



AGENCY:	City Council
MEETING DATE:	August 10, 2015
DEPARTMENT:	Public Works
PRESENTED BY:	T. Varga

## AGENDA ITEM SUMMARY

### **TITLE:**

**RECEIVE REPORT AND CONSIDER INTRODUCING, BY TITLE ONLY, AND WAIVE FURTHER READING OF ORDINANCE 919-2015 AMENDING CHAPTER 14.06 (WATER CONSERVATION) OF TITLE 14 (WATER AND SEWER) OF THE FORT BRAGG MUNICIPAL CODE**

### **ISSUE:**

Fort Bragg's water supply has been adversely affected by the on-going, four-year drought. The State of California has taken an aggressive response to dwindling water resources. On May 5, 2014, the State Water Board adopted Resolution 2015-0032, "To Adopt an Emergency Regulation for Statewide Urban Water Conservation." Most of the provisions in these emergency regulations apply to urban water suppliers, and the City of Fort Bragg is not considered an urban water supplier. However, there are certain requirements that apply to all water suppliers and those mandates need to be incorporated into the Fort Bragg Municipal Code. In addition, there are a few other clean up items that should be addressed.

A draft update of the City's Water Conservation Ordinance was reviewed by the Public Works & Facilities on July 16, 2015. At the meeting, the ordinance was further refined. To move the ordinance expeditiously, the Committee recommended that the full City Council review and discuss the updated Water Conservation Ordinance at the July 27, 2015 next meeting and provide direction to staff regarding the ordinance. Additionally, the City Attorney's office has reviewed the ordinance.

The ordinance is brought forward to the City Council for introduction.

### **RECOMMENDED ACTION:**

Waive the first reading and introduce, by title only, Ordinance 919-2015 amending Chapter 14.06 (Water Conservation) of Title 14 (Water and Sewer) of the Fort Bragg Municipal Code.

### **ALTERNATIVE ACTION(S):**

1. Make minor amendments to the ordinance prior to waiving the first reading and introducing, by title only, Ordinance 919-2015.
2. Direct staff to make further edits to the ordinance and return at a future meeting for introduction.

### **ANALYSIS:**

At its meeting of July 27, 2015, the City Council considered the subject ordinance. Several modifications were suggested. The following changes have been incorporated into the ordinance presented to the Council for introduction:

#### **§14.06.050**

- A.1(a)(3), added hardscapes to driveways and sidewalks

A.1(b)(1), removed language regarding the list of appurtenant hard surfaces. This is now better covered by including “hardscapes” in the sub-paragraph noted above. Language regarding exemption for painting was modified to include anyone painting a building.

A.1(b)(4), added language regarding defective equipment which was inadvertently dropped from the previous version.

Language describing minimum water usage levels below which additional water conservation no longer required was considered but ultimately not added. This can be adequately addressed under exceptions noted at the beginning of §14.06.050.

#### §14.06.060

Reviewed and revised the table of offenses

- Lawns/landscaping, broadened to better cover: §14.06.050.A.1(a)(1) & (5)
- Washing vehicles, changed from “cars”
- Washing building exteriors, stated painting preparation exemption
- Fountains, added decorative water features
- Construction, changed Stage 1 penalties to: 1<sup>st</sup>-minor, Subsequent-major
- Irrigation, added exterior watering
- Tampering, consolidated hydrants and water meters

Other revisions since the Council’s last meeting include the following:

- The opening paragraph in §14.06.050 has been expanded to note that exceptions to the prohibitions during a water emergency may be granted to address an immediate health or safety need or compliance with a state or federal permit.
- In the same section, under paragraph A.2, the two days of permitted outdoor irrigation has been left unspecified to keep implementation of this requirement flexible.
- In paragraphs B and C, the 20% and 30% water savings will be relative to the customer’s monthly water usage compared to the previous year.
- The table of minor and major offenses in §14.06.060 has been modified to cite the applicable portion of the code to which each offense applies.

Attachment 1 presents the new draft Water Conservation Ordinance that has been modified to incorporate recommendations received by the Public Works & Facilities Committee, the City Council, and the City Attorney’s office.

#### **For Council’s reference, the previous staff report follows:**

During its review, the Committee noted inadequate clarity in the use of the term “water” in the Ordinance. A suggestion was made to provide a definition for water to provide this clarity, especially when the intended meaning was referring to potable water. Upon further review of the Ordinance, the usage of the term “water” is quite broad and used in such a fashion that relying on definitions may not be very helpful. Instead, the Ordinance language was modified to explicitly state when potable water was the intended meaning. Other meanings associated with the term “water” are more easily understood from the context in which the word appears.

The Water Board’s most recent emergency regulations require all water providers to implement the following end use prohibitions:

- The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
- The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
- The application of potable water to driveways and sidewalks.
- The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
- The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall shall be prohibited.
- The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased shall be prohibited.
- The irrigation with potable water of ornamental turf on public street medians shall be prohibited.
- The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development shall be prohibited.

The Committee did not make any changes to the above provisions as they appear in the draft Ordinance.

Other mandated water conservation provisions are:

- To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
- All commercial, industrial and institutional properties that use a water supply, any portion of which is from a source other than supplied by the City, shall either:
  - Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or
  - Reduce potable water usage supplied by sources other than from the City by 25 percent for the months of June 2015 through February 2016 as compared to the amount used from those sources for the same months in 2013.
- To prevent waste and unreasonable use of water and to promote water conservation, outdoor irrigation of ornamental landscapes or turf with potable water supplied by the City by shall be limited to no more than two days per week for all water users.

In reviewing the requirements above, the Public Works & Facilities Committee concluded that many of the provisions for non-residential water users were confusing and were essentially the same as those for residential water users. These paragraphs have been deleted from the Ordinance.

Finally, there are additional water usage prohibitions in the current Municipal Code that should be kept:

- The use of any hose or similar device, irrespective of whether a nozzle, valve, or other shut-off mechanism is attached thereto, for washing or cleaning the exterior surface of any dwelling, garage, commercial or industrial building, or appurtenance thereto, including, but not limited to, sidewalks, walkways, driveways, patios, parking lots, tennis courts, or similar or like hard-surface areas by directing water at or upon the surface. Painting contractors shall be exempted from this provision when water is used in connection with the conduct of their business activities during a Stage 1 water conservation emergency.
- The use of water for filling or refilling any existing or new swimming pool. Replenishing existing pools which have lost water due to evaporation shall be permitted.
- The use of water in construction projects for backfill consolidation or compaction, or for dust control purposes; provided, however, that the City Manager may permit the use of water upon a determination by the City Manager that no other source of water for the purpose is available, or that no other method of compaction, consolidation, or dust control is reasonably available. The reuse of water system flush water is permitted.
- The use of water through, with or by any plumbing, sprinkler, watering or irrigation system, or other device, equipment, or appliance which is broken or defective, or which for any reason, fails to use water in the ordinary and customary manner or quantity for which it was designated constructed, or manufactured.

The Committee recommended that a provision regarding new irrigation facilities be deleted as this is already covered by development permits. For ease of use, the remaining existing Municipal Code water usage prohibitions were moved into the paragraph containing the State mandated items.

#### Other changes to Chapter 14.06 – Water Conservation.

- Declarations of water emergencies should be made by the City Council. Given the community-wide importance of such an action, the Council is the appropriate body to consider and order such an action. This practice is consistent with other local agencies in the region.
- Current Section 14.06.040, regarding financial incentives for water conservation was recommended for deletion in its entirety. These provisions are likely not compliant with the requirements of Proposition 218 for implementing changes to water rates.
- Water conservation goals for each Stage of water conservation should be retained: Stage 1 – 10%, Stage 2 – 20%, and Stage 3 – 30% are recommended. These goals approximately track State conservation goals for urban water suppliers: 8% for effective water conservers, a 25% overall Statewide goal, and 32% for water wasters.

The Public Works & Facilities Committee determined that reduction goals also need a floor below which additional water conservation is no longer realistic. Staff is performing a brief literature review of water conservation standards to determine what amounts are appropriate. In addition these amounts need to be checked against actual water billing water usage amounts to choose a realistic floor water usage level. Residential and Non-residential water usage minimum levels will be determined separately.

- The new State mandates require a restriction of outdoor, landscape irrigation to no more than two days per week. Given the apparently modest number of outdoor irrigation systems, the amount of water involved is a relatively small portion of overall city-wide usage. Therefore, limiting irrigation to the same two days for all water users should not materially affect typical, daily water usage rates. These are approximately equally spaced and include a weekend day. Staff recommends that enforcement be done on a complaint basis to avoid overwhelming limited staffing resources.

The Committee recommended that Monday and Thursday be set as the two days when outdoor irrigation is permitted.

- Current Stage 3 restrictions focus on restaurants, hotels/motels, and laundromats. It is recommended that water conservation standards be applied equally across all water users, including residential customers. Using the stated 30% water savings goal is a good way to accomplish this.
- An offense for tampering with water meters should be added to the list of water emergency offenses. Staff recommends treating this as a major offense during all stages of a declared water emergency, the same as is done for tampering with hydrants.
- The State mandated requirement for enforcement fines of \$500 per day for each offense is already adequately included in the current code. No further changes are recommended.
- Consideration should be given to some sort of appeals protocol to address unusual circumstances or issues. Most notably would be the granting of exceptions when unacceptable economic harm would result from strict enforcement of the water conservation measures.

Stage 2 prohibitions were simplified by the Committee by removing provisions involving commercial car washes, preparing building exteriors for painting, spas/hot tubs, and construction. It is important to keep reduction requirements as equitable as possible.

**FISCAL IMPACT:**

There are no direct fiscal impacts. However as water conservation efforts improve, water usage decreases as will water revenues. Staff has anticipated reasonable reductions for revenue estimates in the FY 2015/16 budget.

**CONSISTENCY:**

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) as this ordinance is not a "project" under CEQA; in accordance with Section 15378(b)(2), general policy and procedure making this not a "project" under CEQA. This ordinance establishes policies and procedures for the City of Fort Bragg.

**IMPLEMENTATION/TIMEFRAMES:**

The anticipated implementation timeframe is:

8/10/15	Introduce Ordinance 919-2015
8/24/15	Adopt Ordinance 919-2015
9/23/15	Ordinance goes into effect

**ATTACHMENTS:**

1. Draft Ordinance

**NOTIFICATION:**

None

**City Clerk's Office Use Only**

Agency Action      ☐ Approved      ☐ Denied      ☐ Approved as Amended

Resolution No.: \_\_\_\_\_ Ordinance No.: \_\_\_\_\_

Moved by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Vote: \_\_\_\_\_

☐ Deferred/Continued to meeting of: \_\_\_\_\_

☐ Referred to: \_\_\_\_\_