

ORDINANCE NO.

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
DECLARING A WATER SHORTAGE EMERGENCY
AND A NECESSITY FOR A WATER CONSERVATION PROGRAM,
ADOPTING A WATER CONSERVATION PROGRAM AND FINDING THAT THE
ACTIONS ARE EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) IN
COUNTY SERVICE AREA NO. 2 – SUGARLOAF WATER,
COUNTY SERVICE AREA NO. 3 – CASTELLA WATER,
COUNTY SERVICE AREA NO. 6 – JONES VALLEY WATER,
COUNTY SERVICE AREA NO. 8 – PALO CEDRO WATER,
COUNTY SERVICE AREA NO. 11 – FRENCH GULCH WATER,
COUNTY SERVICE AREA NO. 13 – ALPINE MEADOWS WATER, and
COUNTY SERVICE AREA NO. 23 – CRAG VIEW WATER**

WHEREAS, Shasta County is the governing body of a distributor of a public water supply for each of the following County Service Areas: No. 2-Sugarloaf Water, No. 3-Castella Water, No. 6-Jones Valley Water, No. 8-Palo Cedro Water, No. 11-French Gulch Water, No. 13-Alpine Meadows Water, and No. 23-Crag View Water (collectively referred to herein as the County Service Areas); and

WHEREAS, the provision of potable water supplies for domestic use is essential to health, safety and general public welfare; and

WHEREAS, On April 21, 2021, the Governor of the State of California issued a State of Emergency Proclamation and declared a drought emergency effecting two counties; and

WHEREAS, On May 10, 2021, the Governor of the State of California expanded the drought emergency declaration to 41 counties, including Shasta County; and

WHEREAS, the Governor's State of Emergency Proclamation acknowledges that the State of California is experiencing critically dry conditions; and

WHEREAS, the Governor's Proclamation also notes recent warm temperatures and extremely dry soils have further depleted the expected runoff water from the Sierra-Cascade snowpack, resulting in a historic and unanticipated estimated reduction of 500,000 acre feet of water from reservoirs and stream systems; and

WHEREAS, the United States Bureau of Reclamation has reduced Central Valley Project water deliveries to 0% for agricultural contractors and 25% for municipal and industrial north of delta contractors; and

WHEREAS, the County Service Areas are experiencing the above-referenced drought and water shortfall emergency conditions described herein; and

WHEREAS, article X, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, California Water Code section 350 provides that a public entity water supplier may declare a water shortage emergency condition exists within the area served whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, California Water Code section 351 provides that except in the event of a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency, a water shortage emergency declaration shall be made only after a public hearing at which consumers of such water supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to the public entity; and

WHEREAS, California Water Code section 353 provides that upon declaration of a water shortage emergency, the public entity shall thereupon adopt such regulations and restrictions on the delivery and use of water as needed in the sound discretion of the public entity and conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection; and

WHEREAS, California Water Code section 355 provides that the regulations and restrictions shall thereafter be and remain in full force and effect until the period of the emergency and until the emergency condition no longer exists; and

WHEREAS, California Water Code section 357 provides that if the regulations and restrictions on delivering consumption of water adopted pursuant to California Water Code section 350 conflict with any law establishing the rights of individual consumers to receive either specific or proportionate amounts of water supply available for distribution the service area, the regulations and restrictions adopted pursuant to California Water Code section 350 shall prevail; and

WHEREAS, California Water Code sections 375 et seq. empowers the County of Shasta as the supplier of water to County Service Areas to adopt and enforce a water conservation program to reduce the quantity of water used by those within its service area after holding a public hearing and making appropriate findings of necessity for the adoption of a water conservation program; and

WHEREAS, Water Code section 377 establishes that, from and after the publication of an ordinance pursuant to Water Code section 376, violation of the ordinance is a misdemeanor punishable by up to 30 days in county jail, or by a fine of up to \$1,000 or both; and

WHEREAS, Water Code section 377 establishes that any person violating this ordinance may also be subject to a civil penalty in an amount not to exceed \$10,000 in accordance with and subject to that provision as it may be amended from time to time. Civil penalties shall be:

