

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO AMENDING  
CHAPTER 10.16 (WATER CONSERVATION) OF THE  
SAN BRUNO MUNICIPAL CODE**

**WHEREAS**, the City adopted the updated Water Shortage Contingency Plan (WSCP) at the October 26, 2021 City Council Meeting; and

**WHEREAS**, in accordance with California's 2018 Water Conservation Legislation, municipal water suppliers, providing drinking water to more than 3,000 customers, or supplying more than 3,000 acre-feet of water annually, are required to update the Water Shortage Contingency Plan, or equivalent, consistent with state standards and policies; and

**WHEREAS**, West Yost Associates of Pleasanton, California, which firm completed the City's WSCP, completed the proposed update to Chapter 10.16 (Water Conservation) of the San Bruno Municipal Code (SBMC) as part of the final task of this project; and

**WHEREAS**, updates to SBMC Chapter 10.16 (Water Conservation) include 1) a re-organization of the Chapter 10.16 consistent with the organizational structure and priorities of California Water Code Section 350, 2) added water conservation regulations under normal conditions, 3) updated water shortage emergency provisions, 4) consolidated enforcement and penalties previously placed throughout Chapter 10.16 into one section, and 5) updates to the authority and responsibility for enforcement and penalty; and

**WHEREAS**, much of the current provisions of Chapter 10.16 (Water Conservation) remain unaffected, the Chapter re-organization and incorporation of State conservation and enforcement requirements are significant. As such, the Ordinance must be amended to ensure alignment with California Water Code Section 350 and provisions of the adopted 2021 San Bruno WSCP; and

**WHEREAS**, the City does, accordingly, find and declare that it should repeal and replace in its entirety Chapter 10.16 of the San Bruno Ordinance Code to ensure the City's requirements around water conservation response, regulation, and enforcement align with the State of California's requirements.

**NOW, THEREFORE**, the City Council of the City of San Bruno does ordain as follows:

**SECTION 1.** Recitals. The above recitals are incorporated as though set forth in this section.

**SECTION 2.** Chapter 10.16 (Water Conservation) of Title 10 (Municipal Services) is hereby repealed and replaced in their entirety by a new Chapter 10.16 to be numbered and entitled and to read as follows:

## **Chapter 10.16 WATER CONSERVATION**

### **Article I. General**

#### **10.16.010 Definitions.**

- A. "City council" means the city council of the city of San Bruno, California.
- B. "Customer" means any person, whether within or without the geographic boundaries of the city of San Bruno who uses water supplied by the city of San Bruno department of public works, water division.
- C. "Director" means the director of public works of the city of San Bruno.
- D. "Period of precipitation" means during rainfall and not any generalized or specific season or period of the year.
- E. "Person" means any person, firm, partnership, association, corporation, company, organization or governmental entity.
- F. "Swimming pool" is defined to include any indoor or outdoor constructed swimming or bathing pool or spa that can hold one thousand gallons of water, or more.
- G. "Unit of water" is one hundred cubic feet of water.
- H. "Water shortage emergency", as declared by the city council or city manager, is a specific identifiable discrete event or sudden unexpected occurrence, including without limitation a drought, a storm, flood, fire, or an unexpected equipment outage, the failure of a water facility, including treatment plant, pump, pipeline or other conduit, or a catastrophic event, including, but not limited to, a regional power outage, an earthquake, or other disaster, that has occurred that causes a disruption, or creates an imminent threat of disruption, in the water supply to all or a portion of the city's water customers.
- I. "Water shortage contingency plan" means the planning document, as amended from time to time and adopted by the city council, setting forth the city's strategic plan for preparing and responding to water shortages, including the water shortage levels and associated actions. The water shortage contingency plan is a required component of the city's urban water management plan as specified in the "Urban Water Management Planning Act," codified as Part 2.6, Urban Water Management Planning, of Division 6, Conservation, Development, and Utilization of State Water Resources, in the California Water Code, beginning with Section 10620. (Ord. 1522 § 3, 1990)

#### **10.16.020 Purpose and Scope**

This chapter includes water conservation provisions during normal conditions and water shortage emergencies to minimize the effect of a shortage of water on the city's customers. This chapter includes provisions that will significantly reduce the consumption of water over an extended period of time, thereby extending the available water required by the city's customers while reducing the hardship to the greatest extent possible. It is intended to implement the city's water shortage contingency plan and water demand management actions upon declaration of a water shortage emergency condition.

## **Article II. Water Conservation Regulation**

### **10.16.030 Prohibition of Water Waste.**

For water conservation purposes, it is the policy of the city to prohibit wasteful uses of water from the city's water supply system, or misuse of water in the city of San Bruno from whatever source.

The recipients of water delivered by the city shall put the water only to reasonable and beneficial use at all times. In addition to the State's water conservation restrictions, prohibitions or regulations, no customer or other user of the city's water system shall knowingly waste or permit the waste of water including but not limited to:

A. Watering outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.

B. Use of a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.

C. Hosing off sidewalks, driveways, and other hardscapes, except to the extent necessary to address a health and safety need.

D. Use of water in an ornamental fountain or other decorative water feature, except where:

E. the water is part of a recirculating system; or

F. the fountain is registered on the National Register of Historic Places as of January 1, 2018.

G. Watering turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain, based on records of the National Weather Service, or the closest California Irrigation Management Information System station to the parcel, or any other reliable source of rainfall data available to the city.

H. Waste through leakage of defective or inoperable plumbing, piping, or other water-use equipment.

## **Article III. Water Shortage Emergency**

### **10.16.040 Declaration of water shortage emergency.**

Pursuant to California Water Code Section 350, the city council shall conduct a duly noticed public meeting for the purpose of finding and determining that a water shortage emergency condition exists. Upon finding of a water shortage emergency condition, the city council, by resolution, may declare a water shortage emergency and indicate the water shortage condition and implement water use regulations consistent with SBMC §10.16.040, and enforcement actions and penalties as generally described in Article V of this chapter, and as more specifically declared by the resolution and the then-current water shortage contingency plan. The city council may also adopt a temporary water rate increase and institute an excess water rate surcharge per SBMC §10.16.130. Water use regulations, enforcement actions and penalties, and water shortage rates shall remain in effect until the city council determines a state of water shortage emergency no longer exists.

A. Notwithstanding the foregoing, in the event of a fire or a breakage or failure of water treatment or distribution facilities, causing an immediate emergency or water shortage, the city manager is hereby authorized to declare a water shortage emergency and, if so declared, shall initiate implementation of the appropriate and necessary provisions of the city's emergency response plan and/or water shortage contingency plan. As soon as possible after such a declaration, the city manager shall make a full report on the water shortage emergency to the city council for ratification. During any such water shortage emergency, the city manager and his/her designees may take all steps necessary to protect and preserve the city's water system, and to protect the health and safety of the city's water customers and users, including but not limited to locking out nonessential water services, and obtaining and making available temporary water supplies.

B. In implementing subsection A of this section, the city manager shall be guided by the following guidelines applicable to the allocation of water supply during water shortages:

1. No water service shall be extended to new customers until the city council determines that the water shortage no longer exists;
2. Water service to critical community service facilities, including, without limitation, hospitals and emergency shelters, shall take precedence over water service to residential, commercial, institutional, and industrial customers;
3. Water service to residential, commercial, institutional, industrial and non-irrigation customers shall take precedence over water service to irrigation customers;
4. Once residential customers are receiving a water supply sufficient to meet their minimal health and safety requirements, water service to commercial, institutional, and industrial customers (for non-irrigation uses) shall take precedence over other uses of such water;
5. Water service to customers within the city's water service area boundaries shall take precedence over water service outside the city's water service area boundaries.

