City of Biggs

Agenda Item Staff Report
for the Regular City Council Meeting:
July 14, 2015

TO: Honorable Mayor and Members of the City Council
FROM: City Administrator
SUBJECT: Water Conservation Ordinance

Mayor and Council are asked to direct staff on the structure and content of a Water Conservation Ordinance.

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

In response to Council feedback at the June meeting, the attached reflects the following changes:

10.20.600 permanent measures at item 9 now contains the prohibition of water well drilling on parcels zoned residential.

10.20.700 emergency measures now includes specific days for Council consideration.

10.20.800 Violation and Enforcement now includes an additional written notice before moving into fines.

Also note that 10.20.500 (3) states the following "The provisions of this Chapter do not apply to the use of recycled water."

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Chapter 10.20 of the Biggs Municipal Code is repealed in its entirety.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

(9) Prohibitions of Water Well Drilling: No new water wells shall be drilled within the City upon parcels zoned residential.

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:

No address or Even numbered street address: Tuesday, Thursday, Saturday

Odd Numbered street address: Wednesday, Friday, Sunday

City owned properties: Monday, Wednesday, Friday

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) 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 warning of the fact of such violation. 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 issue a formal written notice of the fact of such violation. The formal written notice will state that further violations will result in monetary penalties.

(c) 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.

(d) 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.

(e) 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.

(f) In the case of a water well drilled in violation of 10.20.600(9), 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) Imposition of Penalty. To the extent possible and based on available information, the City will impose penalties upon the person, persons, or entities that stand in violation of this Water Conservation Program.

(5) 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.

(6) 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.

(7) Payment of Penalties and Charges. Subject to subsection (4) above, 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.

(8) 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 14th of July 2015 and was passed and adopted by the City Council of the City of Biggs at a regular meeting thereof duly held on the __ day of _____, 2015, by the following vote, to wit: