be permitted to water lawns only on even numbered calendar days. Houses with an address number ending in odd numbers (1-3-5-7-9), or fractional addresses, shall be permitted to water only on odd numbered calendar days. All watering of lawns, gardens and landscaping shall be prohibited between the hours of 10:00 A.M. and 7:00 P.M. of each day.

2. All sales of water to persons who are not customers of the water system are prohibited.

3. No water shall be used by the Yachats Rural Fire District for drills, fire hose testing, hydrant flushing or truck washing.

4. The operation of an ornamental fountain, unless it is equipped with a recirculation system, is prohibited.



#### **Section 8.22.040 Water conservation actions—Phase 2.**

A. A water shortage is a Phase 2 water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 20 CFS or
2. The combined flow of Reedy and Salmon Creek is less than 0.50 CFS (200 GPM)

or

3. According to the Palmer Drought Severity Index, the Coastal Region is in a Severe or Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 2 restrictions.

B. Upon determination of a Phase 2 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 2 water restrictions in force, and the penalties for non-compliance.

C. Water Warning Status - Phase 2 calls for extensive restrictions on water usage. In addition to the restrictions and prohibitions for Phase 1 above, for Phase 2 the following non-essential uses are prohibited:

1. The watering of any vegetation, except that trees and shrubs may be watered with a hand held watering device, bucket or hose with flow control nozzle, or drip irrigation system only (no airborne sprinkler systems).

2. The use of water for washing, hosing and the like of buildings and pavement or other pedestrian surfaces.

3. Drinking water served at restaurants, motels and other businesses which serve food or drink to the public, unless users post "drought notices" in a clearly conspicuous manner so that members of the public will be apprised of the water shortage. If so posted, water for drinking purposes may be served upon request.

4. Washing of vehicles, equipment, watercraft and the like.

5. The operation of all exterior ornamental fountains, even with a recirculating system.

6. Use of City water for dust control.

D. For Phase 2, all commercial large meter, commercial water, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this section in a conspicuous location on the property receiving City water service within twenty four (24) hours of receiving said notice. For transient water users, the notice shall be posted in each rental unit.

#### **Section 8.22.050 Water conservation actions—Phase 3.**

- A. A water shortage is a Phase 3 water shortage when, subject to Section 8.22.110:
1. The flow of the Yachats River is measured to be less than 15 CFS; or
  2. The combined flow of Reedy and Salmon Creek is less than 0.40 CFS (175 GPM); or
  3. According to the Palmer Drought Severity Index, the Coastal Region is in an Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 3 restrictions.

B. Upon determination of a Phase 3 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 3 water restrictions in force, and the penalties for non-compliance.

C. Water Emergency Status - Phase 3 is the most restrictive level of water conservation measures. In addition to the restrictions and prohibitions for Phases 1 and 2, above, for Phase 3 the following non-essential uses of water are prohibited:

1. All landscape watering is prohibited.
2. Use of water from a fire hydrant for any use other than for firefighting.
3. Use of non-recirculating hot tubs, whirlpools or spas.
4. All "commercial large meter" users are required to send linens for laundering outside the City except that commercial laundromats are exempt from this regulation.

D. For Phase 3, all small meters, including residential water, outside City water, commercial water, and transient water users shall be charged the base volumetric rate for the first 400 cubic feet per month usage. Usage over 400 cubic feet per month usage shall be charged the base volumetric rate plus \$2 per 100 cubic feet over the 400 cubic feet. Fractions of months under Phase 3 water conservation restrictions shall be billed extra based on daily usage over 13.33 cubic feet per day. Meters may be read more frequently by City personnel or approved City agents to enforce these restrictions. Small meter users using more than 27 cubic feet per day on average shall be given a written warning to reduce usage and thereafter cited under 8.22.070 C.1. (Phase 3 - First offense).

E. For Phase 3, all users may be required to reduce their normal usage by a certain percentage when compared to the average normal usage over the same calendar time period from the previous two (2) years. For water utility accounts with less than two years of usage history, the percentage reduction shall be compared to a City-wide median usage for similar users.

