

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE REPEALING AND REPLACING CHAPTER 14.04 (WATER DEPARTMENT AND REGULATIONS) OF TITLE 14 (WATER AND SEWERS) OF THE FORT BRAGG MUNICIPAL CODE TO REMOVE WATER DEPARTMENT SHUT-OFF REQUIREMENTS

ORDINANCE NO. 958-2020

WHEREAS, on September 28, 2018 California State Senate Bill 998 added chapter six (6) (commencing with Section 116900) part twelve (12) of Division 104 of the California Health and Safety Code, relating to water; and

WHEREAS, The City of Fort Bragg Water Department is an Urban and Community Water System (not regulated by the Public Utilities Commission) as defined in the added chapter; and

WHEREAS, Urban and Community Water Systems (not regulated by the Public Utilities Commission) are required to comply with the added chapter on or after April 1, 2020; and

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The added chapter to the California Health and Safety Code requires the City's Water Department to have a written policy on discontinuation of residential water service for nonpayment and the policy shall include certain requirements.
2. The City's current policy on discontinuation of residential water service for nonpayment as enacted in the municipal code does not meet the requirements of the added chapter.
3. The City Council has adopted by resolution a policy that meets the requirements of the added chapter.
4. Repealing and replacing Chapter 14.04 (Water Department and Regulations) of Title 14 (Water and Sewers) will clarify that the Water Department written policy on discontinuation of residential water service for nonpayment shall be adopted by resolution.
5. Repealing and replacing Chapter 14.04 (Water Department and Regulations) of Title 14 (Water and Sewers) will remove language related to discontinuation of residential water service for nonpayment from the municipal code thereby avoiding any inconsistency with the policy recently adopted by resolution.
6. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to

Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 2.

TITLE 14 – WATER AND SEWERS

Chapter 14.06 entitled **WATER DEPARTMENT AND REGULATIONS** is hereby repealed in its entirety and replaced with the following:

CHAPTER 15.06: AUTOMATIC FIRE SPRINKLER AND ALARM SYSTEMS

Section

- 14.04.010 Establishment of water department
- 14.04.020 Rate establishment
- 14.04.030 Water billing – failure to pay – action
- ~~14.04.032 Water billing – notice of delinquency~~
- 14.04.034 Water billing – contest of payment – hearing procedure
- ~~14.04.035 Water billing – action prior to shutoff for nonpayment~~
- 14.04.036 Water billing – delinquent account – service shutoff for nonpayment – penalty charge
- 14.04.038 Water billing – delinquent account – service resumption upon payment – fee
- 14.04.040 Inspection by Water Department
- 14.04.050 Application for water service
- 14.04.060 Use of meter
- 14.04.070 Keeping access to meter free from obstructions required
- 14.04.080 Vacating premises served – notification of Water Department – action
- 14.04.090 Laying out service
- 14.04.100 Tampering with Water Department properties
- 14.04.110 No water service at new address until previous bill paid
- 14.04.120 *[Reserved]*
- 14.04.125 Wells for domestic use
- 14.04.127 Wells for nondomestic use
- 14.04.130 Shutting off water
- 14.04.140 Service to be made to property line
- 14.04.150 Applicants – credit establishment – requirements
- 14.04.155 Applicants – credit establishment – cash deposit
- 14.04.160 Process for handling of unpaid bills
- 14.04.170 Separate water meters when possible
- 14.04.180 Outside City water users
- 14.04.190 Rates
- 14.04.200 Basis for rates for residential properties, trailer courts, and mobile home parks
- 14.04.210 Definition of dwelling unit
- 14.04.220 Storm water for non domestic use
- 14.04.230 Gray water for non domestic use

14.04.010 ESTABLISHMENT OF WATER DEPARTMENT.

A department to be known as the “City of Fort Bragg Water Department,” hereinafter referred to as “Water Department” is established. The Water Department shall have charge and control of the water system of the City and of all things necessary or incidental to the conduct and management of the department. The department shall be subject to the control at all times of the City Council.

14.04.020 RATE ESTABLISHMENT.

Water rates shall be established and fixed by resolution of the City Council at any regular meeting of the City Council.

14.04.030 WATER BILLING – FAILURE TO PAY – ACTION.

Water billing periods, ~~and delinquency dates, and the Water Department shut-off policy~~ shall be established and fixed by City Council resolution except for discontinued service which shall be billed as provided by § 14.04.080. ~~Upon a bill becoming delinquent, the Water Department shall give the person or entity responsible for payment of the bill (hereinafter referred to as “consumer”) a notice of delinquency stating that water service will be discontinued within fifteen (15) days of the date of deposit of the notice of delinquency in the United States mail, unless the person to whom the notice is addressed requests a hearing as specified in § 14.04.034. Such notices shall be sent first class mail, postage prepaid, to the consumer responsible for payment of the water bill at such consumer’s last known address. This notice may be sent with the next scheduled water billing, or separately, within the discretion of the Water Department.~~

~~**14.04.032 WATER BILLING – NOTICE OF DELINQUENCY.**~~

~~The notice of delinquency referred to in § 14.04.030 shall specify that the records of the Water Department indicate that the consumer responsible for payment of the water bill has an unpaid water bill which is more than twenty days past due and specify the amount due. The notice shall further state the consumer’s right to request an administrative hearing before the City Manager or his duly authorized representative to contest payment of the water bill. The consumer shall be advised in the notice of delinquency to notify the City Manager within the fifteen (15) day period if a hearing is desired.~~

14.04.034 WATER BILLING – CONTEST OF PAYMENT – HEARING PROCEDURE.

A. Requests for investigation of disputed bills shall be filed in writing with the City for consideration by the City Manager or his/her designee. A disputed account will not be accepted as justification for nonpayment of a bill, and a service will be subject to discontinuance unless payment in full is made pending a settlement of the dispute.

B. The consumer shall be notified in writing of the City Manager’s decision.

C. If the decision is in favor of the consumer, the consumer's water account shall be adjusted accordingly.

D. If the decision is against the consumer, the consumer shall be afforded an appeal in accordance with the procedures described in Chapter 1.08.

~~14.04.035 WATER BILLING – ACTION PRIOR TO SHUTOFF FOR NONPAYMENT.~~

~~Prior to shutting off a delinquent account, the Water Department shall make a reasonable effort to contact the delinquent consumer at least 72 hours prior to the service being disconnected. Whenever telephone or personal contact cannot be made, the Water Department shall give notice by mail or by posting at the premises, at least 48 hours prior to shut off.~~

14.04.036 WATER BILLING – DELINQUENT ACCOUNT – ~~SERVICE SHUTOFF FOR NONPAYMENT~~ – PENALTY CHARGE.

In the event that a consumer does not request a hearing or does request a hearing and the matter is finally decided against the consumer, water service shall be shut off to the consumer unless the delinquent account is paid in full within ~~fifteen-sixty (1560)~~ days from the date of mailing of the City Manager's decision if a hearing is held but no appeal is filed or ~~five sixty (560)~~ days after the decision on an appeal by the City Council, if an appeal is taken. Pursuant to the authority of Cal. Government Code § 54548, in addition to the delinquent principal amount, a penalty of five percent (5%) shall be added twenty (20) days from the billing date. With respect to all accounts thereafter, with a balance of ~~\$5.00~~20.00 or more, the penalty of five percent (5%) will be automatically added. Consumers will then have ~~fifteen-sixty (1560)~~ days from the postmark of the reminder notice, to pay said accounts in full, or service will be terminated. Upon termination of service, in addition to the penalties set forth herein, all delinquent principal and penalties shall bear interest at the rate of one-half percent (1/2%) per month, until paid.

14.04.038 WATER BILLING – DELINQUENT ACCOUNT – SERVICE RESUMPTION UPON PAYMENT – FEE.

Water service will be resumed to a delinquent consumer only upon payment in full of the delinquent bill plus penalties accrued. A reasonable final notice penalty fee will be charged by the Water Department as set by City Council resolution. This fee must be paid to the City prior to resumption of water service.

14.04.040 INSPECTION BY WATER DEPARTMENT.

Any duly authorized agent of the Water Department shall have the authority to enter any building or premises for the purpose of investigating the property of any applicant or consumer of water in order to view the water pipes and equipment connected therewith. Except in emergency situations, such agents of the Water Department shall not enter any building or premises without the consent of the owner or occupant thereof, unless an investigation warrant authorizing such entry and investigation is first obtained. No person shall hinder or prevent the

agents of the Water Department while in the performance of the duties herein described from entering upon and into any and all property at all reasonable hours for the purpose of inspection of the same in order to carry out the provisions of this chapter. No person excepting a duly authorized agent of the Water Department shall turn the water on or off from any building or premises, and no person shall tap, cut or move any water pipe laid in streets or alleys, unless permission to do so has been granted by the Water Department supplying the water. Each service must have a shut off valve between the meter and the house, and the valve is to be supplied by the owner. This valve is to be used in case of repairs to pipes or appliances on owner's property.

14.04.050 APPLICATION FOR WATER SERVICE.

Before water is supplied to any person from the mains of the City Water Department, the owner thereof shall make application for water service on such forms as may be provided by the City for that purpose.

14.04.060 USE OF METER.

Where metered services are installed, the water shall pass through the meter and no bypass or connection between the main and the property shall be made, maintained or permitted except as may be installed by permission of the water superintendent for fire services.

14.04.070 KEEPING ACCESS TO METER FREE FROM OBSTRUCTIONS REQUIRED.

It shall be the duty of each consumer to keep the space about the meter or shut-off box servicing his property free and clean of trash, garbage, barrels, boxes, dirt, oil, building material or other obstructions that may in any way interfere with the free access to the same by the employees of the Water Department at any time; and, upon failure to do so, the Water Department may cause notice, either in writing or in person, to the owner or occupant of the property to remove such obstruction within 24 hours; and, on failure to do so, the obstruction may be removed by the Water Department and the cost thereof charged against the property owner thereof, shall become a lien against the property and shall be due and payable at the same time and in the same manner as other charges provided for in § 14.04.020.

14.04.080 VACATING PREMISES SERVED – NOTIFICATION OF WATER DEPARTMENT – ACTION.

Whenever a consumer vacates any premises, he or she shall immediately give notice thereof to the Water Department. Upon receipt of such notice, the Water Department shall shut off the water from the premises and immediately present to the consumer all unpaid bills for water furnished by the City to him up to that time and the consumer shall thereupon pay the bills. In the event that the consumer has made a deposit with the department, the balance, if any, of such deposit shall be returned to the consumer after deducting therefrom the amount of the bills. Until such notice and payment has been made, premises shall be deemed occupied by such consumer and his liability continued, as well as that of the property owner for unpaid bills.

14.04.090 LAYING OUT SERVICE.

When property to be served is a part or subdivision on a lot or lots originally abutting on a water main, but because of the subdivision has been separated from the main by another property, the serving shall be laid to the nearest property line.

14.04.100 TAMPERING WITH WATER DEPARTMENT PROPERTIES.

It is unlawful for any person to open any street hydrant, stop cock or gate valve or to tamper with or interfere with any street service, water connection, reservoir, pumping plant or any water meter attached to any service pipe connected with the City mains or water pipes or hydrants of the City, or to turn on and off water mains or water pipes of the City, or to tap, break or injure any water main, water pipe, meter or other fittings of the City laid in any street, avenue, alley or other public place or to tamper with, deposit or cause to be deposited in any water main or pipe of the City any fluid or solid matter or substance of any kind or to do any act that might cause water to become polluted, or to take, pump or draw water from any water main, pipe or hydrant of the City without first arranging with the Water Department for the same and paying the established rate therefor.

