



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT: EMERGENCY DROUGHT  
DECLARATION**

**DATE:** November 16, 2021

Approved

Date

11/19/21

## **RECOMMENDATION**

Adopt a resolution, to be in effect through October 31, 2022, unless amended or revoked by Council, declaring a water shortage of 15 percent citywide and limiting use of potable water for landscape and turf irrigation to two scheduled days per week, except when watering by hand or by drip irrigation, or for maintenance of public parks, playing fields, day care centers, golf course greens, and school grounds, provided such irrigation is done in a water efficient manner, or for fire protection, soil erosion control, plants/trees grown for consumption, nursery/garden center plants for sale, and environmental mitigation projects.

## **OUTCOME**

The declaration of a 15% water shortage triggers enhanced levels of citywide restrictions on potable water use under Chapter 15.10 of the Municipal Code, including limitation of outdoor watering.

## **BACKGROUND**

California's Water Year 2020, covering the period October 1, 2019 - September 30, 2020, was dry in the northern two-thirds of the state, and the first six months of Water Year 2021 ranked as the fourth driest on record. On April 21, 2021, Governor Newsom declared a drought emergency in two California counties and on May 10, 2021, he expanded the emergency to 39 additional counties for a total of 41 of the state's 58 counties. On June 9, 2021, the Santa Clara Valley Water District (Valley Water) Board of Directors declared a water shortage emergency condition in Santa Clara County and called for a 15% reduction in water usage countywide, as compared to 2019 water usage. On June 22, 2021, the Santa Clara County Board of Supervisors adopted a resolution ratifying a June 15, 2021 proclamation by the County Director of Emergency Services for a local emergency related to extreme drought conditions. In addition, on July 8, 2021, California Governor Newsom extended his previous drought proclamation to include Santa Clara County and asked that all Californians voluntarily reduce water usage by 15% compared to 2020

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water usage. Moreover, Executive Order N-10-21 tasked the State Water Resources Control Board with tracking and reporting monthly progress towards the 15% statewide reduction.

Currently, imported water accounts for approximately 55% of Valley Water's supply sources. The State Water Resources Control Board issued warning notices to water rights holders in California, including Valley Water, notifying them to plan for potential shortages. Additionally, Valley Water's largest local surface water reservoir, Anderson Reservoir, is offline for the next ten years for the duration of the Anderson Dam Seismic Retrofit Project.

On October 13, 2021, the Rules and Open Government Committee approved a memorandum which directed the City Manager to declare a water shortage of 15%, limit the use of potable water for outdoor landscape irrigation to no more than two days per week, and adopt any other restrictions to conform with those enacted by Valley Water and the other water retailers operating in San José.

Title 15 of the San José Municipal Code falls under the direction of the Environmental Services Department (ESD). The Department of Planning, Building, and Code Enforcement (PBCE) executes enforcement actions, and enforcement activities by PBCE would be absorbed by the General Funded General Code Program which provides services citywide for complaints involving single-family, duplexes, industrial, commercial, and vacant land.

**ANALYSIS**

Chapter 15.10 of the San José Municipal Code contains conservation actions that correspond to drought-related declarations. Many of the conservation measures are always in effect, and others are triggered at different levels of a drought emergency. These emergency measures are also repeated in the City's Urban Water Management Plan and Water Shortage Contingency Plan, approved by Council on June 15, 2021.

Staff recommends the Council adopt a resolution declaring a 15% water shortage enacting a mandatory watering schedule to limit irrigation to two days per week as follows:

- Landscape and turf at properties with addresses ending in odd numbers, (i.e., 1,3,5,7, and 9) shall be irrigated only on Mondays and Thursdays.
- Landscape and turf at properties with addresses ending in even numbers, (i.e., 0,2,4,6, and 8) shall be irrigated only on Tuesdays and Fridays.
- Landscape and turf at properties with no address shall be irrigated only on Mondays and Thursdays.

Even on designated irrigating days, customers are prohibited from irrigating between 10:00 AM and 8:00 PM under existing Municipal Code restrictions. This watering schedule corresponds with the watering schedule enacted by San José Water Company. Great Oaks Water Company declared a Stage 2 water level shortage on July 13, 2021, invoking a watering schedule

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allowing watering every other day with even-numbered addresses watering on even-numbered days and odd-numbered addresses watering on odd-numbered days, resulting in either a three-day per week or four-day per week watering schedule.

The memo approved at the October 13, 2021 Rules and Open Government Committee meeting called for implementing several measures, including restrictions on the following:

1. The use of potable water for filling or refilling decorative fountains and ponds more than one foot deep.
2. Washing vehicles, except at commercial businesses using recycled water.
3. Hosing down buildings, sidewalks, driveways, patios, tennis courts, or other hard surfaces, except to protect health and safety.
4. Restaurants serving water only upon request, and hotels notifying guests they can choose not to have towels and sheets washed every day.

Items 1-3 listed above are included in the San José Municipal Code as measures to go into effect when a 25% water shortage level is declared by Council. Although these restrictions would not be triggered by the 15% water shortage level, the City could include these measures in education and outreach to help water customers conserve. Item 4 (water upon request in restaurants) is already a mandatory measure in the Municipal Code, which is always in effect.

