


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: October 3, 2023
To: Honorable Mayor and City Councilmembers
From: Dante Del Prete, Public Works Superintendent
Toni Bertolero, Engineering Consultant
Subject: Abridged Water Shortage Contingency Ordinance
Recommendation: Second Reading of Ordinance Amending Chapter 13.06 Water Shortage Contingency Plan of the Sebastopol Municipal Code
Funding: Currently Budgeted: Yes No Not Applicable

Account Code: [Fill in Account Number]

Costs authorized in City Approved Budget: Yes (Finance Initialed _____) No (Finance Exempt)

INTRODUCTION/PURPOSE:

The item is for the second reading by the Council for an Ordinance amending Chapter 13.06, Water Shortage Contingency Plan of the Sebastopol Municipal Code. Council approved the introduction and first reading at the September 19, 2023 meeting, without any changes.

BACKGROUND:

In order to conserve the available water supply and protect the integrity of public water system (PWS) supply facilities, with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Sebastopol prepared an Abridged Water Shortage Contingency Plan as required under California State Law Sections 10609.60-63.

DISCUSSION:

The Plan was prepared by GHD Inc. in conjunction with the Public Works Department and was presented and approved by Council on June 6, 2023. For a detailed discussion of the ordinance, refer to the agenda report presented at the meeting of September 19, 2023.

ENVIRONMENTAL REVIEW:

The proposed action is exempt (Yes No Not a project under CEQA) from the requirements of the California Environmental Quality Act (CEQA)

GOALS:

This action supports the following City Council Goals and General Plan Actions:

Goal 2 - Maintain, Improve and Invest in the City's Infrastructure (Water, Sewer, Streets, Circulation, Parks, Storm Drains and Public Facilities).

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, staff anticipates receiving public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date. In addition, a Legal Notice was posted on September 5, 2023 regarding the public hearing date, time and a brief description of the ordinance.

FISCAL IMPACT:

There is no fiscal impact of adopting the ordinance.

RECOMMENDATION:

It is recommended that Council approve the second reading and adopt the ordinance. If adopted, the ordinance will take effect thirty (30) days from the date of adoption.

Attachment:

- Proposed Ordinance

ORDINANCE NUMBER _____

SECOND READING AND ADOPTION

AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING CHAPTER 13.06, WATER SHORTAGE CONTINGENCY PLAN OF TITLE 13, PUBLIC SERVICES, OF THE SEBASTOPOL MUNICIPAL CODE

WHEREAS, on June 6, 2023, the City of Sebastopol (“City”) approved the Abridged Water Shortage Contingency Plan as required by the State of California; and

WHEREAS, this Ordinance will amend the City’s current water shortage contingency plan to be in alignment with the State of California water shortage contingency plan.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Chapter 13.06, Water Shortage Contingency Plan, is hereby amended to read as follows:

Sections:

- 13.06.010 Scope.
- 13.06.020 Declaration of policy.
- 13.06.030 Definitions.
- 13.06.040 Authorization.
- 13.06.050 Application.
- 13.06.060 Public outreach.
- 13.06.070 Water conservation stages and drought response actions.
- 13.06.080 Variances.
- 13.06.090 Violation and enforcement.

13.06.010 Scope.

There is established a City water shortage contingency plan. (Ord. 1070 § 1, 2014)

Section 13.06.020 – Declaration of policy.

In order to conserve the available water supply and protect the integrity of public water system (PWS) supply facilities, with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Sebastopol hereby adopts these regulations and restrictions on the delivery and consumption of water through this ordinance.

Water uses regulated or prohibited under this chapter are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water subjecting the offender(s) to penalties as defined in this chapter.

13.06.030 Definitions.

“Aesthetic water use” means water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

“City” means the City of Sebastopol acting by and through the City of Sebastopol Public Works Department as operator of the City of Sebastopol water system.

“Commercial and Institutional water use” means water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as schools, hospitals, clinics, retail establishments, hotels and motels, restaurants, and office buildings.