14.04.110 NO WATER SERVICE AT NEW ADDRESS UNTIL PREVIOUS BILL PAID.

No water service shall be furnished to any person at a new address so long as such person has an unpaid water bill against him at a former address.

14.04.120 [RESERVED].

14.04.125 WELLS FOR DOMESTIC USE.

A. For the purposes of this chapter, wells for domestic use, shall be construed as wells for residential, commercial and industrial uses with water quality suitable for human consumption and other personal needs.

B. The City will allow connection of appropriately permitted new domestic wells only during a time of a water hook-up moratorium, i.e. where a moratorium on water connections or added use has been imposed by a state agency or the City, or when there is an absence of infrastructure to serve the property. Once the moratorium is lifted or the necessary infrastructure is provided, the property owner must connect to the City water system within sixty days of written notice from the City and convert the domestic well to a nondomestic well (see § 14.04.127).

C. EXCEPTIONS:

1. Domestic wells existing prior to June 9, 1994 shall be recognized by the City as legally allowable.

2. The City may allow domestic wells on a permanent basis in lieu of connecting to the City's water system under specified circumstances. Specified circumstances would include, but are not limited to:

a. A well having hydrological study conducted by a licensed professional during the dry summer months, said study concluding that the well would support the proposed land use and there that would be no significant impact on adjacent ground water wells; and

b. The water quality from said well is found acceptable to the State Department of Health Services or other appropriate agency.

D. Where any well is located on a property where there is also a connection to the City's water system, there must be an approved backflow prevention device installed at the water service connection.

14.04.127 WELLS FOR NONDOMESTIC USE.

Wells for landscaping, irrigation or industrial purposes shall be allowed on any City lot. Such well shall meet the City's backflow preventive standards and shall be used for no other purpose but supporting the irrigation system or industrial use.

14.04.130 SHUTTING OFF WATER.

The City reserves the right to shut off the water from any premises or from any part of the distributing system as long as necessary without notice to consumers at any time when the exigencies of the occasion may require it, but in all cases of extensions or connections, the Water Department will notify consumers of the necessity of shutting off water and the probable length of time the water shall be shut off before taking such action.

14.04.140 SERVICE TO BE MADE TO PROPERTY LINE.

When service of water is made to property, it shall be made to the property line.

14.04.150 APPLICANTS – CREDIT ESTABLISHMENT – REQUIREMENTS.

A. Each applicant for water service will be required to satisfactorily establish credit.

B. Credit will be deemed established as follows:

1. If the applicant is the legal owner of the property to be served and there are no delinquent taxes, assessments or liens outstanding against the property;

2. If the applicant makes a cash deposit in the amount specified in § 14.04.155;

3. If the applicant furnishes a sufficient guarantee executed by a corporate or individual surety acceptable to the Director of Finance to secure payment;

4. If the applicant has previously paid all water bills for water service previously supplied by the City to applicant;

5. If the applicant has sufficient established credit references which, in the opinion of the Director of Finance, warrant establishment of water service without cash deposit or guarantee.

14.04.155 APPLICANTS – CREDIT ESTABLISHMENT – CASH DEPOSIT.

A. The amount of the cash deposit set forth in § 14.04.150 to establish credit for water service for residential accounts shall be no more than twice the amount of the estimated average periodic bill or, in the event monthly billing is instituted, no more than three times the estimated average monthly bill. The amount of cash deposit for commercial accounts shall be at the discretion of the Director of Finance.