The San José Municipal Code has additional required permanent water conservation measures to address the long-term efficient use of water supplies. These permanent water waste prevention measures include:

- No irrigating of landscapes between 10:00 AM and 8:00 PM, unless using a bucket, hand-carried container, or a hose with an automatic shut-off nozzle.
- Sprinklers cannot run more than 15 minutes per station per day.
- No excessive water runoff is allowed.
- Leaking or broken water pipes, irrigation systems, and faucets must have repairs initiated within five working days and repaired as soon as practical.
- No cleaning of structures or paved surfaces with a hose without a positive shut-off nozzle.
- No cleaning of vehicles with a hose without a positive shut-off nozzle.
- Commercial car washes must use water recycling equipment, a bucket and hand-washing, or a hose with positive shut-off nozzle.
- No serving water in food service establishments unless requested by the customer.
- Potable water cannot be used for building or construction purposes, such as dust control, without written exception by the City.
- Water cannot be used from a hydrant without prior City approval.
- Potable water cannot be used for irrigation purposes where a recycled water service is currently plumbed to the site

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Consistent with Council direction, staff will escalate enforcement, leading with education and outreach and focusing fines on repeat violators. Enforcement of water waste would be considered a routine complaint and not a proactive program. An increase in routine complaints would result in service-level and response time impacts, including PBCE's ability to meet its 15-day response time performance measure. As the impact of changes to Title 15 are understood, further consideration will be required to evaluate staffing and resources, and ongoing impacts to current General Code service delivery.

### **CONCLUSION**

A Water Shortage Declaration of 15% would allow Council to adopt water conservation measures such as limiting outdoor irrigation watering to two days per week.

### **EVALUATION AND FOLLOW-UP**

Staff may recommend further action by Council if needed to further reduce water use and/or to align with a change in local or State drought measures. As enforcement of Title 15 evolves, evaluation of staffing and resources, and ongoing impacts to General Code service delivery may be brought forward for further consideration.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

### **POLICY ALTERNATIVES**

***Alternative 1: Require the imposition of restrictions to limit outdoor landscape irrigation using potable water to zero or one day per week.***

**Pros:** This could reduce potable water use in San José to the declared water shortage level at a faster rate.

**Cons:** This restriction would differ from those imposed by Valley Water and other water retailers operating in San José. If the drought continues, other restrictions may be required in the future.

**Reason for not recommending:** Unique restrictions by water wholesalers and retailers in San José complicates outreach by City staff and water agencies and could lead to confusion by water customers about which restrictions to adopt. Moreover, more restrictions can be implemented later by increasing the water shortage level via resolution.

***Alternative 2: Declare a 25% water shortage instead of a 15% water shortage.***

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**Pros:** This could reduce potable water use in San José at a faster rate and would include additional use restriction measures such as not filling decorative fountains or ponds, prohibiting car washing except at commercial facilities, and prohibiting use of potable water to clean any exterior paved or hard-surfaced areas.

**Cons:** This restriction would create inconsistent messaging as compared to Valley Water and other water retailers operating in San José. If the drought continues, other restrictions may be required in the future.

**Reason for not recommending:** Inconsistent messaging between water wholesalers and retailers in San José complicates outreach by City staff and water agencies and could lead to confusion by water customers. Moreover, more restrictions can be implemented later by increasing the water shortage level via resolution.

### **PUBLIC OUTREACH/INTEREST**

This item will be posted on the City's website for the November 30, 2021 City Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Department of Planning, Building and Code Enforcement.

### **COMMISSION RECOMMENDATION/INPUT**

At its October 13, 2021 meeting, the Rules and Open Government Committee approved a memo which directed the City Manager to declare a 15% drought and limit outdoor watering to two days per week. Additional directions as included in the memo are being addressed separately, including the potential deployment of Resilience Corps members to perform outreach. Updates and/or recommendations will be brought to Council at a later date where appropriate.

### **COST SUMMARY/IMPLICATIONS**

Due to the timing of Valley Water's June 2021 declaration of a water emergency, Municipal Water System's Adopted Budget and corresponding rate increase did not consider the budgetary implications associated with declining water sales. The recommended actions in this memo are expected to result in decreased water sales (revenue), partially offset by a corresponding decrease in source water purchases (expenses). Budgetary impacts are, and will continue to be, closely monitored throughout the year, and will be factored into the development of the 2022-2023 Proposed Budget and the calculation of 2022-2023 retail water rates, both of which will assume a decrease in water sales, revenue, and costs. Water waste enforcement actions by PBCE are being absorbed by current funding for the General Funded General Code Program, and budgetary

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impacts will be monitored with potential increased water waste complaints. Cost impacts from public outreach by Resilience Corps members will be addressed separately.

**CEQA**

Categorically Exempt, File No. ER21-266, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

/s/

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Director, Environmental Services

For questions, please contact Jeff Provenzano, Deputy Director, Environmental Services Department at (408) 277-3671.