- \$100 for the first violation, and
- \$150 for the second violation, and
- \$200 for the third and any subsequent violation, and
- \$1,000 for extraordinary situations where all of the following has occurred:
 - The residential user had actual knowledge of the requirements found to be violated, and
 - the conduct was intentional, and
 - the amount of water involved was substantial. "Substantial" is defined as an amount equal to, or exceeding, 10 times the Water Use Limitations set forth in Section 5 of this ordinance; and

WHEREAS, notice of the time and place of this hearing of this ordinance has been provided in accordance with the applicable provisions including, but not limited to, California Water Code section 352 and Government Code section 6061; and

WHEREAS, this ordinance is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et. seq.) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment as it includes regulations to protect water resources and the ability to provide water resources. Also it consists of regulations and restrictions on activities to ensure the maintenance, restoration, or enhancement of a natural resource pursuant to CEQA Guidelines 51501 (Existing Facilities), 15305 (Minor Alterations in Land Use Limitations), 13507 (Actions for Protection of Natural Resources) and 15308 (Actions for Protection of Environment), and there are no unusual circumstances under CEQA Guideline 15300.2(c); and

WHEREAS, on June 15, 2021, the County of Shasta held a public hearing to consider an ordinance adopting a water conservation program for the County Service Areas.

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION 1. Immediate Effect

This ordinance is an urgency measure and is effective immediately upon adoption.

SECTION 2. Publication

Pursuant to Water Code section 376, the County of Shasta shall publish, in accordance with Government Code section 6061, this ordinance adopting a water conservation program within 10 days after its adoption.

SECTION 3. Findings of Necessity

- (A) The Board of Supervisors finds and determines that with respect to each of the County Services Areas identified herein, the foregoing recitals are true and correct.
- (B) The Board of Supervisors further finds that because of ongoing drought conditions in the County, it is necessary and appropriate for the Board of Supervisors to adopt, implement and enforce this water conservation program to reduce the quantity of water used within County Service Areas to ensure the continued availability of water for human consumption, sanitation, and fire protection.
- (C) The Board of Supervisors further finds and determines that the general welfare requires that the County maximize the beneficial use of its available water resources in County Service Areas to the extent that it is capable, and that the unreasonable use, or unreasonable method of use of water shall be prevented and the conservation of water is to be extended with the view to the reasonable and beneficial use thereof in the interests of the people County Service Areas and for their public health, safety, and welfare.

SECTION 4. Application

Due to the ongoing drought the ability of County Service Areas to provide the current level of water service is diminished, it is necessary and appropriate for the Board of Supervisors to adopt, implement and enforce this water conservation program to reduce the quantity of water used within County Service Areas to ensure that there is sufficient water for human consumption, sanitation, and fire protection and for the public health, safety, and welfare of the residents of County Service Areas.

SECTION 5. Outdoor Water Conservation

- (A) No person shall use, or cause to be used, any County Service Area water for outdoor landscapes during and up to 48 hours after the day of a measurable rainfall.
- (B) No person shall use, or cause to be used, any County Service Area water for outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
- (C) No person shall use, or cause to be used, any County Service Area 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.
- (D) No person shall use, or cause to be used, any County Service Area water to wash driveways and sidewalks.
- (E) No person shall use, or cause to be used, any County Service Area water for a fountain or other decorative water feature, except where the water is a part of a recirculating system.

- (F) References in this article to a measureable rainfall shall mean greater than 0.00 inches reported at the automated rain gauge at Shasta Dam operated by the United States Bureau of Reclamation.

SECTION 6. Penalties for Violation

- (A) The following penalties shall be imposed for violation of any of the provisions of Section 2. Any violations occurring on separate calendar days shall be considered separate violations.
- (B) First violation during any twelve (12) month period: No penalty shall be imposed, but a written notice describing the violation and the penalties for subsequent violations shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred.
- (C) Second violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of twenty-five dollars (\$25.00) shall be imposed.
- (D) Third violation during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of one hundred dollars (\$100) shall be imposed.
- (E) Fourth violation and any successive violations during any twelve (12) month period: A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of five hundred dollars (\$500) shall be imposed.
- (F) The written notices specified above shall provide notice of the right to appeal pursuant to Section 4 and shall specify the address where the notice of appeal shall be filed.
- (G) The penalties specified above shall be imposed on the owner of the premises where the violation occurs regardless of whether the violation is committed by the owner of the premises or any other person.
- (H) The time periods between violations specified above shall not apply to future water shortage declarations should this water shortage declaration be repealed.

