



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: April 29, 2014

TO: Ordinance Committee

FROM: Water Resources Division, Public Works Department

SUBJECT: Amendment Of Santa Barbara Municipal Code Chapter 14.20 And Proposed Water Use Regulations During Water Shortage Conditions

RECOMMENDATION:

That the Ordinance Committee consider 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, and forward the ordinance amendments to the City Council for introduction and adoption.

DISCUSSION:

Santa Barbara Municipal Code (SBMC) Chapter 14.20 specifies regulations related to the use of water supplied by the City's water distribution system. Section 14.20.140 addresses unauthorized consumption of water through a City meter and was last amended in 1984. Section 14.20.215 establishes water use regulations that become effective upon Council's adoption of a resolution declaring a Stage Two or Stage Three Drought Condition. This section was created as a part of the drought response effort in 1989. Sections 225 through 227 provide the applicable remedies for violations of the regulations.

A Stage One Drought Condition was declared by the City Council on February 11, 2014. At that time, Council was advised that preparations for a Stage Two Drought Condition would commence. These preparations have included a review of the content and administration of drought water use regulations. Previous drought experience demonstrated the need to modify water use regulations as water supply conditions change and unforeseen issues arise. Historically, changes to water use regulations were made by Council resolution as authorized in the SBMC, which is appropriate. However, this process resulted in some confusion due to the difference between regulations in the SBMC and those in the resolution.

With regard to regulations that apply during all times (not limited to times of water shortage), staff is proposing to add a new section to Chapter 14.20, which is necessary to clarify that certain uses of City water from the City's distribution system are prohibited and unlawful. The activities to be prohibited by the new section are essentially activities

that result in someone taking City water without paying for it, or taking it in a manner that could compromise water quality in the distribution system. These activities must be prohibited at all times, and are of even greater concern during times of water shortage.

The new section includes prohibition of the following:

- Water use through a meter by persons other than the account holder or other authorized user, such as a tenant.
- Water use through a fire hydrant without a permit.
- Water use through a dedicated fireline, except in response to fire.
- Unauthorized water use through an unmetered connection.
- Any use of water through a meter for which there is no active billing account.
- Unauthorized removal of a meter.

Staff is also proposing to amend section 14.20.215 which currently includes the regulations that may be imposed upon the City Council's declaration of a Stage Two or Stage Three drought condition. The proposed amendment to section 14.20.215 would remove the specific regulations from the SBMC and retain the provision that regulations during drought or other water shortage conditions would be established by City Council resolution. The City Council will thereby retain the flexibility to promptly address the changing water supply situation in times of water shortage and impose the necessary regulations on water use, while avoiding inconsistencies with the SBMC.

The revised language also incorporates the broader term "water shortage condition," into the SBMC, consistent with State requirements and the fact that drought is not the City's only water shortage vulnerability. Attached is a preliminary draft of the Resolution Declaring a Stage Two Drought Condition, which includes the regulations staff is recommending to Council based on the City's current water supply situation. Staff reviewed the proposed ordinance and resolution with the City Water Commission on April 14, 2014 and received input on the proposed regulations.

ATTACHMENT(S): 1. Draft Ordinance
2. Draft Resolution Declaring Stage 2 Drought Condition

PREPARED BY: Joshua Haggmark, Acting Water Resources Manager/BF/mh

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office

ORDINANCE NO. _____

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 ~~Drought~~ 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 ~~STAGE TWO DROUGHT~~

CONDITIONS. Upon adoption by the City Council of a resolution declaring a Stage One Water Shortage Condition, a Stage Two Water Shortage ~~Drought~~ 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 ~~and for as long as that condition exists, the following water use regulations, and such other regulations as may be adopted by resolution of the City Council, shall apply to all use of water, other than reclaimed wastewater, that is provided by 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.