“Conservation” means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

“Customer” means any person, business or other entity, whether within or without the geographic boundaries of the City of Sebastopol, who uses water supplied by the City.

“Domestic water use” means water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

“Even numbered address” means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

“GPD” means gallons per day.

“Industrial water use” means the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

“Landscape irrigation use” means water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, rights-of-way and medians.

“Manager” means the Public Works Superintendent of the City of Sebastopol.

“Non-essential water use” means water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of public or private landscape areas, including parks, athletic fields, and golf

- courses, except otherwise provided under this Plan;
- (b) use of water (commercial or noncommercial) to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
 - (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
 - (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
 - (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
 - (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s);
 - (i) use of water from hydrants for construction purposes or any other purposes other than firefighting or hauling water for a domestic water use;
 - (j) water for single-pass evaporative cooling systems for air conditioning in all connections installed after the effective date of the ordinance codified in this chapter;
 - (k) Water for nonrecirculating conveyor car wash systems; and
 - (l) water for new nonrecirculating industrial clothes wash systems.

“Odd numbered address” means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

“Person” means any person, firm, partnership, association, corporation, company, organization, or governmental entity.

“Plan” means the City of Sebastopol Water Shortage Contingency Plan approved by Council, dated June 6, 2023 or as approved at a subsequent date.

13.06.040 Authorization.

The Public Works Superintendent, or designee, is hereby authorized and directed to implement the applicable provisions of this chapter upon determination that such implementation is necessary to

protect public health, safety, and welfare. The Public Works Superintendent, or designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this chapter, except that under Stage 6, the City Manager is authorized to implement the Catastrophic Water Allocation Plan as provided for in Section 13.06.076.C of this chapter.

13.06.050 Application.

The provisions of this chapter shall apply to all persons, as defined above, and property utilizing water provided by the City of Sebastopol.

13.06.060 Public outreach.

The City of Sebastopol will regularly provide the public with information about the City's water conditions, including information about the conditions under which each stage of the water shortage contingency plan is to be initiated or terminated and the drought response measures to be implemented in each stage. Detailed information about public notifications, drought response actions, and current public safety contacts, and support services are kept in the Office of the Public Works Superintendent.

13.06.070 Water conservation stages and drought response actions.

The start and end of a Water Conservation Stage is designated by resolution of the City Council, upon designations and declarations of a drought by State and Federal agencies.

13.06.071 Stage 1 – Watch.

- A. The target is to achieve a voluntary 10 percent reduction in total monthly water usage.
- B. Voluntary demand reductions actions under Stage 1:
 - 1. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 1.
 - 2. Apply irrigation water only during the evening and early morning hours to reduce evaporation losses.
 - 3. Inspect all irrigation systems, repair leaks, and adjust spray heads to provide optimum coverage and eliminate avoidable overspray.
 - 4. For irrigation valves controlling water applied to lawns, vary the minutes of run time consistent with fluctuations in weather.
 - 5. Reduce minutes of run time for each irrigation cycle if water begins to run off to gutters and ditches before the irrigation cycle is completed.
 - 6. Utilize water conservation rebate and giveaway programs to replace water guzzling plumbing fixtures and appliances with water efficient models.
 - 7. Utilize City information regarding using water efficiently, reading water meters, repairing ordinary leaks, and how to make your landscape a water efficient landscape.

13.06.072 Stage 2 – Warning.

- A. The target is to achieve a 20 percent reduction in total monthly water usage.
- B. Demand reductions actions under Stage 2:

1. Continue all of the actions listed for Stage 1.
2. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 2.
3. Non-essential uses of water, as defined in Section 13.06.030, shall be prohibited unless a variance is obtained, as described in Section 13.06.080
4. Other uses of water as specified below, shall also be prohibited under this Stage 2, unless a variance is obtained, as described in Section 13.06.080:
 - a. Irrigation of commercial, industrial, or public decorative turfgrass with potable water.
 - b. Initial filling of a swimming pool.
 - c. Noncommercial washing of privately owned motor vehicles, trailers and boats except from a bucket. A hose equipped with a shut-off nozzle may be used to rinse the vehicle.
 - d. Any use of water from a fire hydrant except for fighting fires or essential construction needs.
 - e. Pressure washing.
5. Limit outdoor irrigation of privately owned turfgrass and perennial landscapes with potable water by the persons it serves to no more than two days per week.
6. Restaurants may only serve water upon request and must optimize the use of commercial dish washers and wash full racks only.
7. Hotel and lodging establishments must inform guests and visitors about the drought, including laundering of linens only upon request.
8. Water waste including leaking faucets, toilets, and appliances, as well as broken irrigation pipes, leaking irrigation valves, and broken sprinkler heads, and runoff from properties due to overwatering or misdirected sprinklers is prohibited.
9. By resolution, the City Council shall have the authority to prohibit other activities and water uses upon the recommendation of the Public Works Superintendent that such additional measures are necessary to achieve an overall system-wide reduction of 20 percent in water usage.

13.06.073 Stage 3 – Acute.

- A. The target is to achieve a 30 percent reduction in total weekly water usage.
- B. Mandatory demand reductions actions under Stage 3:
 1. Continue all of the actions listed for Stage 1 and 2.
 2. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 3.
 3. Other uses of water as specified below, shall also be prohibited under this Stage 3, unless a variance is obtained, as described in Section 13.06.080:
 - a. Watering any residential, commercial or industrial area turfgrass with potable water, at any time day or night.
 - b. Planting any new perennial landscaping, except for drought resistant landscaping.
 - c. All daytime and nighttime irrigation sprinkling unless only when a handheld nozzle is use.

d. Planting of new annual ornamental plants.

4. By resolution, the City Council shall have the authority to prohibit other activities and water uses upon the recommendation of the Public Works Superintendent that such additional measures are necessary to achieve an overall system-wide reduction of 30 percent in water usage.

13.06.074 Stage 4 – Critical.

A. The target is to achieve a 40 percent reduction in total weekly water usage.

B. Mandatory demand reductions actions under Stage 4:

1. Continue all of the actions listed for Stage 1, 2 and 3 with the following modifications:

a. Use of water to refill or add water to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited. The only exception to allow refill or add water to is for the City public swimming pool.

b. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to one day per week and early morning and late night hours on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a filled bucket or watering can of five (5) gallons or less.

c. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

d. Supply of potable water to residents with domestic wells may continue under special permits with State-certified potable water haulers.

2. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 4.

3. By resolution, the City Council shall have the authority to prohibit other activities and water uses upon the recommendation of the Public Works Superintendent that such additional measures are necessary to achieve an overall system-wide reduction of 40 percent in water usage.

13.06.075 Stage 5 – Emergency.

A. The target is to achieve a 50 percent reduction in total weekly water usage.

B. Mandatory demand reductions actions under Stage 5:

1. Continue all of the actions listed for Stage 1, 2, 3 and 4 with the following modifications:

a. Water use for the City public swimming pool is prohibited.

b. All outdoor irrigation is prohibited.

c. Swamp coolers are only permitted for use when temperatures exceed 85 degrees Fahrenheit or with an approved variance.

2. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 5.

3. By resolution, the City Council shall have the authority to prohibit other activities and water uses upon the recommendation of the Public Works Superintendent that such additional measures are necessary to achieve an overall system-wide reduction of 50 percent in water usage.

13.06.076 Stage 6 – Catastrophic.

A. The target is to achieve a greater than 50 percent reduction in total daily water use and/or

maintain function of key water delivery systems in the event of a catastrophic interruption of supply.

B. Mandatory demand reductions actions under Stage 6:

1. Continue all of the actions listed for Stage 1, 2, 3, 4 and 5.
2. The Public Works Superintendent will perform preparatory and supply management actions as detailed in the Office of the Public Works Superintendent for Stage 6.