F. No water connections to new residences, business or industry shall be permitted during Phase 3.

G. All commercial large meter, commercial, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this section in a conspicuous

location on the property receiving City water service within two (2) days of receiving notice of a Phase 3. For transient water users, the notice shall be posted in each rental unit.

#### **Section 8.22.100 Public Works Director declaring necessity for water conservation.**

In an emergency, as determined in the discretion of the Public Works Director, the Public Works Director may declare a water shortage and the necessity for water conservation actions under Sections 8.22.030 through 8.22.050. The water conservation actions shall be in full force and effect and shall be enforced until such time as the Public Works Director declares a suspension or termination of the water shortage. The Public Works Director shall notify the Council immediately upon such declaration and Council shall meet as soon as practical to accept, reject or modify such determination.

#### **Section 8.22.110 Method of measurement.**

For purposes of determining the existence of a water shortage and the severity of water conservation actions under Sections 8.22.030 through 8.22.050, the City shall measure the flow of water at sources with developed City rights, as follows:

1. If the City is using the Yachats River to supplement its raw water source, the water flows in the Yachats River will be determined by using a measuring device approved by the Oregon Water Resources Department. If the City is not using the Yachats River to supplement its raw water source, the flow of the Yachats River shall not be considered for determining a water shortage.
2. The combined flow of Reedy and Salmon Creek shall be measured using a staff gage installed in Salmon Creek.

#### **Section 2. Yachats Municipal Code Section 8.22.090.**

Yachats Municipal Code Section 8.22.090 is hereby repealed and removed from Chapter 8.22.

#### **Section 3. Effective date.**

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Gerald Stanley, Mayor

Attest: \_\_\_\_\_  
Shannon Beaucaire, City Manager

## YMC Chapter 8.22.

### Section 8.22.010 Definitions.

As used in this title:

~~“Grey water” means water used in the home for domestic means that is collected after primary use and reused for landscape watering.~~

~~“Approved City agents” means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.~~

~~“Commercial water” means those commercial users of meters smaller than 1-1/2” and billed under the City’s water system as “commercial water.”~~

“Commercial large meter” means those users of meters 1-1/2 inches or larger and billed under the City’s water system as “commercial large meter.”

~~“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.~~

~~“Gray water” means water from a water system for which a permit has been obtained under the authority of ORS 454.610.~~

~~“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40-gallons.~~

~~“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”~~

“Outside City water” means those users of residential sized meters and billed under the City’s water system as “outside City water.”

~~“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”~~

~~“Commercial water” means those commercial users of meters smaller than 1-1/4” and billed under the City’s water system as “commercial water.”~~

“Transient ~~rental residential~~water” means those users of residential sized meters and billed under the City’s water system as “transient residential water.”

~~“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.~~

~~“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40 gallons.~~

~~“Drought”~~ “Water shortage” means a status determined by the ~~combined flow of Reedy and Salmon Creeks~~ City Council via resolution. ~~Except in emergencies as specified in determined under Section 8.22.020.~~

~~“Potential drought” means an assessment of future drought conditions based on 100, it is the Council’s determination of a water shortage that results in the Palmer Drought Severity Index for the Pacific Northwest Region or other appropriate measurements or conditions~~ water conservation actions set out under each phase in Sections 8.22.030 through 8.22.050.

~~“Approved City agents” means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.~~

#### **Section 8.22.020 Purposes and determinations.**

A. As the result of a drought and the threat of a continued drought or other condition, the ordinary demands and requirements of water consumers may not be satisfied without depleting the water supply of the City of Yachats to the extent that there may be insufficient water for human consumption, sanitation or fire protection.

B. The City Council finds and determines that a water shortage emergency may exist within the City’s water service area and will be likely to continue to exist for an unknown period, but that from time to time there may be sufficient water in the reservoirs from rainfall for temporary suspension of the water conservation measures provided in this Ordinance.