~~1. The use of running water from a hose, pipe, or faucet for the purpose of cleaning buildings and paved, tile, wood, plastic or other surfaces shall be prohibited, except in the event the Director determines that such use is the only feasible means of correcting a potential threat to health and safety.~~

~~2. All restaurants that provide table service shall post, in a conspicuous place, a Notice of Drought Condition as approved by the Director and shall refrain from serving water except upon specific request by a customer.~~

~~3. The operation of and introduction of water into ornamental fountains and bodies of water shall be prohibited.~~

~~4. Operators of hotels, motels, and other commercial establishments offering lodgings shall post in each room a Notice of Drought Condition as approved by the Director.~~

~~5. Any use of water that causes runoff to occur beyond the immediate vicinity of use shall be prohibited.~~

~~6. The use of potable water for cleaning, irrigation and construction purposes, including but not limited to dust control, settling of backfill, flushing of plumbing lines, and washing of equipment, buildings and vehicles, shall be prohibited in all cases where the Director has determined that use of reclaimed wastewater is a feasible alternative.~~

~~7. Irrigation at any time from 8:00 a.m. to 6:00 p.m. of any yard, orchard, park, recreational area, or other area containing vegetation shall be prohibited.~~

~~8. Boats and vehicles shall be washed only at commercial car washing facilities equipped with water recycling equipment or by use of a bucket and hose equipped with a self-closing valve that~~

~~requires operator pressure to activate the flow of water.~~

~~B. STAGE THREE DROUGHT CONDITION. Upon adoption by the City Council of a resolution declaring a Stage Three Drought Condition and for as long as that condition exists, the following water use regulations, and such other regulations as may be adopted by resolution of the City Council, shall apply to all use of water, other than reclaimed wastewater, that is provided by the City water supply system.~~

~~1. Each of the Stage Two water use regulations set forth in Subsections A.1 through A.6 of this Section shall be applicable.~~

~~2. The introduction of water into swimming pools and spas shall be prohibited.~~

~~3. The use of water through a meter that is restricted to irrigation uses shall be prohibited, and the City shall have the right to shut off water service to any such meter without notice to the account holder or any other person.~~

~~4. Irrigation of any yard, orchard, park, recreational area, or other area containing vegetation shall be prohibited, except by means of a hand-held bucket.~~

~~5. Boats and vehicles shall be washed only by use of a hand-held bucket or at commercial car washing facilities equipped with water recycling equipment.~~

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,~~in this Section~~ 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 ~~such~~ guidelines for exemptions as may be determined by the Public Works

Director.~~the City Council may adopt.~~ 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.~~may be A denial of a request for an exemption may be appealed to a review committee consisting of the Director, the Parks Director or his designated representative, one member of the Board of Water Commissioners appointed by the Board, and such other persons, if any, as the City Council may appoint. The decision of the review committee shall be final.~~

D. Upon the declaration of and during a ~~Stage Three~~ Water Shortage ~~Drought~~ 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 ~~requiredment~~ City Council resolution~~of Paragraph B.7 of this Section~~, 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 ~~intentional~~, 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~~ ~~shall applied~~y 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 ~~surcharge against~~ the aAccount hHolder 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 ~~surcharge against~~ the aAccount hHolder 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 ~~surcharge against~~ the aAccount hHolder 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 ssubsection A of this ssection, prior to restoration of normal water service the aAccount hHolder whose service is affected shall be required to reimburse the City for all ~~whatever~~ 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 ~~surcharge~~ imposed pursuant to this sSection shall be added to the account of the aAccount hHolder 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. ~~The maximum amount of surcharges which an account holder may be required to pay during any twelve-month period shall be one thousand dollars (\$1,000.00).~~

~~D. Nothing in this cChapter shall limit or be construed to limit the right of an aAccount hHolder to seek reimbursement of a surcharge from a tenant or other consumer.~~

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 aAccount hHolder 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 aAccount hHolder's right to request a hearing on the violation and the time within which such a request must be made; and

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

C. Any aAccount hHolder 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 aAccount hHolder 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, ~~or~~ second or third violation within a twelve (12) month period, the decision of the Director shall be final.

2. For a fourth ~~third~~ or subsequent violation within a twelve (12) month period, the aAccount hHolder 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 aAccount hHolder fails to request a hearing before the Director or the Board within the period(s) provided in this Section, the action of the Director ~~Department~~ shall be deemed final.

