



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** May 10, 2021

FROM: Matthew Bronson City Manager

PREPARED BY: Greg Ray, Public Works Director/City Engineer

SUBJECT: Water Shortage Stage 1 Declaration and First Reading of an Ordinance Amending City Municipal Code Article VII, Public Works, Chapter 2, Mandatory Water Conservation

RECOMMENDATION

- 1) Conduct a public hearing to allow consumers of the City's water supply to protest against the water shortage declaration and to present their respective needs to the Council; and
- 2) Conduct a public hearing for the first reading and introduction of an Ordinance amending Parts 3 and 4 of Chapter 2 of Article VII of the Grover Beach Municipal Code and schedule the second reading and adoption at the next regularly scheduled Council meeting.

BACKGROUND

On April 26, 2021, the Council heard a report on the status of water supplies in Grover Beach and the impacts of below-average rainfall this past winter on Lopez Lake and the Santa Maria Groundwater Basin. The Council subsequently provided direction to implement a Stage 1 Water Shortage Condition pursuant to the conditions specified in the City's Water Shortage Contingency Plan and to amend the Grover Beach Municipal Code to specify that any violation of the adopted mandatory water conservation measures is a violation of Section 7202 of Part 1, Chapter 2, Article VII of the Grover Beach Municipal Code and subject to the remedies identified in Chap. 4, Art. 1 of the Municipal Code.

In order to enact the Stage 1 Water Shortage Condition, the Council must hold a public hearing and adopt a Resolution declaring the shortage condition and also must conduct the first reading and introduce the related Ordinance amending the City's Municipal Code. The first reading of this Ordinance is included with this public hearing with the second reading and adoption of the Ordinance scheduled for the next regularly scheduled Council meeting. The recommended Resolution and Ordinance are included as Attachments 1 and 2 to this report. Staff would note that this Ordinance includes an amendment to delete Part 4 of Chapter 2, Article VII of the City Municipal Code to eliminate language related to a moratorium on land use applications that expired 14 months after its adoption in 1989 and had not been subsequently removed.

FISCAL IMPACT

The enactment of a Stage 1 water shortage condition will result in minor costs and staff time associated with the public information campaign and assigning water budgets to all customers. These costs will be absorbed in the Water Fund operating budget.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Conduct a public hearing to allow consumers of the City's water supply an opportunity to be heard and to protest against the water shortage declaration and to present their respective needs to the Council; and conduct a public hearing for the first reading and introduction of an Ordinance amending Parts 3 and 4 of Chapter 2 of Article VII of the Grover Beach Municipal Code and schedule the second reading and adoption at the next regularly scheduled Council meeting; or
2. Provide additional direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act and in accordance with California Water Code Section 352 which requires that a notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government Code at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the water supply is distributed.

Attachments

1. Resolution Declaring Stage 1 Water Shortage Condition
2. Ordinance Amending MC Parts 3 and 4 of Chapter 2, Article VII

RESOLUTION NO. 21-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, DECLARING A STAGE 1 WATER SHORTAGE CONDITION IN ACCORDANCE WITH CALIFORNIA WATER CODE SECTION 350 AND CITY OF GROVER BEACH MUNICIPAL CODE SECTION 7202.

WHEREAS, on April 6, 2020 the City Council of the City of Grover Beach adopted Resolution No. 20-09 approving the 2015 Urban Water Management Plan and associated Water Shortage Contingency Plan; and

WHEREAS, the Water Code Section 350, et seq. and the City of Grover Beach Municipal Code Section 7202 give the City authority to declare a water shortage in response to anticipated shortages in water supply and to implement measures to reduce water demand and to implement penalties for failing to meet water use reduction requirements; and

WHEREAS, the water resources of the City of Grover Beach consisting of surface water from the Lopez Lake Reservoir and Groundwater pumped from the Northern Cities Management Area of the Santa Maria Groundwater Basin are determined to be in a shortage condition as defined by one or more triggering conditions observed by City staff; and

WHEREAS, Water Code Section 353 provides that when a water shortage condition has been declared by the governing body, it shall adopt necessary regulations and restrictions on the delivery and consumption of water; and

WHEREAS, the City Public Works Director has determined that certain triggering conditions identified in the adopted Water Shortage Contingency Plan exist to recommend declaration of a Stage 1 water supply; and/or water shortage condition.

WHEREAS, the City Council has determined that a water shortage condition prevails within the area served by the City of Grover Beach and finds and determines that the ordinary demands and requirements of water consumers are nearing a condition where they cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection and therefore has determined that it is necessary to adopt certain restrictions, mandatory consumption reductions and penalties; and

WHEREAS, the City Council, pursuant to Water Code Section 351 and excepting in event of a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency, has made this declaration after a public hearing at which consumers of the City of Grover Beach water supply have had an opportunity to be heard to protest against the declaration and to present their respective needs to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Grover Beach, California, does hereby resolve, declare, determine and order as follows:

SECTION 1. WATER USE RESTRICTIONS

All residential customers are hereby assigned a monthly baseline amount of water, based upon the amount of water used during the same billing period of the previous year prior to the adoption

of this Resolution.