C. In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager, is hereby authorized to allocate water according to the following water allocation plan:

1. Single-family residential customers.
 - a. All outdoor uses of potable water shall be prohibited.
 - b. The indoor use allocation to residential water customers residing in a single-family dwelling shall be as follows:
 - (I) Until January 1, 2025, the allocation shall be 55 gallons per capita daily.
 - (II) Beginning January 1, 2025, and until January 1, 2030, the allocation shall be 47 gallons per capita daily.
 - (III) Beginning January 1, 2030, the allocation shall be 42 gallons per capita daily.
 - (IV) Household means the residential premises served by the customer's meter.
 - (V) The rates of 55, 47, and 42 gallons per capita are based on California Urban Water Use Objectives from State Water Code Section 10609.4 for standard indoor residential water use.

2. Master-metered multi-family residential customers.
 - a. All outdoor uses of potable water shall be prohibited.
 - b. The allocation to residential water customers billed from a master meter which jointly measures water to multiple permanent residential dwelling units (*e.g., apartments, mobile homes, etc.*) shall be allocated the same per capita basis as single-family residential customers.

3. Commercial customers.
 - a. Irrigation shall be prohibited.
 - b. A monthly water allocation shall be established by the Public Works Superintendent, or designee, for each nonresidential, non-industrial commercial water customer who uses water for processing purposes. The allocation to nonresidential, non-industrial commercial water customers shall be 40 percent of typical monthly water usage.

4. Industrial customers.
 - a. Irrigation shall be prohibited.
 - b. A monthly water allocation shall be established by the Public Works Superintendent, or designee, for each industrial customer, which uses water for processing purposes. The allocation to industrial water customers shall be 40 percent of typical monthly water usage.

5. All customers.

Additional decreases to the water allocations described in this Section 13.06.076.C may be required for short-term emergency response to earthquakes, fires, etc. Any short-term decrease (defined as less than 72 hours) will be determined by the Public Works Superintendent along with provision for alternative water supplies for any period of water outage greater than 10 hours. Any conservation decreases to the above rates, for greater than 72 hours, require a properly noticed Council meeting for public input and Council adoption.

13.06.080 Variances

A. The Public Works Superintendent, or designee, may grant, in writing, a temporary variance for existing water uses otherwise prohibited under this chapter if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

B. Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the water system within 5 days after a particular drought response stage has been invoked. A decision on the variance request will be returned to the customer within no more than 10 business days. All petitions for variances shall be reviewed by the Public Works Superintendent, or designee, and shall include the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
4. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this chapter.
5. Description of the relief requested.
6. Period of time for which the variance is sought.
7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
8. Other pertinent information as may be requested by the City.
9. The following exemptions are pre-approved and do not require a petition for variance:
 - a. Use of a residential swamp cooler on days where the ambient temperature is greater than 80 degrees Fahrenheit for residents that can demonstrate a medical need.
 - b. Use of water for the operation of a medical support device needed by a resident.

13.06.90 Violation and enforcement.

A. No person shall knowingly or intentionally allow the use of water from this water system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the Public Works Superintendent, or designee, in accordance with provisions of this Plan.

B. Any person, including a person classified as a water customer of the water system, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that they did not commit the violation.

C. The violation of each provision of this chapter, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced in accordance with the provisions of City municipal codes Chapter 15.76 SMC, Administrative Citations (Ord. 1070 § 1, 2014).

SECTION 3. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational or administrative activity that will not result in direct or indirect changes in the environment.

SECTION 4. If any Person violates any provision of this Ordinance, he or she shall be liable to the Filing Officer at a minimum of ten (\$10) dollars per day of violation, in addition to any other legal remedies provided by law. This amount shall be deemed a penalty in accordance with Government Code Section 91013.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Sebastopol at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 7. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

APPROVED FOR FIRST READING AND INTRODUCTION OF ORDINANCE at the Regular City Council Meeting of September 19, 2023.

APPROVED FOR SECOND READING AND ADOPTION OF ORDINANCE at the Regular City Council Meeting of October 3, 2023.

VOTE:
AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED: _____
Mayor Neysa Hinton

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Larry McLaughlin, City Attorney