B. Upon discontinuance of water service, the City will refund the cash water deposit in excess of any unpaid amount owed the City. Credit must be reestablished under the following conditions:

1. In the event water is shut off;

2. Where more than two (2) notices of delinquency are sent to a customer within a one-year period unless such a notice is sent erroneously or the amounts alleged to be due from the consumer in the notice are determined not to be due to the City;

3. In the event a consumer of an owner-occupied residence or business pays all water bills owed to the City within a two-year period, any cash deposit held by the City shall be refunded.

14.04.160 PROCESS FOR HANDLING OF UNPAID BILLS.

A. All unpaid delinquent water bills for service shall be referred to a collection agency after closing the account and applying any security deposit on file with the City.

B. In the event the collection agency is unsuccessful in collection of the water bill, the bill for service shall be a lien on the property served with the water and shall be collected and enforced in the same manner that unpaid City taxes on the property are collected and enforced.

14.04.170 SEPARATE WATER METERS WHEN POSSIBLE.

A. Each separate ownership shall have a separate water meter, and if one owner has several contiguous properties, each property shall have a separate water meter wherever it is possible to divide and sell the property in accordance with Title 18.

B. In all cases where one meter serves several separate properties under one ownership, the owner shall pay the water bill and not the renters or lessees.

C. The alternative to this is the installation of separate water meters.

D. Effective, March 25, 1999, in all cases where a second living unit is built on one property, each living unit shall have separate water meters.

14.04.180 OUTSIDE CITY WATER USERS.

Outside City water shall be considered on an individual basis on application to City Council.

14.04.190 RATES.

The water rates applicable upon the passage of this chapter shall be those set forth by resolution of City Council, on file in the office of the City Clerk, incorporated herein; and those rates may be changed from time to time by resolution of the City Council.

14.04.200 BASIS FOR RATES FOR RESIDENTIAL PROPERTIES, TRAILER COURTS, AND MOBILE HOME PARKS.

Single family residential properties (including condominiums) and multiple-family residential properties shall be charged water rates as set by City Council resolution.

14.04.210 DEFINITION OF DWELLING UNIT.

A dwelling unit is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family, or a congregate residence for ten (10) or less persons.

14.04.220 STORM WATER FOR NON DOMESTIC USE.

Storm water is derived from rainfall and runoff which can be conveyed from rooftops to rain barrels or other tanks plumbed via rain gutters and stored or used directly in landscaping. Storm water directed to landscaped areas infiltrates into soils reducing some irrigation needs, recharges the groundwater table and reduces storm water runoff that may cause hydromodification (chronic channel erosion) and/or pollution in receiving waters. Use of water tanks is encouraged by 14.06.070 and does not require a permit under certain conditions. Services with actual or potential cross connections will be required to install an approved method of backflow prevention commensurate with the degree of hazard and type of hazard (see § 14.05.060).

14.04.230 GRAY WATER FOR NON DOMESTIC USE.

A. Gray water can be used to irrigate a landscape especially via underground conveyance to limit surface exposure. Because gray water has not been disinfected, it could be contaminated with disease-causing organisms. The following precautions are mandated:

1. Never use gray water for direct consumption.
2. Gray water must not be used directly on anything that may be eaten.
3. Gray water must not be sprayed, allowed to puddle, or run off property.

4. Use only water from clothes washing, bathing or the bathroom sink. Do not use water that has come in contact with soiled diapers, meat or poultry, or anyone with an infectious disease.

B. Gray water should be rotated with fresh water irrigation to leach out harmful build-up. Chlorine bleach may damage plants, especially if it touches the foliage. Biodegradable soaps appear to have the least harmful effects. Use of water tanks is encouraged by 14.06.070 and does not require a permit under certain conditions. Services with actual or potential cross connections will be required to install an approved method of backflow prevention commensurate with the degree of hazard and type of hazard (see § 14.05.060).

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect on April 1, 2020. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on January 13, 2020, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

WILLIAM V. LEE,
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: January 16, 2020 and February 6, 2020 (by summary).
EFFECTIVE DATE: April 1, 2020.