



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

### ATTACHMENT 5

**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 Adoption of Proposed Water Use Regulations During Drought Conditions

#### RECOMMENDATION:

That the Ordinance Committee consider a recommendation to the City Council regarding:

- A. Proposed ordinance amending SBMC Chapter 14.20 related to the use of water through City meters, removal of City meters, and water use regulations during drought conditions; and
- B. Proposed resolution declaring a Stage 2 Drought Condition, including updated Stage Two water use regulations.

#### 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.

A Stage One Drought Condition was declared by Council on February 11, 2014. At that time, the 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. Changes to regulations were made by Council resolution as authorized in the SBMC. However, this process resulted in some confusion due to the difference between regulations in the SBMC and those in the

current resolution. The proposed ordinance (Attachment 1) would modify SBMC Section 14.20.215 to remove the specific regulations from the SBMC and retain the provision that regulations during drought are as established by Council resolution. This will eliminate the discrepancy between the SBMC and the current resolution on drought regulations, while preserving the flexibility to promptly modify drought regulations as needed during drought conditions. Attachment 2 is a preliminary draft of the resolution declaring a Stage Two Drought Condition, which includes the regulations staff is recommending based on our current water supply situation.

As a part of the amendment to SBMC Chapter 14.20, staff is also recommending changes to Section 14.20.140 to be more specific about unlawful actions related to water meters at all times, whether during drought or not. The changes include prohibition of:

- Water use through a meter by persons other than the account holder or 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 not an active billing account; and
- Unauthorized removal of a meter.

The proposed ordinance and resolution were reviewed with the City Water Commission on April 14, 2014, at which time the Commission voted \_\_\_ - \_\_\_ to \_\_\_\_\_.

**ATTACHMENT(S):** 1. Draft Ordinance Amending SBMC, Chapter 14.20  
2. Draft Resolution Declaring Stage 2 Drought Condition

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

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

## Proposed Changes to SBMC Chapter 14.20, “Water Regulations”

Note: This document will be replaced with the draft ordinance to be prepared by the City Attorney’s office. The purpose of the amendment is to:

- Be more specific about who can use water through a meter or fireline, or remove a meter, and address use of water through a non-active meter (i.e. when no one is signed up to pay the bill);
- Provide flexibility on regulations during drought conditions, by moving regulations from SBMC to resolution of City Council; and
- Change SBMC language to say that water use regulations during drought conditions apply to all water from the City water system, including recycled water.

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### 14.20.140 ~~Illegal~~ Use of Water and Meter Removal~~Consumption Shown by Meter.~~

All of the following shall be unlawful:

(a) for a Consumer who is not an Account Holder to use water through a Meter, except as authorized by a rental or lease agreement, or other specific authorization by the Account Holder for that Meter;

(b) for a Consumer to use water from a fire hydrant, except as authorized by a permit issued by the Public Works Director;

(c) for a Consumer to use water from a dedicated fireline except in response to a fire;

(d) for a Consumer to use water from a Connection that does not have a Meter, except as specifically authorized by the Public Works Director;

(e) for a Consumer 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.

In the event of water use from a Meter during a period when there is no active Account Holder~~When a meter shows a consumption of water after service has been officially discontinued,~~ the owner of the property served shall be ~~held~~ responsible for paying applicable charges for such use, consumption, in addition to which he shall pay to the City a service restoration fee and the The ~~W~~water Service shall not ~~again~~ be turned on again for either owner or tenant until such charges have been paid.~~Illegal consumption has been fully paid for.~~ (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.50.)

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### 14.20.215 **Water Use Regulations During Drought Conditions.**

A. REGULATIONS DURING~~STAGE TWO~~ DROUGHT CONDITIONS. Upon adoption by the City Council of a resolution declaring a Stage Two or a Stage Three Drought Condition, and for as long as that condition exists, regulations as may be adopted by resolution of the City Council ~~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. Failure to comply with any such regulation shall be a failure to comply with a provision of this Chapter and shall constitute a violation pursuant to Section 14.20.225.

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.~~

~~CB. EXEMPTIONS. Exemptions to the water use regulations set forth in this Section may be granted by the Director for specific uses of water, on the basis of hardship and in accordance with such guidelines for exemptions as the City Council may adopt. 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.~~

~~DC. Upon the declaration of and during a Stage Two or Three 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 requirement 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. (Ord. 4558, 1989.)~~

#### **14.20.225 Violations.**

A. Any failure to comply with a provision of this Chapter shall constitute a violation, 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 is continuing and intentional, each successive hour of such failure to comply shall be a separate and distinct violation. (Ord. 4558, 1989.)

#### **14.20.226 Penalties and Charges.**

A. The following penalties shall apply 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 surcharge against the account holder 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 surcharge against the account holder 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 surcharge against the account holder 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 Subsection A of this Section, prior to restoration of normal water service the account holder whose service is affected shall be required to reimburse the City for whatever cost it has incurred and will incur in installing and removing a flow restricter and in shutting off and turning on water service.

C. Any surcharge imposed pursuant to this Section shall be added to the account of the account holder 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 Chapter shall limit or be construed to limit the right of an account holder to seek reimbursement of a surcharge from a tenant or other consumer. (Ord. 4558, 1989.)

#### **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 account holder 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 account holder's right to request a hearing on the violation and the time within which such a request must be made; and

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

C. Any account holder 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 account holder 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 discretion in accordance with such guidelines as the City Council may adopt by resolution.

1. For a first or second violation within a twelve (12) month period, the decision of the

Director shall be final.

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

~~E. There shall be no installation of a flow restricter or shut off of water service until a notice of violation has become final or there is a final decision of the Director or the Board ordering installation of a flow restricter or shut off of water service. (Ord. 4558, 1989.)~~ [b]2]

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 2 DROUGHT CONDITION

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, there has been a continuing lack of significant rainfall, 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 Stage Two and Stage Three Drought Conditions, and provides for exemptions to such regulations pursuant to guidelines adopted by the City Council;

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

WHEREAS, the need for water use reductions and extraordinary water supply expenses related to the current drought will affect revenue requirements and water rates for Fiscal Year 2015, which will be the subject of a public hearing scheduled for June 2014.

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. The following drought water use regulations regarding use of water from the City's water system are hereby established and shall be effective until repealed or modified by resolution of the City Council:

a. Any use of water through a hose, pipe, or faucet not otherwise prohibited by these regulations is allowed only if 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 required 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 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 bucket and hose subject to the self-closing valve provision of Section 2.a.

- 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.

Nothing in these regulations shall limit or be construed to limit the right of an account holder to seek reimbursement of a penalty charge from a tenant or other user of water.

3. Staff is directed to continue to develop recommended water rates commensurate with the Stage Two Drought Condition, for consideration by the City Council in June 2014.