#### **10.16.050 Water shortage emergency regulations**

City council or City Manager may declare water shortage emergency conditions when it finds that available water supply cannot meet the normal demands of its water customers.

A. A Level 1 water shortage will be declared when the city has determined that the water supply is not sufficient to meet normal demand and a reduction in water use up to 10 percent is required. Water conservation measures set out in Chapter 10.16 Article II, "Water Conservation", presently enacted or amended, shall be voluntary.

B. A Level 2 water supply shortage will be declared when the city has determined that the water supply is not sufficient to meet normal demand and a reduction in water use up to 20 percent is required. The following regulations on water use shall be applicable:

1. Water conservation measures set out in Chapter 10.16 Article II, "Water Conservation", presently enacted or amended, shall be mandatory and enforceable as to all water users under a mandatory level 2 declaration.
2. The watering of grass, lawn, groundcover, shrubbery, open ground crops and trees, in a manner that results in runoff into sidewalks, gutters and streets or during periods of precipitation, or to an extent which allows excess water to run to waste, is prohibited.
3. The watering of grass, lawn, groundcover, shrubbery, and trees, between the hours of nine a.m. and four p.m. is prohibited. Odd addresses are permitted to water Monday and Thursday, even addresses are permitted to water Tuesday and Friday, and non-numerical addresses are permitted to water Monday and Thursday. Irrigation shall be limited to 15 minutes per irrigation station.
4. The escape of water through leaks, breaks, or malfunction within the water user's plumbing or distribution system for any period of time within which such break or leak should reasonably have been discovered and corrected, is prohibited. It shall be presumed that a period of ten days after the water user discovers such break, leak, or malfunction, or receives notice from the city of such condition, whichever occurs first, is a reasonable time within which to correct such condition or to make arrangement for correction.
5. The use of water from a hose for the cleaning of buildings, structures, walkways, sidewalks, driveways, patios, parking lots or hard-surfaced areas is prohibited. The washing of windows or structures with a bucket and squeegee is not prohibited.
6. The operation of a car wash using water from the city's water system is prohibited, unless water for such use is recycled.
7. The use of water from any fire hydrant is prohibited, unless specifically authorized by permit from the public works director, or his/her designee,

except by regularly constituted fire protection agencies for fire suppression purposes.

8. The use of water to fill, clean or maintain artificial or decorative lakes, fountains or ponds with a capacity of one thousand gallons or more is prohibited.
9. Using potable water from whatever source, in construction for dust control, or soil compaction is prohibited, unless reclaimed (or “nonpotable”) water is not available. Vehicles hauling and spraying such water must have standardized signs indicating “reclaimed” or “nonpotable” water.

C. A Level 3 water supply shortage will be declared when previous water conservation targets have not been met, or the city has determined that the water supply is not sufficient to meet normal demand and a reduction in water use up to 30 percent is required. The following regulations on water use shall be applicable:

1. All of the level 2 regulations, in subsection B, shall continue to be in effect during level 3, and shall be mandatory under a mandatory level 3 declaration.
2. The filling of any swimming pool is prohibited, unless there are extenuating circumstances as determined by the public works director, or his/her designee.
3. The service of water in restaurants is prohibited, except upon request by the customer.
4. The use of any water for the flushing of fire hydrants and/or fire related drills, and water mains is prohibited, unless there is an emergency as determined by the public works director, the fire chief, or the city manager.
5. The indiscriminate running of water or washing with water is prohibited, that results in flooding or runoff in or on sidewalks, gutters, and streets.

D. A Level 4 water supply shortage will be declared when previous water conservation targets have not been met, or the city has determined that the water supply is not sufficient to meet normal demand and a reduction in water use up to 40 percent is required. The following regulations on water use shall be applicable:

1. All of the level 3 regulations, in subsection C, shall continue to be in effect during level 4, and shall be mandatory under a mandatory level 4 declaration.
2. Substantial planting or replanting of new landscaping which is not drought tolerant will be prohibited until such time the city council has determined that the emergency has passed. For new developments in which water-dependent (not drought-tolerant) landscaping is required as a use permit condition, the city shall require a cash bond or other form of security subject to approval of the public works director, or his/her designee, from the developer in an amount specified which will be placed in an account in which the interest shall accrue to the developer. “Substantial” planting or replanting is hereby defined as planting or replanting in excess of ten percent of the total planted area of the development, parcel, site or lot.