SECTION 7. Appeal

- (A) The owner or occupant of the premises where the violation occurred may appeal a notice of violation issued under Section 3 to the Public Works Director (“the Director”) for review and determination, by filing a written notice of appeal with the Director not later than thirty (30) days after the notice of violation is issued. Such notice of appeal shall specify the grounds for appeal and shall provide the appellant's address and telephone number, with a statement that the appellant agrees to accept service at such address of the written notice of the time and place of the appeal hearing and the determination of the Director or the Director's designee.
- (B) Upon receipt of a timely notice of appeal, the Director or the Director's designee shall set the matter for an informal hearing at the earliest practical date. Not less than seven (7) days prior to the date of hearing, the Director or the Director's designee shall provide written notice of the hearing to the appellant. At the hearing, the Director or the Director's designee shall hear any relevant evidence presented by the appellant or department staff, and may uphold, modify or rescind the notice of violation, including the penalty imposed by the notice of violation, if any. The person filing the appeal shall be provided written notice of the determination of the Director or the Director's designee, which shall be the County's final administrative determination of the matter.
- (C) The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to appeal and a failure to exhaust the owner's and occupant's administrative remedies with regard to the notice of violation.
- (D) Upon determination after appeal by the Director or the Director's designee that a penalty shall be imposed, or upon issuance of a notice of violation and penalty and expiration of the appeal period specified in subsection (A) with no notice of appeal being filed, the penalty amount shall be included on the bill for water service provided to the premises where the violation occurred and shall be collected in accordance with the provisions normal billing procedures.

SECTION 8. Access to Customer Premises; Compliance

- (A) A customer receiving water service from a County Service Area shall provide the Department of Public Works’ employees and/or contractors access to and use of the premises where water service is received as may be required by the County’s employees or contractors to determine whether there is any violation of any of the provisions of Section 2 or to abate any violation thereof. If the customer refuses to allow such access, the County may seek authorization from any court of competent jurisdiction for such access and abatement.

- (B) Compliance with the provisions of this article shall be a condition of the customer receiving or continuing to receive County Service Area water service.

SECTION 9. Consent of the Director

Whenever in this article a person is authorized to obtain the consent of the Director to perform an act otherwise prohibited, the Director may give consent on such conditions as the Director may specify, and the Director shall give such consent only where the Director determines:

- (A) There is no practical alternative manner in which the person may accomplish the desired result; and
- (B) The desired result is of substantial importance when compared with the importance of conserving water resources as set forth in this article.

SECTION 10. Fire and Other Emergencies

Nothing in this article shall be construed to apply to the use of County Service Area water for purposes of extinguishing fire or any other similar emergency.

SECTION 11. California Environmental Quality Act

This ordinance is exempt from the California Environmental Quality Act (Public Resources Code section 21000, et. seq.)

SECTION 12. Severability

If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion or portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance in each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, senses, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 13. Adoption

This ordinance shall take effect and be in full force and effect immediately after its passage as an urgency ordinance pursuant to the provisions of Government Code sections 25123 and 25131 and Water Code section 376. The clerk shall cause this ordinance to be published as required by law.

SECTION 14. Expiration

This ordinance shall remain in full force and effect until repealed by the Board of Supervisors.

SECTION 13. Supersedence

Upon going into effect, this Ordinance supersedes and repeals any previous water conservation ordinances, including Ordinance No. 714, adopted June 14, 2016.

DULY PASSED AND ADOPTED this 15th day of June, 2021, by the Board of Supervisors of the County of Shasta by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

JOE CHIMENTI, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:
MATTHEW P. PONTES
Clerk of the Board of Supervisors

By _____
Deputy