



September 7, 2023

TO: LOCSD Board of Directors

FROM: Ron Munds, General Manager

SUBJECT: Agenda Item 11E - 09/07/2023 Board of Directors Meeting
An introduction of an ordinance of the Board of Directors amending and restating Title 2.06 of the District Code regarding the Water Shortage Contingency Plan.

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DESCRIPTION

At the August 3, 2023, the Board receive a presentation that reviewed the current Water Shortage Contingency Plan (Plan). The Board conceptually approved the recommended changes and directed staff to come back to the Board to adopt those changes into Title 2 of the District's code. This report provides an overview of the amendments and a draft ordinance (attached) showing the proposed changes.

STAFF RECOMMENDTION

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, staff recommends that the Board adopt the following motion:

Motion: I recommend:

- 1. The Board approve the introduction and first reading of an Ordinance No. 2023-02 by title only amending Title 2.06 of the District's Code as presented.***
- 2. Set the public hearing date for final adoption for October 5, 2023 and direct staff to publish the appropriate hearing notices.***

DISCUSSION

Background

The District has been very proactive in managing water supply during low rainfall years since about 2013. The Utilities Advisory Committee (UAC) began developing a Water Shortage Contingency Plan (Plan) during 2013 and completed the work in September 2014 when the Plan was adopted by the Board. Based on the climatic "triggers" for entering the drought condition stages, the Board declared a Stage III emergency in April 2015.

The original Plan did not have criteria to exit the various stages in the Plan. In 2017, exiting criteria was added and it is generally based on two consecutive years of average or above average rainfall. The criteria to exit Stage III has not been met since 2017 so the District's water service area has remained at this stage since 2015.

Recommended Plan Updates

At the August 3, 2023, the Board receive a presentation that reviewed the current Water Shortage Contingency Plan (Plan) and provided recommended changes to the Plan based on current conditions and operational experience. The Board conceptually approved the recommended changes and directed staff to come

back to the Board to adopt those changes to Title 2 of the District’s code. The changes are as follows:

Percent Reductions Modifications

Staff evaluated the last three years of residential per capita water use information to determine an updated baseline for residential customers. This resulted in slightly lower number of 61 gallons per person per day; the current Plan used 64 gallons per person per day. Applying the new number to target reductions and making an additional adjustment to meet the 50% target in Stage V, the following numbers have been changed.

Current

Stage	Target	Base	Base GPCD
		192	64
I	5%	183	61
II	15%	174	58
III	25%	150	50
IV	35%	135	45
V	50%	126	42

New

Stage	Target	Base	Base GPCD
		183	61
I	5%	174	58
II	15%	156	52
III	25%	137	46
IV	35%	119	40
V	50%	92	31

Climate Trigger for Entering and Existing Stages

Entering Stage Triggers

As discussed at the August Board meeting, Los Osos Groundwater Basin Plan (Basin Plan) had not been adopted and implemented at the time the Plan was adopted, staff recommended and the Board agreed to add language that would reference the Water Level Metric in the Basin Plan.

The following language has been added to the climate trigger to enter different stages:

“If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage X will not be declared.”

Exiting Stage Triggers

Again, using data from the BMC Annual Monitoring Report, language for exiting a stage and the word “equivalent” was added to better average out years with fluctuating rainfall amounts:

“Receive the equivalent rainfall >= average by March 31 for two consecutive years or the BMC spring Water Level Metric increases...”

Drought Prohibitions

The following prohibitions have been deleted per the direction provided by the Board at the August Board meeting:

- Water main flushing shall only occur in emergency situations as declared by the General Manager.
- No allocations may be transferred to another property.
- Use of potable water to irrigate lawns, landscape plantings, groundcovers, and shrubs shall be limited to prescribed days and hours. Irrigation shall only occur between dusk and dawn, and shall only occur on Wednesday and Sunday for even numbered addresses, and Tuesday and Saturday for odd numbered addresses.
- Exemption from irrigation restrictions for community recreational facilities.

FINANCIAL IMPACT

There is no direct financial impact associated with action recommended in this report. It is recognized that by implementing Stages III-V, there will be a decrease in revenue caused by the water use restrictions and allocations. In advance of implementing these stages, staff will prepare a plan to deal with revenue reductions based on a combination of projected revenues, fiscal reserves and budgeting alternative to reduce operational costs.

ATTACHMENTS

**LOS OSOS COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2023-02**

**AN INTRODUCTION OF AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT)
AMENDING AND RESTATING TITLE 2.06 REGARDING THE
WATER SHORTAGE CONTINGENCY PLAN (PLAN)**

WHEREAS, The District is organized under Government code section 61000 as a Community Service District and has the authority to provide its residents with water for beneficial purposes under Government code Section 61100 (a).; and

WHEREAS, The Board acknowledges that updating District Code from time to time to reflect changes in policies and procedures, and minor revisions to references and outdated language is warranted; and

WHEREAS, The Board of Directors recognizes that the Water Shortage Contingency Plan is an important drought management tool for the District to manage groundwater resources during extended drought periods; and

WHEREAS, The Board also recognizes the importance of updating to the Plan to reflect changes in water use patterns in the District's water service area and operational experiences since the adoption of the Plan; and

WHEREAS, The Board considered such amendments and the adoption of an Ordinance approving the proposed amendments and procedures at its October 5, 2023 Board meeting; and

WHEREAS, The Board of Directors has noticed this public meeting pursuant to Water Code § 375 and has considered the Staff Report and public testimony regarding the adoption of this Ordinance.

NOW, THEREFORE BE IT RESOLVED, THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. Authority

This Ordinance is enacted pursuant to the California Government Code § 6100.

Section 2. Amendment and Restatement of Title 2 of the District Code

Title 2.06 of the District Code are hereby amended and restated as provided in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Environmental Review

The Board of Directors of the District finds that the adoption of the Amendment and Restatement of Title 2 of the District Code does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et. seq.*) or its implementing Guidelines (14 California Code of Regulations Section 15000 *et seq.*) ("CEQA Guidelines"). The Board of Directors finds that the adoption of the Amendment and Restatement of Title 2 of the District Code constitutes "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of the Amendment and Restatement of Title 2 of the District Code is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of the Amendment and Restatement of Title 2 of the District Code may have a significant effect on the environment.

The District General Manager is authorized to prepare, execute and file a notice of exemption, but is not required to do so.

Section 4. Findings

The Board of Directors hereby finds and determines as follows:

- a. The proposed changes in the District Code are necessary to update the District’s Plan to be consistent with current water use patterns and knowledge gained through operational experience.

Section 5. Repeal of Prior Ordinances and Resolutions

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with Section 2.06 of this Ordinance are **hereby repealed**.

Section 6. Incorporations of Recitals

The Recitals are true and correct and incorporated here by this reference.

Section 7. Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9. Effective Date

This Ordinance shall take effect thirty (30) days from date of its passage hereof. Before the expiration of fifteen (15) days after the adoption of this Ordinance, Exhibit A shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a newspaper of general circulation within the District.

Introduced at its regular meeting of the Board of Directors held on September 7, 2023, and passed and adopted by the Board of Directors of the Los Osos Community Services District on the 5th day of October 2023, by the following roll call vote, to wit:

Upon motion of Director _____, seconded by Director _____ and on the following roll call vote, to wit:

AYES: _____
 NOES: _____
 ABSENT: _____
 ABSTAIN: _____

 Charles L. Cesena
 President of the Board of Directors
 Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

 Ron Munds
 General Manager and Secretary to the Board

 Thomas D. Green
 District Legal Counsel

Chapter 2.06 Water Conservation and Emergency Water Shortage Regulations
(Adopted 2/5/15; As amended on 10/5/23, Ord. 2023-02)

2.06.01 Water Conservation Stages.

A. Stage I Conservation.

1. Upon a determination by the Board of Directors that there exists rainfall totals as March 31st: less than median average of (17 inches) for the current year, a target reduction of 5% and the following prohibitions shall may take effect for residential customers:

(a) Each residential unit shall be limited to 174 gallons per day per household or 58 gallons per day per occupant.

(a)(b) All outdoor irrigation of vegetation shall occur only between the hours of dusk and dawn

(b)(c) The use of potable water to wash sidewalks, walkways, driveways, parking lots, open ground and other hard-surface areas by direct application shall be prohibited.

(e)(d) The use of non-drinking-water fountains, except for those using recirculated water, shall be prohibited.

(d)(e) Use of water which results in flooding or run-off in gutters or streets shall be prohibited.

(e)(f) Commercial, and Irrigation customers will reduce consumption by 5% on a voluntary basis.

If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage I will not be declared.

2. In Addition to the prohibitions referenced in Section 2.06.01.A1 above, the Board of Directors will initiate a public information campaign to educate District residents, urging water conservation and showing ways the public can save water.

2-3. To exit Stage I and upon a determination by the Board of Directors, if the equivalent rainfall \geq average by March 31 for one year is received or the BMC spring Water Level Metric increases, may allow for the exiting Stage I.

B. Stage II Conservation.

EXHIBIT A

1. In addition to Stage I conservation measures, upon determination of the Board of Directors that there exists rainfall total as of March 31st: less than or equal to thirty-two (32) inches for over two (2) years or less than or equal to forty-eight (48) inches over three (3) years or sixty-five (65) inches over four (4) years or eighty-one (81) inches over five (5) years or if the Basin Management Committee's spring Water Level Metric declines, the following measures ~~shall~~ may take effect immediately:
 - (a) Each residential unit shall be limited to ~~174-156~~ gallons per day per household or ~~528~~ gallons per day per occupant
 - (b) Use of water from fire hydrants shall be limited to fire suppression and/or other activities immediately necessary to maintain health, safety and welfare of residents within the boundaries of the Los Osos Community Services District.
 - (c) The use of District potable water for construction projects shall be prohibited.
 - (d) The washing of automobiles, trucks, trailers, boats and other types of mobile equipment not occurring upon the immediate premises of a commercial car wash and/or commercial service station shall be prohibited unless residents have an automatic shut-off hose nozzle and do not allow water to run off their property.
 - ~~(e) The use of potable water to irrigate lawns, landscape plantings, groundcovers, and shrubs shall be limited to prescribed days and hours. Irrigation shall only occur between dusk and dawn, and shall only occur on Wednesday and Sunday for even numbered addresses, and Tuesday and Saturday for odd numbered addresses. Community recreational facilities shall be exempt from this prohibition.~~
 - ~~(f) Water main flushing shall only occur in emergency situations as declared by the District General Manager.~~
2. In addition to those measures stated in 2.06.01.B1 above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage II will not be declared.

2. ~~_____~~ To exit Stage II and upon a determination by the Board of Directors, if the equivalent rainfall \geq average by March 31 for two consecutive years is received or the BMC spring Water Level Metric increases, may allow for the exiting Stage II.
3. ~~_____~~

A. Stage III Conservation.

1. In addition to the water conservation measures established in Stage I and Stage II above, upon a determination of the Board of Directors that there exists, rainfall total as of March 31 is: less than or equal to 29 inches for over two (2) years or less than or equal to forty-three (43) inches over three (3) years or fifty-eight (58) inches over four (4) years or seventy-two (72) inches over five (5) years, or chloride triggers at 8th Street or 10th Street wells is equal to 150 milligrams per liter (mg/L), or Total Dissolved Solids (TDS) triggers at 8th Street or 10th Street wells is equal to 900 mg/L, or if the Basin Management Committee's spring Water Level Metric declines the following measures ~~shall~~ may take effect:
 - (a) Each residential unit shall be limited to ~~450~~ 137 gallons per day per household or ~~4650~~ gallons per day per occupant based on the information on the Occupancy Form on file with the District.
 - (b) Each commercial customer shall be limited the amount in section 2.06.C.1(a) above or the water shortage contingency rate adopted by the Board of Directors.
 - ~~(c) Irrigation of community recreational facilities and residential edible crops shall be exempt from this prohibition.~~
 - ~~(d)~~ (c) Penalties up to two (2) times the established rate for usage above allocation, may be applied. District will notify customer of usage above allocation, if the customer fails to modify usage, penalties may be applied.
 - ~~(e)~~ (d) No new intent-to-serve applications will be considered.
 - ~~(f) No allocations may be transferred to another property.~~

In addition to those measures stated in Section 2.06.01.C1 above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage III will not be declared.

2. To exit Stage III and upon a determination by the Board of Directors, if the equivalent rainfall \geq average by March 31 for two consecutive years is received or the BMC spring Water Level Metric increases, may allow for the exiting Stage III.

B. Stage IV Conservation.

1. In addition to the water conservation measures established in Stages I, II, and III above, upon a determination of the Board of Directors that there exists, rainfall total as of March 31st: less than or equal to twenty-six (26) inches for over two (2) years or less than or equal to thirty-eight (38) inches over three (3) years or fifty-one (51) inches over four (4) years, or sixty-four (64) inches over five (5) years, or chloride triggers at 8th Street or 10th Street wells is equal to 250 mg/L, or TDS triggers at 8th Street or 10th Street wells is equal to 950 mg/L, or if the Basin Management Committee's spring Water Level Metric declines the following measures ~~shall~~ may take effect:

- (a) Each residential unit shall be limited to ~~119435~~ gallons per day per household or ~~405~~ gallons per day per occupant based on the information on the Occupancy Form on file with the District.
- (b) Commercial allocation will be set at 10% below baseline.
- (c) Penalties up to four (4) times established rate may be applied.
- ~~(d) No allocations may be transferred to another property.~~

In addition to those measures stated in Section 2.06.01.D1 above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage IV will not be declared.

2. To exit Stage IV and upon a determination by the Board of Directors, if the equivalent rainfall \geq average by March 31 for two consecutive years is received or the BMC spring Water Level Metric increases, may allow for the exiting Stage IV.

C. Stage V Conservation.

1. In addition to the water conservation measures established in Stages I, II, III and IV above, upon a determination of the Board of Directors that there exists, rainfall total as of March 31st: less than or equal to seventeen (17) inches for over two (2) years or equal than or equal to twenty-six (26) in. over three (3) yrs. or thirty-four (34) inches over four (4) years or forty-three (43) inches over five (5) years or chloride triggers at 8th Street or 10th Street wells is equal to 500 mg/L, or TDS triggers at 8th Street or 10th Street wells is equal to 1,000 mg/L, or if the Basin Management Committee's spring Water Level Metric declines the following measures ~~shall~~ may take effect:

- (a) Each residential unit shall be limited to ~~426-92~~ gallons per day per household or ~~42-31~~ gallons per day per occupant based on the information on the Occupancy Form on file with the District.
- (b) Penalties up to four (4) times established rate may be applied.
- (c) Commercial allocation will be set at 15% below baseline.
- (d) Penalties up to four (4) times established rate may be applied.
- ~~(e) No allocations may be transferred to another property.~~

In addition to those measures stated in Section 2.06.01.E1 above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

If the BMC spring Water Level Metric remains the same from the previous year or increases, Stage V will not be declared.

2. To exit Stage V and upon a determination by the Board of Directors, if the equivalent rainfall \geq average by March 31 for two consecutive years is received or the BMC spring Water Level Metric increases, may allow for the exiting Stage V.

2.06.02 Water Shortage Contingency Stages Implementation

- A. Stage I – Alert
 - 1. Customers affected are residential only
- B. Stage II – Warning
 - 1. Customers affected are residential only
- C. Stage III – Emergency
 - 1. Customers affected are residential only
- D. Stage IV – Severe
 - 1. All cCustomers affected ~~are residential and commercial~~
- E. Stage V – Critical
 - 1. All customer classifications are affected

2.06.03 Water-Saving Devices

- A. All customers are encouraged to install and use the following water conservation devices:
 - 1. Low flush toilets 1.6-2.8 gallons per flush or less;
 - 2. Low flow shower heads 2.0 gallons per minutes or less; and
 - 3. Drip irrigation.

2.06.04 Violation and Enforcement. The following apply to persons violating the provisions of District's water conservation and emergency water shortage regulations.

- A. First Violation. A copy of the notice will be left with someone at the residence or establishment, or left in a conspicuous place, at the time the violation is observed.
- B. Second Violation. A twenty-five dollar (\$~~25~~100.00) surcharge, in addition to any other penalties or fees owing, shall be assessed to the account of the violator, and a copy of the violation notice will be sent to the address of the violator with delivery confirmation, with a letter explaining the gravity of the situation and the penalties for future violations.

EXHIBIT A

- C. Third Violation. A two hundred and fifty dollar (\$250.00) surcharge, in addition to any other penalties or fees owing, shall be assessed to the account of the violator, and a one-gallon per minute flow restriction will be installed at the violator's meter and left in place for seventy-two (72) hours. Installation and removal charges shall be established by District resolution and shall be assessed to the account of the violator.
- D. Fourth Violation. The water meter will be removed from the premises of the violator. The meter will be reinstalled, on conditions set by the District, after the payment of District reconnection charges and the payment of all other charges, surcharges and penalties owing.

2.06.05 Review and Appeals

Any person who disputes the application of these Water Conservation Regulations may seek review under the following procedures:

- A. Dispute Resolution Hearings shall be conducted by the General Manager or his/her designee on the following terms and conditions:
 - 1. The applicant shall request in writing a hearing within ten (10) days of the event giving rise to the dispute.
 - 2. All fines, penalties, surcharges, and service charges shall be deposited with the District.
 - 3. The hearing shall be conducted at a mutually acceptable time, as soon as practical.
 - 4. The General Manager shall consider the evidence presented at the hearing and is authorized to render a decision in his/her discretion that is consistent with the conservation measures established in Section 2.06.01 above.
- B. Appeals: The decision of the General Manager may be appealed by making written application to the Board of Directors, in care of the General Manager, within five (5) business days of the General Manager's decision. The appeal to the Board of Directors will be held under the procedures established in Sections 1.02.03.A and 1.02.03 of this Ordinance.
- C. Judicial review of the decision of the Board of Directors shall be pursuant to Chapter I, Section 1.02.04 of ~~this Ordinance~~ [the District code](#).