E. A Level 5 water supply shortage will be declared when previous water conservation targets have not been met, or the city has determined that the water supply is not sufficient to meet normal demand and a reduction in water use up to 50 percent is required. The following regulations on water use shall be applicable:

1. All of the level 4 regulations, in subsection D, shall continue to be in effect during level 5, and shall be mandatory under a mandatory level 5 declaration.
2. Use of water as deemed to be wasteful, as determined by the public works director, or his/her designee, is prohibited.
3. At the direction of the city council, and upon adoption of a resolution implementing water rationing, a mandatory water rationing program shall be implemented, as set forth in Article IV, below.

F. A Level 6 water supply shortage will be declared when previous water conservation targets have not been met, or the city has determined a reduction in water use greater than 50 percent is required. The following regulations on water use shall be applicable:

1. All of the level 5 regulations, in subsection E, shall continue to be in effect during level 6, and shall be mandatory under a mandatory level 6 declaration.
2. Use of water as deemed to be wasteful, as determined by the public works director, or his/her designee, is prohibited.

## **Article IV. Water Rationing Regulations**

### **10.16.060 Prohibition of nonessential uses of water.**

Upon the institution of water rationing by the San Bruno city council, it is unlawful for any person, firm, partnership, association, corporation or political entity to use water for nonessential uses, as defined below. (Ord. 1522 § 3, 1990)

### **10.16.070 Nonessential uses defined, water rationing.**

Upon the institution of water rationing by the San Bruno city council, the following uses of water are determined to be nonessential, except as further provided in this chapter:

A. All uses identified as nonessential in Section 10.16.050 of “Article II—Water Conservation Regulations” of this chapter.

B. Use of water in excess of the following allocations:

1. Residential customers: as specified by resolution of the San Bruno city council.
2. Industrial customers: as specified by resolution of the San Bruno city council.

3. Commercial, institutional and governmental customers: as specified by resolution of the San Bruno city council.

4. Irrigation and outside water usage customers: as specified by resolution of the San Bruno city council. (Ord. 1522 § 3, 1990)

#### **10.16.080 Exceptions.**

Written application for an exception or adjustment for water use may be made to the public works director. The public works director, or his/her designee, may:

A. Grant permits for the use of water otherwise prohibited; or

B. Adjust the allocations in Section 10.16.120 (B), if it finds that:

1. Failure to do so would cause an emergency condition adversely affecting the health, sanitation, fire protection or safety of the customer, water user, or the public, and

2. The customer or water user has adopted all practicable water-conservation measures;

The public works director, or his/her designee, may, upon written application, grant permits for the use of water otherwise prohibited or adjust the allotments in Section 10.16.120 (B), if it finds that failure to do so would cause unnecessary and undue hardship to the customer, water user, or the public. (Ord. 1522 § 3, 1990)

#### **10.16.090 Excess water use charge.**

An excess use charge as determined by resolution of the San Bruno city council will be levied for water used in excess of the allocations specified by resolution of the San Bruno city council. Additional charges may be imposed to compensate for a loss of revenue or to pay an additional cost for the purchase or the provision of water. (Ord. 1522 § 3, 1990)

#### **10.16.100 Waiver of excess water use charge.**

Written application for an appeal of an excess water use charge may be made to the public works director. The public works director, or his/her designee, may:

A. Waive a specific excess water use charge if it finds, based upon facts presented, that sufficient justification is present to allow such a waiver.

B. Grant a waiver for one or more of the following reasons:

1. Water used in excess of allocation was for the protection of health and/or sanitation or for the protection of property in the case of fire.

2. Water used in excess of allocation was the results of a condition unknown to the customer or water user which has subsequently been corrected to the satisfaction of the city.

C. A waiver shall not be granted unless the customer or water user has adopted and has demonstrated all practicable water conservation measures, nor shall a waiver be granted on the basis of economic hardship. (Ord. 1522 § 3, 1990)

## **Article V. Enforcement and Penalties**

### **10.16.110 Enforcement.**

The director of public works, or his/her designee, is responsible for enforcing the provisions of this part. Enforcement and/or penalties of Sections 10.16.160 and 10.16.190 may be used to secure compliance with the above water conservation regulations. (Ord. 1522 § 3, 1990)

### **10.16.120 Enforcement of water shortage emergency regulations and water rationing—Civil.**

A. If at any time a customer or water user has violated any provisions regarding “Article III— Water Shortage Emergency ,” or “Article IV—Water Rationing Regulations,” including use of water in excess of the allotments sets forth in Section 10.16.110(B), the city may in lieu of, or in addition to the penalties provided for in Section 356 and Section 31029 of the California Water Code, install a flow-restricting device on the water service line or disconnect or remove water service. Upon restriction, disconnection, or removal of water service, a written notice shall be served upon the violator, or conspicuously posted at the entrance to the violator’s premises, and shall state the time, place and general description of the violation and the method by which reconnection or non-restriction can be accomplished.

B. Charges for disconnection, or installation of flow-restricting devices and restoration of service or removal of restrictions shall be specified by resolution of the San Bruno city council.

C. Discontinuance of Water Service. The continued violation of water conservation regulations or water consumption in excess of the allocation will result in discontinuance of water service by the city of San Bruno. A charge of one hundred dollars shall be paid prior to reactivating the service.

D. Notices and/or warnings of any violation of this chapter, or of any notice required by this chapter or by state law, may validly be issued by any employee of: the San Bruno water division; the San Bruno police department; the San Bruno finance department; the neighborhood improvement representative; the city engineer; the director of public works; the city attorney; and/or the city manager.

E. In addition to any other enforcement provisions of this section, the city attorney may also seek civil penalties in an amount sufficient to deter such violation, but in no event greater than five thousand dollars for each such violation of this chapter. (Ord. 1522 § 3, 1990)

#### **10.16.130 Appeal.**

Any person who feels that the activity or condition which resulted in the restriction, removal, or disconnection of water service pursuant to this chapter did not constitute a violation of this chapter may appeal to the public works director. If the public works director, or his/her designee, finds that the activity or conduct did not constitute a violation of this chapter, the reconnection charge will be refunded. (Ord. 1522 § 3, 1990)

#### **10.16.140 Reconnection.**

Where water service is disconnected, restricted or removed as authorized above, it shall be reconnected, restored or restriction removed upon the correction of the condition or activity. A reconnection charge of one hundred dollars shall be collected before water service can be continued. (Ord. 1522 § 3, 1990)

#### **10.16.150 Penalties—Criminal.**

A. Violation of any provision of this chapter shall be an infraction punishable by a fine not to exceed fifty dollars for a first offense; one hundred dollars for a second violation of this chapter within one year; two hundred and fifty dollars for each additional violation of this chapter within one year.

B. Each day any such violation(s) of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

C. Such violations may be prosecuted by a criminal complaint filed by the San Bruno city attorney, or by a notice to appear (citation) issued by the San Bruno police department, or by the San Bruno neighborhood improvement representative. (Ord. 1522 § 3, 1990).

**INTRODUCED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and **PASSED AND ADOPTED** by the City Council of the City of San Bruno on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES: Councilmembers: \_\_\_\_\_

NOES: Councilmembers \_\_\_\_\_

ABSTAIN: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

\_\_\_\_\_  
Rico E. Medina  
Mayor of the City of San Bruno

ATTEST:

\_\_\_\_\_  
Vicky Hasha  
Deputy City Clerk