E. ~~There shall be no installation of a flow restricter or shut off of wWater~~ 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 ~~installation of a flow restricter or~~ shut-off of water service.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA DECLARING A STAGE TWO
DROUGHT CONDITION AND ESTABLISHING WATER
USE REGULATIONS TO BE EFFECTIVE DURING A
STAGE TWO DROUGHT CONDITION

WHEREAS, the City of Santa Barbara, along with the rest of the State of California, has experienced the driest three-year period on record and such conditions have resulted in the depletion of surface water resources that are the City's primary water supply;

WHEREAS, the City's 2010 Urban Water Management Plan sets forth the City's Water Shortage Contingency Plan;

WHEREAS, pursuant to the Water Shortage Contingency Plan, a Stage One Drought Condition was declared by Resolution No. 14-009 on February 11, 2014;

WHEREAS, since such declaration, there has been a continuing lack of rainfall sufficient to make a substantial improvement to the water supply situation, which has exacerbated the current drought, thereby making it increasingly desirable and necessary to conserve existing water supplies to protect the public health, safety and welfare if the current drought continues;

WHEREAS, the Water Shortage Contingency Plan provides that when the City determines that the water supply for the current or impending water year is anticipated to be approximately 10% less than projected normal demand, a Stage Two shall be declared, and such conditions now exist;

WHEREAS, SBMC Section 14.20.215 provides for the establishment, by resolution of the City Council, of water use regulations governing the use of water provided by the City's water distribution system during drought, and provides for exemptions to such regulations; and

WHEREAS, it is the intent of the City Council to minimize inequities resulting from the implementation of water use regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

1. There does now exist within the City of Santa Barbara a Stage Two Drought Condition.

2. For the protection of public health and safety, the following drought water use regulations regarding use of water from the City's water system are hereby established and shall remain in effect for the duration of the Stage Two Drought Condition, unless repealed or modified by resolution of the City Council:

a. Any use of water through a hose, pipe, or faucet not otherwise addressed by these regulations is prohibited unless the water is delivered by use of a self-closing valve that requires operator pressure to activate the flow of water.

b. The use of running water from a hose, pipe, or faucet for the purpose of cleaning buildings, pavement, tile, wood, plastic, or other hard surfaces is prohibited.

Exceptions:

i. Such use is allowed as a part of periodic maintenance of buildings and other facilities if accomplished by means of a pressure washer, defined herein to be equipment that boosts incoming water pressure for the purpose of enhancing cleaning capability and minimizing the amount of water used.

ii. Such use is allowed when it is the only feasible means of correcting a potential threat to health and safety, provided it is accomplished by use of a pressure washer, mop, bucket, brush, and/or other tools to limit the use of running water to the minimum necessary.

No such use of water shall be eligible for exception if the required task can feasibly be accomplished by means other than the use of running water. The use of running water for dust control, including as a part of street sweeping operations, is allowed provided the use of water is the minimum necessary to accomplish the intended control of dust.

c. Irrigation of any grass, shrub, plant, tree, groundcover, or other vegetation by use of an automatically controlled irrigation system is allowed only between the hours of 6:00 p.m. and 8:00 a.m. If manually operated, such irrigation is allowed only between the hours of 4:00 p.m. and 10:30 a.m. Irrigation by hand-held hose is subject to the self-closing valve provision of Section 2.a.

Exception:

i. Irrigation accomplished by use of a water truck with water delivered by injection probe below mulch or below the soil surface is exempt from such scheduling

limitations.

d. Boats and vehicles shall be washed only at commercial car washing facilities equipped with water recycling equipment, or by use of a hose, subject to the self-closing valve provision of Section 2.a. Operators of commercial car washing facilities shall post a notice in a conspicuous place advising the public as to whether their operations conform to such requirements.

e. The use of water in ornamental water features and fountains is prohibited.

f. Swimming pools and spas shall be covered at all times when not in active use.

g. Draining and refilling up to one third of the volume of a pool per year is allowed as necessary to maintain suitable pool water quality. Draining and refilling in excess of such one third per year is prohibited, except as authorized by the Public Works Director based on evidence from qualified maintenance personnel that such further draining is required to make needed repairs, or to prevent equipment damage or voiding of warranties.

h. All restaurants and other eating establishments that provide table service shall post, in a conspicuous place, a Notice of Drought Condition as approved by the Public Works Director and shall refrain from serving water except upon specific request by a customer.

i. Operators of hotels, motels and other commercial establishments offering lodging shall post in each room a Notice of Drought Condition as approved by the Public Works Director.

j. Operators of pools, exercise facilities, and other similar commercial establishments providing showering facilities shall promote limitation of showering time and post a Notice of Drought Condition as approved by the Public Works Director in a conspicuous place.

3. Violation of any regulation in this resolution is subject to the penalties and charges set forth in Santa Barbara Municipal Code Section 14.20.226.