



City of Biggs

**Agenda Item Staff Report
for the Regular City Council Meeting:
June 9, 2015 6:30PM**

TO: Honorable Mayor and Members of the City Council
FROM: Mark Sorensen, City Administrator
SUBJECT: Water Drought Response

Mayor and Council are asked to direct staff on the desired response to the state drought related mandates.

The attached draft ordinance explains the steps leading up to this moment, as well as a collection response concepts for Council consideration.

Mark Sorensen, City Administrator

**AN ORDINANCE OF THE CITY OF BIGGS
REPEALING CHAPTER 10.20 OF THE BIGGS CODE (WASTING WATER) AND
ENACTING A NEW CHAPTER 10.20 OF THE BIGGS MUNICIPAL CODE TO
ESTABLISH A WATER CONSERVATION PROGRAM**

The City Council of the City of Biggs does ordain as follows:

Section 1.

Chapter 10.20 of the Biggs Municipal Code is repealed in its entirety.

Section 2.

Chapter 10.20 of the Biggs Municipal Code is reenacted to read in its entirety as follows:

CHAPTER 10.20—City of Biggs Water Conservation Program

Sections:

- 10.20.100 – Citation of Chapter
- 10.20.200 – Purpose and Intent
- 10.20.300 – Findings
- 10.20.400 – Definitions
- 10.20.500 – Application
- 10.20.600 – Permanent Water Conservation Requirements: Prohibition Against Waste.
- 10.20.700 – Conservation Measures to be Implemented During Times of Declared State- Wide Water Shortage and/or Drought Conditions
- 10.20.800 – Violation and Enforcement

10.20.100 – Citation of Chapter

This Chapter 10.20 shall be known as the City of Biggs Water Conservation Program

10.20.200 – Purpose and Intent

(1) The purpose of this Chapter is to establish a Water Conservation Program that will reduce water consumption within the City through Conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the City to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.

(2) This Chapter establishes permanent water Conservation standards related to water use efficiency for non-shortage/non-drought conditions and further establishes Conservation

measures to be implemented during times of declared state-wide water shortage/drought conditions, with increasing restrictions on water use in response to worsening drought or emergency conditions.

10.20.300 – Findings

- (1) A reliable minimum and sustainable supply of Potable Water is essential to the public health, safety and welfare of the people and economy of the Biggs.
- (2) Careful water management that includes active water Conservation measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
- (3) Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.
- (4) Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.
- (5) California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- (6) The adoption and enforcement of a water Conservation program is necessary to manage the City's potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare for current and future generations.

10.20.400 – Definitions

The following terms, when used in this Chapter, shall have the following respective meanings:

“City” means the City of Biggs.

“Conservation” means the practice of protecting against the loss or waste of natural resources.

“Customer” or “Water User” means a Person that uses Potable Water through a metered service connection.

“Person” means any natural person or persons, corporation, public or private entity, governmental agency or institution, or any other user of water within the City.

“Potable Water and “Water” means water which is suitable for drinking.

“Recycled Water” means the reclamation and reuse of non-Potable Water for beneficial use.

10.20.500 – Application

- (1) The provisions of this Chapter apply to any Person using and/or controlling the use of any Potable Water provided by the City or obtained from or through Potable Water wells located within the City.
- (2) The provisions of this Chapter do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services.
- (3) The provisions of this Chapter do not apply to the use of Recycled Water.
- (4) This Chapter is intended solely to further the Conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality.

10.20.600 – Permanent Water Conservation Requirements: Prohibition Against Waste

The following water Conservation requirements are effective at all times and are permanent, unless rescinded by action of the City Council. Violations of this section will be considered waste and an unreasonable use of water.

- (1) **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- (2) **No Excessive Potable Water Flow or Runoff:** Excessive Potable Water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- (3) **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including, but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards.
- (4) **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the Water User’s plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than 15 days of receiving notice from the City, is prohibited.
- (5) **Recirculating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use recirculated water is prohibited.

(6) Limits on Washing Vehicles: Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

(7) Drinking Water Served Upon Request Only: Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, club or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any Person unless expressly requested.

(8) Commercial Lodging Establishments Must Provide Option to Not Launder Linen Daily: Hotels, motels and other commercial lodging establishments must provide Customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

10.20.700 Conservation Measures to be Implemented During Times of Declared State-Wide Water Shortage and/or Drought Conditions

When the City determines, in its sole discretion, that due to drought or other water supply reductions, and/or due to mandatory reduction in water use, the City shall implement the mandatory Conservation measures identified in this section of the ordinance.

(1) Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with Potable Water is prohibited between the hours of 8 a.m. and 8 p.m. on any day.

(2) Limits on Watering Days: Watering or irrigating of lawn, landscape or other vegetated area with Potable Water is limited to 3 days per week as follows:

Exceptions may be considered by the City Administrator on a case-by-case basis upon presentation of a written plan describing the proposed custom schedule, justifying the requirement for it, and documenting how the required reduction in usage will be achieved.

(3) Limits on Watering after Rain: Watering or irrigating of lawn, landscape or other vegetated area with Potable Water is prohibited during and 48 hours after measurable rainfall.

(4) Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks, or other malfunctions in the Water User's plumbing or distribution system must be repaired within 4 days of notification by the City unless other arrangements are made with the City.

(5) Prohibitions of Water Well Drilling: No new water wells shall be drilled within the City.

(6) Other Prohibited Uses: The City may implement other prohibited water uses as determined by the City, after notice to Customers.

10.20.800 – Violation and Enforcement

It shall be a violation of this Chapter for any Customer or Person to violate any of the provisions of this Chapter or to waste any water obtained from or through the distribution facilities of the City or obtained from or through water wells located within the City, or for any Customer or Person to engage in wasting water as defined herein. The violation of each specific provision of this Chapter, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced accordingly.

(1) Violations.

(a) For the first violation within the preceding 12 calendar months, the City Administrator or designee shall issue a written notice of the fact of such violation. No penalty will be imposed for first violations. The City recognizes there is a certain amount of public education necessary so first violations are warnings accompanied by City water conservation information.

(b) For the second violation within the preceding 12 calendar months, the City Administrator or designee shall impose a penalty of \$50.00 against the Customer for the property where the violation occurred.

(c) For the third violation within the preceding 12 calendar months, the City Administrator or designee shall impose a penalty of \$250.00 against the Customer for the property where the violation occurred.

(d) For a fourth and any subsequent violation within the preceding 12 calendar months, the City Administrator or designee shall impose a penalty of \$500.00 against the Customer for the property where the violation occurred. Further, the City Administrator may disconnect service on the property where the violation occurred or is occurring, for a length of time not to exceed 60 days in length if the outstanding account balance with fines is paid in full.

(e) In the case of a water well drilled in violation of 10.20.700(5), the City Administrator or Designee shall impose a penalty of \$500.00 against the owner of the property on which the drilling occurred. The property owner shall also be required to safely and hygienically cap that well. If injunctive relief is necessary to enforce this subsection, the owner of the property on which the drilling occurred shall reimburse the city for all costs incurred, including attorney's fees.

(2) Time Period for Accounting Violations: Accrued violations will be based on acts of noncompliance occurring within the preceding 12-month period. Each successive 24-hour period of any violation or failure to comply shall be a separate and distinct violation.

(3) Notice of Violation: For each violation, City staff designated by the City Administrator shall have the authority to enforce the provisions of this Chapter and shall give notice as follows:

(a) Written notice of violation may be in the form of a door hanger that is personally attached to the front door or a letter sent through the U.S. mail, first-class prepaid, to the address of the account holder as shown on current water billing records or personally served on the water customer. The notice will be considered to have been served upon the water customer either upon depositing the notice in the U.S. mail or when personally served, whichever methodology is utilized.

(b) Written notice of violation shall include the date, time, and location of the violation; a description of the violation; provisions of the ordinance violated; a statement of the assessed penalty or other enforcement action; and the appeal procedures.

(4) Right of Appeal. Any Customer provided a notice of violation in accordance with the provisions of this Chapter shall have the right of appeal. A request for hearing must be made in writing, mailed or hand-delivered to the City of Biggs: Biggs City Hall, 465 C Street, P.O. Box 307, Biggs, California 95917, Attn: City Administrator, and must be received by the City Administrator within 10 calendar days from the date of personal or mailed service of the notice of violation. An appeal processing fee of \$100.00 will be charged for City staff's time. Failure to submit the processing fee at the time of submitting the appeal shall result in the denial of the appeal, unless good cause is shown to the satisfaction of the City Administrator.

(5) Determination of Appeal. The appeal will be heard and determined by the City Administrator or designee within 10 calendar days of service of the appeal. The determination of the City Administrator or designee will be final and conclusive.

(6) Payment of Penalties and Charges. Any penalty imposed pursuant to this section, and/or reimbursement of City expenses, shall be added to the account of the Customer for the property where the violation occurred and shall be due and payable on the same terms and subject to the same conditions as any other charge for regular water service.

(7) Reimbursement from Tenants. Nothing in this Chapter shall limit or be construed to limit the right of a water customer to seek reimbursement of a penalty or other costs from a tenant or other consumer.

Section 2.

Any inconsistent provisions of the Biggs Municipal Code, or any other inconsistent ordinances of the City, are repealed, to the extent of the inconsistencies.

Section 3.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect that validity of the remaining portion of this Ordinance. The City Council of the City of Biggs hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact

that any one or more sections, subsections, sentences, clauses, phrases, or other portions might subsequently be declared invalid or unconstitutional.

Section 4.

This ordinance will take immediate effect upon its adoption pursuant to Water Code section 376.

Section 5.

This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

I HEREBY CERTIFY that the above and foregoing Ordinance was duly and regularly introduced and read at a regular meeting held on the and was passed and adopted by the City Council of the City of Biggs at a regular meeting thereof duly held on the 1st day of June, 2015, by the following vote, to wit:

DRAFT



City of Biggs

Implementation of California Drought Water Conservation Standards

The current City of Biggs Municipal Code states that no user of water shall permit water to flow off of his or her premises into the gutter or otherwise. Any person that permits water to flow off of his or her premises into the gutter otherwise shall be guilty of a misdemeanor and shall be punishable with a fine of not less than \$50 per occurrence.

On April 1, 2015, Governor Jerry Brown issued the fourth in a series of Executive Orders on actions necessary to address California's severe drought conditions.

The State of California released water use regulations to achieve a 25% water savings (compared to 2013) which include:

1. Restrict outdoor irrigation to no more than two days per week. *The exact days of the week are not specified at this time.*
2. Prohibit irrigation with potable water of ornamental turf on public street medians.
3. Prohibit irrigation with potable water outside of newly constructed homes and buildings not delivered by drip or microspray systems.
4. Prohibit using potable water to wash sidewalks and driveways.
5. Prohibit using hoses with no shutoff nozzles to wash cars.
6. Prohibit using potable water in decorative water features that do not recirculate the water.
7. Prohibit irrigating outdoors during and within 48 hours following measureable rainfall.

The City of Biggs is formulating restrictions to comply with the State of California restrictions, and we expect more clarifications to come from the State of California over the coming weeks.

Drought Watch: Water rules for Wheatland, Live Oak

By Andrew Creasey/ acreasey@appealdemocrat.com | Posted: Wednesday, May 13, 2015 12:08 am

Although a state mandate for water cutbacks targeted larger urban water providers, smaller communities, such as Wheatland and Live Oak, are also restricting water use to cope with the drought.

The Wheatland City Council was scheduled to vote on an ordinance Tuesday night to restrict outdoor watering to two days a week, among other restrictions, and the Live Oak City Council took a similar action last week.

If passed, the Wheatland ordinance would go into effect immediately.

Both restrictions stem from a state order that water providers with less than 3,000 connections either reduce water use by 25 percent or restrict outdoor irrigation to two days a week.

"At a staff level, we felt that the ability to track the 25 percent level and our ability to accomplish a 25 percent reduction might be difficult," said Steve Wright, Wheatland city manager. "It seemed the two-day-a-week watering shouldn't impose too much of a burden on locals."

Under the proposed Wheatland ordinance, landscape irrigation would be permitted only between 9 p.m.-9 a.m. and for a maximum of 30 minutes. Watering would be prohibited during and within 48 hours of rainfall and all water leaks must be repaired within 72 hours after written notification by the city.

A City Council subcommittee is still weighing the penalties for violating the order. Wright said initial violations will receive a written warning and fines are possible, depending on the severity of the drought.

If passed, the ordinance will go into effect immediately, although it will take a month or two to fully implement it, Wright said.

The Live Oak ordinance is already in place. It restricts outdoor irrigation at even-numbered addresses to Mondays and Thursdays and odd-numbered addresses to Tuesdays and Fridays. Outdoor irrigation is not allowed between 10 a.m. -7 p.m.

Written warnings will be issued for first and second violations. Subsequent violations will be subject to \$50, \$100 and \$250 fines.

"The council's hope is the people will recognize we're in a drought, and we'll all do our part to conserve water," said Jim Goodwin, Live Oak city manager. "Hopefully, educating the public is sufficient to help people comply, and we won't go down the enforcement path."

Groundwater concerns for cities

Both Live Oak and Wheatland use groundwater as a water supply. Aquifer levels are healthy, but concerns remain about how increased pumping for agriculture use this summer will affect that.

"The combination of Wheatland use and agriculture use of groundwater might create some groundwater reductions," said City Manager Steve Wright "But we won't know that probably for a year."

In the fall of 2014, the average groundwater level was about 28 feet, measured from the bottom, said Dane Schilling, Wheatland's city engineer.

In a normal year, the average is about 45 feet, Schilling said. When measuring water levels from the bottom, a higher number indicates a healthier aquifer.

Over the winter, the aquifer recharged. The average elevation was about 50 feet in March, Schilling said.

"Wheatland's groundwater situation is predominately impacted by agricultural users," Schilling said. "If there's heavy groundwater pumping, then we see that in our municipal well levels."

Some Live Oak wells declined as much as 9 feet last year, but levels, for the most part, have recharged, said Ron Walker, Live Oak facilities manager.

Camptonville residents seek water election

Two Camptonville residents have filed an initiative seeking to hold a special election to ban selling Yuba County groundwater outside county boundaries.

The initiative was submitted by Robin Ecklund and Sandra Manning.

In order to qualify for a special election, supporters have 180 days from May 4 to gather 2,483 signatures, or 20 percent of the total votes cast in the county for governor in the last gubernatorial election. To be included on the next ballot, supporters have to gather

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1,242 signatures.

Curt Aikens, general manager of the Yuba County Water Agency, said that the groundwater levels are high, and the agency has spent tens of millions of dollars to improve groundwater recharge, monitoring and management.

"It is one of the best, if not the best, monitored and managed groundwater basins in the Sacramento Valley," Aikens said.

CONTACT reporter Andrew Creasey at 749-4780 and on Twitter @AD_Creasey.