C. The City Council finds, determines and anticipates that a situation, or situations, may occur, or exist, from causes beyond the control of the City, and that are not related to weather, that will result in limited quantities of water being available and is likely to exist for a prolonged period that requires extreme measures to maintain the absolute minimum of treated water for human consumption, sanitation or fire protection.

D. The City Council, to protect the health, safety and general welfare of its citizens in the public interest, finds it necessary to adopt regulations necessary to mitigate any water shortage emergency.

E. During such time that the City Council of the City of Yachats determines that there is a water shortage, as declared by the City Council, no person or entity shall use water supplied by or through the City's water system for the reasons stated under each phase. The water conservation actions required by this Chapter shall not apply to gray water and water obtained from sources other than the City's water supply.

#### **Section 8.22.030 Water conservation actions—Phase 1.**

A. A water shortage is a Phase 1 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow in the Yachats River is recorded to be less than 35 cubic feet per second (hereafter CFS); or
2. The combined flow of Reedy and Salmon Creek is less than 0.64 CFS (275 Gallons Per Minute (hereafter GPM)); or
3. According to the Palmer Drought Severity Index, the Coastal Region is in a Moderate to Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 1 restrictions.

B. All ~~Upon determination of a Phase 1 water shortage, the~~ City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all~~ water utility customers of: the water shortage ~~situation, that,~~ the Phase 1 water restrictions ~~are~~ in force, and the penalties for non-compliance.

C. Water Alert Status - Phase 1 calls for moderate curtailment. The following non-essential uses are restricted or prohibited under Phase 1:

1. The watering of lawns, gardens and landscaping is restricted to alternative days. Specifically, houses with an address number ending in even numbers (0-2-4-6-8) shall be permitted to water lawns only on even numbered calendar days. Houses with an address number ending in odd numbers (1-3-5-7-9), or fractional addresses, shall be permitted to water only on odd numbered calendar days. All watering of lawns, gardens and landscaping shall be prohibited between the hours of 10:00 A.M. and 7:00 P.M. of each day.
2. All sales of water to persons who are not customers of the water system are prohibited.
3. No water shall be used by the Yachats Rural Fire District for drills, fire hose testing, hydrant flushing or truck washing.
4. The operation of an ornamental fountain, unless it is ~~are~~ equipped with a recirculation system, is prohibited.

## Section 8.22.040 Water conservation actions—Phase 2.

A. A water shortage is a Phase 2 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 20 CFS or
2. The combined flow of Reedy and Salmon Creek is less than 0.50 CFS (200 GPM) or
3. According to the Palmer Drought Severity Index, the Coastal Region is in a Severe or Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 2 restrictions.

B. All ~~Upon determination of a Phase 2 water shortage, the~~ City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all~~ water utility customers of: the water shortage situation, ~~that,~~ the Phase 2 water restrictions ~~are in force,~~ and the penalties for non-compliance.

C. Water Warning Status - Phase 2 calls for extensive restrictions on water usage. In addition to the restrictions and prohibitions for Phase 1 above, for Phase 2 the following non-essential uses are prohibited:

1. The watering of any vegetation, except that trees and shrubs may be watered with a hand held watering device, bucket or hose with flow control nozzle, or drip irrigation system only (~~Non~~ no airborne sprinkler systems);;
2. The use of water for washing, hosing and the like of buildings and pavement or other pedestrian surfaces;;
3. Drinking water served at restaurants, motels and other businesses which serve food or drink to the public, unless users post “drought notices” in a clearly conspicuous manner so that members of the public will be apprised of the water shortage. If so posted, water for drinking purposes may be served upon request;;
4. Washing of vehicles, equipment, watercraft and the like;;
5. The operation of all exterior ornamental fountains, even with a recirculating system;and;
6. Use of City water for dust control.

D. ~~All~~ For Phase 2, all commercial large meter ~~users,~~ commercial water, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this

section in a conspicuous location on the property receiving City water service within twenty four (24) hours of receiving said notice. For transient water users, the notice shall be posted in each rental unit.

### **Section 8.22.050 Water conservation actions—Phase 3.**

A. A water shortage is a Phase 3 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 15 CFS; or
2. The combined flow of Reedy and Salmon Creek is less than 0.40 CFS (175 GPM); or
3. According to the Palmer Drought Severity Index, the Coastal Region is in an Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 3 restrictions.

B. All Upon determination of a Phase 3 water shortage, the City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all water utility customers of: the water shortage situation, that,~~ the Phase 3 water restrictions ~~are~~ in force, and the penalties for non-compliance.

C. Water Emergency Status - Phase 3 is the most restrictive level of water conservation measures. In addition to the restrictions and prohibitions for ~~Phase~~ Phases 1 and 2, above, for Phase 3 the following non-essential uses of water are prohibited:

1. All landscape watering is prohibited, ~~except for use of grey water or water from other than the City's water supply;~~
2. Use of water from a fire hydrant for any use other than for firefighting;
3. Use of non-recirculating hot tubs, whirlpools or spas;
4. All "commercial large meter" users are required to send linens for laundering outside the City except that commercial laundromats are exempt from this regulation;

D. All For Phase 3, all small ~~meter users~~ meters, including residential water, outside City water, commercial water, and ~~vacation rental residential~~ transient water users shall be charged the base volumetric rate for the first 400 cubic feet per month usage. Usage over 400 cubic feet per month usage shall be charged the base volumetric rate plus \$2 per 100 cubic feet over the 400 cubic feet. Fractions of months under Phase 3 water conservation restrictions shall be billed extra based on daily usage over 13.33 cubic feet per day. Meters may be read more frequently by City personnel or approved City agents to enforce these restrictions. Small meter



users using more than 27 cubic feet per day on average shall be given a written warning to reduce usage and thereafter cited under 8.22.070 C.1. (Phase 3 - First offense).

E. ~~All~~For Phase 3, all users may be required to reduce their normal usage by a certain percentage when compared to ~~their~~the average normal usage over the same calendar time period from the previous two (2) years. For water utility accounts with less than two years of usage history, the percentage reduction shall be compared to a City-wide median usage for similar users.

F. No water connections to new residences, business or industry shall be permitted during Phase 3 ~~water conservation restrictions and prohibitions.~~

G. All commercial large meter, commercial, and transient water users shall post ~~at the~~ written notice, approved provided by the City, pursuant to subsection B of this section in a conspicuous location ~~in each rental unit on the property receiving City water service~~ within two (2) days of receiving notice of a Phase 3 ~~status.~~ For transient water users, the notice shall be posted in each rental unit.

#### **Section 8.22.100 Public Works Director declaring necessity for water conservation.**

In an emergency, as determined in the discretion of the Public Works Director, the Public Works Director may declare a water shortage and the necessity for water conservation ~~and upon such declaration, the provisions of actions under~~ Sections 8.22.020 ~~and~~ 8.22.030 ~~through~~ 8.22.050. The water conservation actions shall be in full force and effect and shall be enforced until such time as the Public Works Director declares a suspension or termination of the ~~need for such water conservation measures~~ shortage. The Public Works Director shall notify the Council immediately upon such declaration and Council shall meet as soon as practical to accept, reject or modify such determination.

#### **Section 8.22.110 Method of measurement.**

~~The method to determine~~For purposes of determining the existence of a water shortage and the severity of a drought water conservation actions under Sections 8.22.030 through 8.22.050, the City shall be by measuring measure the flow of water at sources with developed City rights, as follows:

1. If the City is using the Yachats River to supplement its raw water source, the water flows in the Yachats River will be determined by ~~the use of~~using a measuring device approved by the Oregon Water Resources Department. If the City is not using the Yachats River to supplement its raw water source, the flow of the Yachats River shall not be considered for determining a water shortage.

2. ~~For all phases of a water shortage, the~~The combined flow of Reedy and Salmon Creek shall be measured using a staff gage installed in Salmon Creek.