In order to provide for the protection of the public's health, safety and welfare, all residential customers are encouraged to voluntarily reduce water consumption and the Public Works Director is ordered to post the Certification of the existence of Triggering Conditions on the City Website and to make additional notifications to alert the public that the additional Water Shortage Stage restrictions are being implemented.

SECTION 2. ADJUSTMENTS IN WATER CONSUMPTION REDUCTION AMOUNTS, AND OTHER EXCEPTIONS

During a declared Water Shortage Emergency the Public Works Director, upon application made in writing by a customer on a form promulgated by the water department and accompanied by supporting documentation, shall be authorized to modify the percentage of water consumption reduction that is required by the customer, upon the customer's production of substantial evidence demonstrating the existence of unusual circumstances, including but not limited to the household having been vacant during a portion of the comparison year billing period or substantial changes in the number of persons residing in the residence.

The percentage of reduction in water consumption may also be adjusted if the existence of one or more of the following circumstances are shown and that are particular to that customer and which are not generally shared by other water department customers:

- a. Failure to approve the requested exception would cause a condition having an adverse effect on the health, sanitation, fire protection, or safety of the customer.
- b. Alternative restrictions to which the customer is willing to adhere are available that would achieve the same level of demand reduction as the restriction for which an exception is being sought and such alternative restrictions are enforceable by the water department.
- c. Circumstances concerning the customer's property have changed since the implementation of the subject restriction warranting a change in the customer's water usage allocation or required percentage of reduction in consumption.

In order to qualify for an exception, a customer may be required at the Public Works Director's determination, to first complete a self-water audit pursuant to standards and procedures promulgated by the water department. This audit shall be made part of the customer's exception application and water conservation measures indicated by the audit may be incorporated as conditions of approval to an exception in addition to any other conditions of approval imposed by the Director in connection with the Director's approval of the customer's exception application.

SECTION 3. WATER SHORTAGE APPEALS

Upon adoption of a resolution declaring a Water Shortage Stage, the Public Works Director and Administrative Services Director (Appeals Board) are empowered to act on Water Shortage Appeals.

Any customer who considers an action taken by the Public Works Director under the provisions of this Chapter to have been erroneously taken or issued may appeal that action or penalty in the manner described in the City Municipal Code Chapter 4, Section 1400 (F).

SECTION 4. MANDATORY PROHIBITIONS ON WATER WASTING

The following water waste prohibitions are hereby declared mandatory and will remain in effect

until rescinded by Council Resolution:

1. All use of water which results in excessive gutter runoff.
2. Use of water for cleaning driveways, patios, parking lots, sidewalks, streets, or other such uses except as necessary to protect public health or safety.
3. Outdoor water use for washing vehicles shall be attended and hoses shall be equipped with a shut-off nozzle.
4. Outdoor irrigation between the hours of 10 AM and 4 PM or within 48 hours after measurable precipitation.
5. Use of potable water for compaction or dust control purposes in construction activities unless no other source of water is available or upon approval by the Public Works Director.
6. Hotel, motel or other commercial lodging establishment shall offer their patrons the option to forego the daily laundering of towels, sheets and linens.
7. Emptying and refilling of swimming pools and commercial spas is prohibited except to prevent structural damage and/or to protect public health or safety.
8. Restaurants or other commercial food service establishments shall not serve water except upon the request of a patron.
9. Using non-recirculated water in a fountain or other decorative water feature.

SECTION 5. EXCESSIVE USE PENALTIES

The following penalties for violations of mandatory prohibitions on water wasting and/or water use reduction requirements are hereby enacted:

Any person violating mandatory prohibitions on water wasting or water use reduction requirements adopted by Council Resolution will be issued a Warning Notice for the first violation.

Second and subsequent violations will be considered the first and subsequent violations subject to Administrative Citation for Infractions and penalty in accordance with Section 1400 of the City's Municipal Code as follows: (Penalties amounts are as set forth in the Master Fee Schedule or may be reduced by Council Resolution establishing the water shortage condition and penalty provisions)

1. First violation within a rolling twelve-month period, in the amount designated in the latest adopted Master Fee Schedule which is currently \$100;
2. Second occurrence of the same violation within a rolling twelve-month period, in the amount designated in the latest adopted Master Fee Schedule which is currently \$200;
3. Third or subsequent occurrence of the same violation within a rolling twelve-month period, in the amount designated in the latest adopted Master Fee Schedule which is currently \$500;
4. A fourth or subsequent violation of the same provision within one year of the date of the first violation may result in subsequent administrative citations and penalties or as identified in Section 1400 of the City's Municipal Code;
5. Subsequent administrative citations and penalties may be issued for the same violation(s) or the City may institute any other applicable actions permissible under the City Municipal Code to gain compliance.

Additional actions may include the installation of a flow restriction device or disconnection of the customer's property from the City's water service system at the customer's cost.

A person or entity that because of violations of mandatory prohibitions on water wasting or water

use reduction requirements adopted by Council has a flow restrictor installed or water service disconnected is responsible for payment of charges for installing and/or removing the flow-restricting device and for disconnecting and/or reconnecting service in accordance with the City's fee schedule then in effect. The charge for installing and/or removing any flow restricting device must be paid before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates to the extent allowable by State law.

SECTION 6. The adoption of this Resolution is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to 15307 of the State CEQA Guidelines (Actions by Regulatory Agencies for Protection of Natural Resources.)

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such determination shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid without regard to whether any portion of the Resolution would be subsequently declared invalid or unconstitutional.

SECTION 8. The restrictions and regulations adopted by this Resolution shall remain in effect for the duration of the Stage Water Shortage Emergency, and until rescinded or modified by the City Council. This Resolution shall be effective immediately upon its adoption.

On motion by Council Member, seconded by Council Member, and on the following roll-call vote, to wit:

AYES:	Council Members –
NOES:	Council Members –
ABSENT:	Council Members –
ABSTAIN:	Council Members –

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a meeting of the City Council of the City of Grover Beach, California this 10th day of May 2021.

****DRAFT****

JEFF LEE, MAYOR

Attest:

WENDI SIMS, CITY CLERK

ORDINANCE NO. 21-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, AMENDING PARTS 3 AND 4 OF CHAPTER 2 OF ARTICLE VII OF THE GROVER BEACH MUNICIPAL CODE

WHEREAS, the City of Grover Beach is a General Law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals or public safety; and

WHEREAS, the Water Code Section 350, et seq. and the City of Grover Beach Municipal Code Section 7202 give the City authority to declare a water shortage emergency in response to anticipated shortages in water supply and to implement measures to reduce water demand and to implement penalties for failing to meet water use reduction requirements; and

WHEREAS, Water Code Section 353 provides that when a water shortage emergency has been declared by the governing body, it shall adopt necessary regulations and restrictions on the delivery and consumption of water; and

WHEREAS, pursuant to the City of Grover Beach Municipal Code Article VII, Chapter 2, Part 1, Section 7202, the City Administrator has the authority to adopt and promulgate reasonable administrative rules, policies and guidelines intended and designed to implement the provisions of Chapter 2, Mandatory Water Conservation; and

WHEREAS, Part 4, Moratorium on Land Use Applications was adopted in 1989 in response to a water shortage but is no longer necessary and expired after a period of 14 months; and

WHEREAS, the City Council of the City of Grover Beach has adopted an Urban Water Management Plan and Water Shortage Contingency Plan including certain mandatory water wasting prohibitions and may, by Council Resolution, implement mandatory water conservations measures during a declared water shortage condition; and

WHEREAS, the City Council of the City of Grover Beach intends to implement penalties for violation of mandatory water wasting prohibitions at any time and for violation of mandatory water conservation measures during a declared water shortage condition.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:

PART 1. Part 3 of Chapter 3 of Article VII of the Grover Beach Municipal Code is hereby amended to read as follows:

PART 3 – WATER CONSERVATION

SECTION 7234. WATER SHORTAGE DECLARATION. The City Council of the City of Grover Beach may adopt a Resolution declaring a Water Shortage Condition as defined in the latest approved and adopted Urban Water Management Plan and implementing certain mandatory water conservation measures and penalties. Said measures are hereby adopted and made a part of the Grover Beach Municipal Code as though fully set forth herein. Any violation of the adopted mandatory water conservation measures constitutes a violation of Section 7202 and is subject to the remedies identified in Chap. 4, Art. 1 of this Code. A copy of the latest adopted Urban Water Management Plan is on file for use and examination by the public in the office of the City Clerk.

SECTION 7235. MANDATORY PROHIBITIONS ON WATER WASTING. The Prohibitions on Water Wasting identified in the latest approved and adopted Urban Water Management Plan are hereby adopted and made a part of the Grover Beach Municipal Code as though fully set forth herein. A copy of the latest adopted Urban Water Management Plan is on file for use and examination by the public in the office of the City Clerk. The Prohibitions on Water Wasting are voluntary but may, by Council Resolution declaring a Water Shortage Condition, be declared mandatory for a period of time as set forth in the adopted Resolution.

PART 2. Grover Beach Municipal Code Article VII, Chapter 2, Part 4 – Moratorium on Land Use Applications is hereby deleted in its entirety.

PART 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

PART 4. This Ordinance shall become effective at 12:01 a.m. on the 31st day after the date of its adoption, and within fifteen (15) days after its adoption, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held on May 10, 2021 and **PASSED, APPROVED, and ADOPTED** by the City Council on May 24, 2021, on the following roll call vote to wit:

AYES: Council Members –
NOES: Council Members –
ABSENT: Council Members –
ABSTAIN: Council Members –
RECUSED: Council Members –

****DRAFT****

JEFF LEE, MAYOR

Attest:

WENDI B. SIMS, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY