

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE AMENDING CHAPTER
14.06 (WATER CONSERVATION) OF
TITLE 14 (WATER AND SEWERS) OF
THE FORT BRAGG MUNICIPAL CODE**

ORDINANCE NO. 969-2021

WHEREAS, the City of Fort Bragg (City), owns, and through its water division, operates a water system that supplies water at retail to customers within the City's service area, which covers approximately 3,100 acres. The City currently provides water service to approximately 7,500 residents and maintains over 2,900 residential and commercial customer accounts; and

WHEREAS, the City's water system draws exclusively on local surface water sources, whose yield varies from year to year and season to season; and

WHEREAS, the City's water system is susceptible to water shortages in dry and critically dry years and in periods of prolonged regional drought when water conditions result in low surface flows in the Noyo River, Waterfall Gulch and Newman Gulch; and

WHEREAS, during summer and early fall months as the Waterfall Gulch and Newman Gulch tributary stream sources diminish, the diversion of water from the Noyo River is used more frequently and in greater quantities to supply the City water needs; and

WHEREAS, historically, it is in the months of August, September and October that the Noyo River experiences King Tides, where the gravitational pull between the sun and the moon increase tide levels to a foot or two higher than high tide levels. High tides such as the King Tides during periods of low flow levels on the Noyo River increase salinity content which impairs the City's ability to replenish water supply from the Noyo River; and

WHEREAS, Article X, Section 2 of the California Constitution declares that the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare; and

WHEREAS, California Water Code Section 375 provides that a public entity that supplies water at retail or wholesale for the benefit of persons within the service area of a public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity; and

WHEREAS, Chapter 14.06, the Water Conservation Ordinance of the Fort Bragg Municipal Code codifies the City's water conservation program. In late summer 2020, the City found it necessary to issue a voluntary request for water conservation because the triggers established in Section 14.06.020 had not occurred and City staff was concerned that if

conservation did not occur timely, the impact of the water emergency would be exacerbated. The Council finds that the severity of current and recent droughts in the western United States, including Northern California, requires earlier implementation of water conservation measures and increased water reduction targets; and

WHEREAS, California Water Code Section 376 provides that any ordinance or resolution adopted pursuant to California Water Code Section 375 is effective upon adoption; and

WHEREAS, the purposes of this chapter are to conserve the water supply of the City for the greatest public benefit, to mitigate the effects of a water supply shortage on public health and safety and economic activity, and to budget water use so that a reliable and sustainable minimum supply of water will be available for the most essential purposes for the entire duration of the water shortage.

NOW, THEREFORE, the City Council ordains as follows:

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

1. **Recitals.** The City Council finds that all the recitals facts, findings, and conclusions set forth above in this Ordinance are true and correct.
2. To conserve the water supply of the City and mitigate the effects of a water supply shortage on public health and safety and economic activity, more flexibility is necessary in the implementation and level of water conservation stages.
3. The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15307 of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) as this ordinance is an action taken to protect natural resources.

Section 2. Section 14.06.020 entitled, **DECLARATION OF A WATER EMERGENCY**, is hereby amended to read as follows:

§ 14.06.020 WATER CONSERVATION STAGES.

In determining the City Water System's water conservation stage, the City Manager shall determine whether the system's water supplies and sources available are sufficient to meet the current customer demands on the system and shall consider all relevant factors. The City Manager shall consider, among other things: 1) any variations in the reliability of the water supplies available to the system; 2) availability of well or other nonpotable water to meet the nonpotable demands on the water system; 3) weather forecast and other factors that impact flows in the City's surface water sources; and 4) the success, or lack thereof, of previous declarations of a less stringent water conservation stage in meeting the water-use reductions sought by the City.

For calculating the percentage reduction for water conservation targets, the amount of City supplied water used in the most recent calendar year in which no conservation measures were implemented between May 1 and October 31, measured in 100 cubic feet ("Seasonal Water

Demand”), will be used. This Seasonal Water Demand may also be used to establish base water allocations as set forth in Section 14.06.030.

Uses of potable water supplied by the City of Fort Bragg that are identified as prohibited during a water conservation stage shall be allowed only where necessary to address an immediate health and safety need. The City Manager may initiate implementation and enforcement of whatever conservation measures that are deemed necessary to achieve the water reduction requirements of the declared conservation stage. For each stage, the target water use reduction for customers shall be as follows:

- A. **Stage 1 (Water Alert)** shall target a reduction of at least five to ten percent (5%-10%) of Seasonal Water Demand.
- B. **Stage 2 (Water Warning)** shall target a reduction of ten to twenty percent (10%-20%) of Seasonal Water Demand.
- C. **Stage 3 (Water Emergency)** shall target a reduction of twenty to thirty percent (20%-30%) of Seasonal Water Demand. Except in the event of a wildfire or a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency, a Stage 3 Water Emergency must be declared by a Resolution of the Fort Bragg City Council in compliance with the notice and public hearing requirements of Water Code Sections 351-352.
- D. **Stage 4 (Water Crisis)** shall target a reduction of thirty to forty percent (30%-40%) of Seasonal Water Demand. Except in the event of a wildfire or a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency, a Stage 4 Water Crisis can only be declared after a Water Emergency has been declared by a Resolution of the Fort Bragg City Council in compliance with the notice and public hearing requirements of Water Code Sections 351-352.
- E. **Stage 5 (Critical Water Shortage)** shall target a reduction of forty to fifty percent (40%-50%) of Seasonal Water Demand, unless it is determined by the City Manager that a greater reduction of seasonal water demand is required to protect public health and safety. Except in the event of a wildfire or a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency, a Stage 5 Critical Water Shortage can only be declared after a Water Emergency has been declared by a Resolution of the Fort Bragg City Council in compliance with the notice and public hearing requirements of Water Code Sections 351-352.

Section 3. Section 14.06.030 entitled **AUTHORITY TO DECLARE WATER EMERGENCY**, is hereby amended to read as follows:

§ 14.06.030 BASE ALLOCATION OF WATER.

The City Manager may develop a base allocation for each class of customer account that considers the needs and characteristics of each customer class for Seasonal Water Demand.

This base allocation may be used to evaluate compliance with the conservation stage in effect and to implement additional water use restrictions as necessary for the reasonable and efficient use of water.

Section 4. Section 14.06.050 entitled **CONSERVATION GOALS AND PROHIBITED WATER USES DURING WATER EMERGENCY**, is hereby amended to read as follows:

§ 14.06.050 CONSERVATION STAGES AND PROHIBITED WATER USES.

Water use restrictions during the various conservation stages shall include the restrictions specified in this section and may be augmented by additional restrictions as deemed necessary by the City Manager. Such restrictions apply to all persons using or consuming water both inside and outside the City and within the water service area and regardless of whether any person using water has a contract for water service within the City.

A. During a Stage 1 (Water Alert) conservation stage, the following restrictions shall apply:

1. Water will only be used for “beneficial uses” as that term is defined in Subarticle 2 of Article 2 of Chapter 2 of Division 3 of Title 23 of the California Code of Regulations, [14 CCR § 659 et seq.]. Beneficial uses include, but are not limited to, domestic use and irrigation use. All wasteful use of water that constitutes water misuse as defined in 23 CCR § 4000(c) is prohibited. Wasteful uses include, but are not limited to, any unreasonable water use or unreasonable method of water use.
2. During water use, water shall be confined to the customer’s property and shall not be allowed to run off to adjoining property private or public walkways and sidewalks, roadways, parking lots or other structures. Care shall be taken not to water past the point of saturation.
3. Landscape irrigation, including public and private streetscape landscaping (medians and frontage), shall be limited to a maximum of three days per week, with the exception of drip irrigation, which may be conducted on any day.
 - a. Customers may only irrigate only on Tuesdays, Thursdays and Saturdays from 12am to 9am and 6pm to 11:59pm.
 - b. No irrigation is permitted on Mondays, Wednesdays, Fridays, or Sundays.
4. Free flowing hoses are prohibited for all uses including landscape watering, vehicle and equipment washing, ponds, and evaporative coolers. Automatic shut-off devices shall be installed on any hose or filling apparatus while in use.
5. All pools, spas and ornamental fountains/ponds shall be equipped with a recirculation pump and shall be constructed to be leak proof. Pool draining and refilling shall be allowed only to the extent required for health, maintenance, or structural considerations, and must otherwise comply with all applicable federal, state and local stormwater management

requirements, including but not limited to Chapter 12.14, Drainage Facility Improvements and Drainage Fees.

6. Restaurants shall serve water only upon specific request.
7. Hotels, motels and other commercial lodging establishments shall offer patrons the option to forego the daily laundering of towels, sheets and linens. Each lodging establishment shall prominently display notice of this option in each guestroom using clear and easily understood language.
8. Residents and business owners shall repair all water leaks as soon as feasibly possible, but no later than 5 days after notification by the City or discovery by the owner.

B. During a Stage 2 (Water Warning) conservation stage, the following restrictions shall apply:

1. All Stage 1 (basic stage) restrictions shall continue to apply, except to the extent they are replaced by more restrictive requirements imposed by this subsection.
2. Landscape irrigation, including public and private streetscape landscaping (medians and frontage), shall be limited to a maximum of two days per week, with the exception of drip irrigation, which may be conducted on any day.
 - a. Customers may irrigate only on Tuesdays and Saturdays from 12am to 9am and 6pm to 11:59pm.
 - b. No irrigation is permitted on Mondays, Wednesdays, Thursdays, Fridays and Sundays.
3. Water use for the washing of streets, parking lots, driveways, sidewalks, buildings or other hardscape surfaces is prohibited, except as necessary for health, sanitation or fire protection purposes, or a use approved by the City Manager.
4. Hotels, motels and other commercial lodging establishments shall not provide patrons with stays of three nights or less the daily laundering of towels, sheets and linens, except as necessary for health or sanitation purposes. Each lodging establishment shall prominently display notice of this requirement in each guestroom using clear and easily understood language.
5. Residents and business owners shall repair all water leaks as soon as feasibly possible, but no later than 3 days after notification by the City or discovery by the owner.

C. During a Stage 3 (Water Emergency) conservation stage, the following restrictions shall apply:

1. All Stage 2 restrictions shall continue to apply, except to the extent they are replaced by more restrictive requirements imposed by this subsection.

2. Landscape irrigation, including public and private streetscape landscaping (medians and frontage) and including drip irrigation, shall be limited to a maximum of one day per week.

- a. Customers may irrigate only on Tuesdays from 12am to 9am and 6pm to 11:59pm.
- b. No irrigation is permitted on Mondays, Wednesdays, Thursdays, Fridays, Saturdays and Sundays.

3. No water from the city water system shall be used for construction purposes such as dust control, compaction, or trench jetting, unless the use is approved by the City Manager.

4. Discontinued use of hot tubs and in-room spa tubs at hotels/motels and lodging establishments is strongly encouraged.

D. During a Stage 4 (Water Crisis) conservation stage, the following restrictions shall apply:

- 1. All Stage 3 restrictions shall continue to apply, except to the extent they are replaced by more restrictive requirements imposed by this subsection.
- 2. No landscape irrigation shall be allowed, including public and private streetscape landscaping (medians and frontage) and drip irrigation.
- 3. No water from the city water system shall be used to drain and refill swimming pools, artificial lakes, ponds or streams and no new permits for swimming pools, artificial lakes, ponds or streams shall be issued until the water conservation stage has been declared to be Stage 1.
- 4. Water use for ornamental ponds and fountains is prohibited unless required to maintain existing vegetation or to sustain existing fish/animal life.
- 5. New or expanded landscaping on properties is limited to drought-tolerant trees, shrubs, and ground cover and no new turf or grass shall be planted, hydro-seeded or laid.
- 6. Washing of automobiles or equipment shall only be done at a commercial establishment that uses recycled, reclaimed water or private well water.
- 7. All water leaks shall be repaired within twenty-four hours of notification by the utilities department or discovery by the owner, or service may be discontinued.
- 8. Discontinued use of hot tubs and in-room spa tubs at hotels/motels and lodging establishments.

9. Base water allocations, as established by the City pursuant to Section 14.06.030 for the appropriate customer class may be implemented to establish a maximum water usage limitation.

E. During a Stage 5 (Critical Water Shortage) conservation stage, the following restrictions shall apply:

1. All Stage 4 restrictions shall continue to be enforced, except to the extent they are replaced by more restrictive requirements imposed by this subsection.
2. Flushing of sewers or fire hydrants is prohibited, except in case of an emergency and for essential operations.
3. Flushing of fire protection systems is prohibited, except during required maintenance or servicing of the system.
4. Water use for ornamental ponds and fountains is prohibited.
5. Water use for public or private swimming pools is prohibited.
6. Water use for any recreational purpose is prohibited.
7. Use of any hydrant or bulk water permit issued prior to the critical water shortage emergency declaration, without the City Manager's permission. Such permission shall only be granted for projects necessary to protect the public health, safety and welfare where no alternative to potable water exists and for emergency response purposes only.
8. Installation of any new lawns or landscaping is prohibited.
9. The City shall have the authority to limit residential and commercial usage of potable water supplied by the City to a quantity determined by the City to provide for the basic safety and well-being of the community.
 - a. The City shall be permitted to install flow restrictors at any City-owned water meter, or any similar location, to regulate water usage.
 - b. The City shall determine the order of installation of flow restrictors based on relevant safety considerations and the users of City supplied water.
 - c. The size of the flow restrictors shall be determined by an effort to equitably spread water availability among all water user accounts.

Section 5. Section 14.06.060 entitled **MINOR AND MAJOR OFFENSES DURING WATER EMERGENCY**, is hereby amended to read as follows:

§ 14.06.060 MINOR AND MAJOR OFFENSES IN WATER CONSERVATION STAGES.

The following table indicates whether a violation of the water use prohibitions established in §14.06.050 is a “minor offense” or a “major offense” during a Stage 1, Stage 2, Stage 3, Stage 4, and Stage 5 Conservation Stage. Penalties for violations are established by resolution of the City Council pursuant to §14.06.090. The actual amounts of the penalties are specified in the City Fee Schedule that is available at City hall and on the City’s website.

Prohibited Water Use	Stage 1 and Stage 2	Stage 3, Stage 4 and Stage 5
Wasteful Water Use (A)(1)	First violation – minor offense Repeat violations - major offense	Major offense
Overflow, irrigation past saturation or watering on unpermitted days (A)(3) (B)(2) (C)(2) (D)(2)	First violation – minor offense Repeat violations - major offense	Major offense
Free flowing hoses (A)(2) (A)(4)	First violation – minor offense Repeat violations - major offense	Major offense
Pools, spas, fountains and ponds (A)(5) (D)(3) (D)(4) (E)(4) (E)(5)	First violation – minor offense Repeat violations - major offense	Major offense
Water Leaks not repaired timely (A)(8) (B)(5) (D)(7)	First violation – minor offense Repeat violations - major offense	Major offense
Washing sidewalks, parking lots or other hardscapes (B)(3)	First violation – minor offense Repeat violations - major offense	Major offense
Restaurants serving water without request (A)(6)	First violation – minor offense	Major offense

	Repeat violations - major offense	
Lodging linens and towels (A)(7) (B)(4)	First violation – minor offense Repeat violations - major offense	Major offense
Construction purposes (C)(3)	Not Applicable	Major offense
Hotel hot tubs and spa tubs use (C)(4) (D)(8)	Not Applicable	Major offense
Hydrant use or flushing, Fire protection system flushing (E)(2) (E)(3) (E)(7)	Not Applicable	Major offense
Recreational use (E)(6)	Not Applicable	Major offense
Automobile and equipment washing (D)(6)	Not Applicable	Major offense
Install new or expanded landscaping (D)(5) (E)(8)	Not Applicable	Major offense
Exceeding base water allocation (D)(9)	Not Applicable	Major offense
Violating flow restriction (E)(9)	Not Applicable	Major offense

Section 6. 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 7. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force upon adoption. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of the Ordinance to be published as provided in Water Code 376, 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.

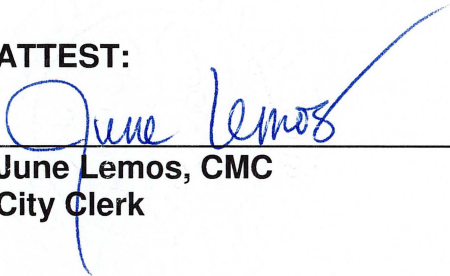
The foregoing Ordinance was introduced by Councilmember Peters at a regular meeting of the City Council of the City of Fort Bragg held on June 28, 2021 and adopted at a regular meeting of the City of Fort Bragg held on July 12, 2021 by the following vote:

- AYES:** Councilmembers Albin-Smith, Morsell-Haye, Peters, Rafanan and Mayor Norvell.
- NOES:** None.
- ABSENT:** None.
- ABSTAIN:** None.
- RECUSED:** None.



BERNIE NORVELL
Mayor

ATTEST:



June Lemos, CMC
City Clerk

PUBLISH: July 1, 2021 and July 22, 2021 (by summary).
EFFECTIVE DATE: July 12, 2021.