

CITY OF SANTA ROSA
CITY COUNCIL

TO: CITY COUNCIL
FROM: COLIN CLOSE, SENIOR WATER RESOURCES PLANNER,
SANTA ROSA WATER
SUBJECT: WATER DEMAND OFFSET POLICY, FEE STUDY, AND FEES

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Board of Public Utilities and Santa Rosa Water that the Council, by resolution: 1) adopt Council Policy 000-72 - Water Demand Offset Policy; 2) adopt the Water Demand Offset Fee Study dated February 9, 2022; 3) adopt the Water Demand Offset Fees; and 4) authorize the Water Demand Offset Fees to be adjusted on an annual basis to account for inflation at the beginning of the calendar year (January 1) starting in 2023, using the Engineering News Record's 20-Cities Construction Cost Index.

EXECUTIVE SUMMARY

The City of Santa Rosa is required by California Law to prepare an Urban Water Management Plan (UWMP) and Water Shortage Contingency Plan (Shortage Plan) every five years to assess the adequacy and reliability of water supplies for current and future needs as well as plan for and detail how the City will respond to various levels of water supply shortage. On June 8, 2021, the City Council, by resolution, adopted the UWMP and Shortage Plan, which includes requirements for development to offset their demand during severe water shortages. On November 18, 2021, the BPU approved a resolution recommending the City Council adopt the Water Demand Offset (WDO) Policy, WDO Fee Study, and WDO Fees which have been developed to implement the City's Shortage Plan requirement that new construction must offset water demand during water shortage emergencies that require very restrictive water allocations (water rationing) by the City's existing customers. On November 30, 2021, the City Council held a public hearing to receive public comments and provide input to staff. Council asked staff to complete additional analysis and develop potential alternatives for City Council consideration at a later date. On March 17, 2022, staff presented the additional information that was prepared in response to Council's direction to the BPU. The BPU, by motion, reaffirmed their recommendation that the City Council adopt the Water Demand Offset (WDO) Policy, WDO Fee Study, and WDO Fees.

BACKGROUND

The City of Santa Rosa (City) is an urban water supplier subject to the requirements of the Urban Water Management Planning Act (UWMP Act). As required by the UWMP Act, the City prepares an Urban Water Management Plan (UWMP) every five years to assess the adequacy and reliability of water supplies for current and future needs. The UWMP projects the water needs and water supplies for the Santa Rosa community over a 25-year horizon based on anticipated development in the General Plan, population and employment growth, plumbing and building codes, water efficiency regulations, and a range of dry year scenarios.

In addition to analyzing and planning for long-term water supply needs, the City also prepares a Water Shortage Contingency Plan (Shortage Plan) every five years in conjunction with the UWMP. The Shortage Plan, which is also required by statute, is an operational plan that documents how the City will respond to differing levels of water shortage that can occur due to drought conditions, natural disaster, or human-caused catastrophic events. The Shortage Plan discusses how the City plans to respond to short-term water shortages of various levels to ensure demand does not exceed supply. Both the UWMP and Shortage Plan are submitted to the State Department of Water Resources (DWR) upon completion. The City's water supply planning efforts support the City's vision for long-range sustainable housing and economic development needs for the health of the community.

In addition to being the retail water supplier for the City, the City is also the land use authority within its jurisdiction. As such, the City prepares, adopts, and implements land use policy in compliance with regional and State regulations. In recognition of the need for developing housing, including affordable housing, California law mandates that all California jurisdictions plan for and construct a certain amount of housing. The City's General Plan, Housing Element, and Specific Plans strive to remove barriers to development and streamline the entitlement process, in order to facilitate growth.

The City's mandate to provide housing and assure adequate water supply are balanced through long range strategies and analysis included within the UWMP, Shortage Plan, General Plan, and Specific Plans. Water supply planning and land use strategies help the City to balance long-term development needs and water demands. The Shortage Plan provides demand reduction responses for times when the City could experience water supply shortage conditions.

The proposed Water Demand Offset (WDO) Policy and WDO fee structure details how demand offset, as required by the Shortage Plan, will be implemented during severe water shortages. The Shortage Plan requires that when the City Council declares a severe shortage that requires water rationing for existing customers, new construction must offset demand.

Water rationing and water demand offset requirements are responsive to California law. The California Water Code states that a water shortage emergency must be declared

when the ordinary demand of water customers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection (Water Code section 350). When a water supplier has determined that there is a water shortage emergency, the law requires the governing body of a water supplier to adopt regulations and restrictions on water delivery and consumption to conserve the water supply for the greatest benefit with particular regard to domestic use, sanitation, and fire protection (Water Code section 353). Regulations and restrictions may include the right to deny applications for new or additional service connections and may also include provisions for enforcement by discontinuing service to consumers who willfully violate the regulations and restrictions (Water Code section 356). The law also states that to the extent that regulations and restrictions adopted to address a water shortage emergency conflict with any law establishing the right of an individual consumer to receive water, water restrictions shall prevail over the provisions of such laws relating to water rights for the duration of the emergency (Water Code section 357).

The courts have stated that the language of Water Code section 350 makes it clear that a water agency is empowered to anticipate a future water shortage and impose appropriate regulations and restrictions where, without controls, its water supply will become depleted, and it will be unable to meet the needs of its consumers (*See Swanson v. Marin Municipal Water District (MMWD)* (1976) 56 Cal.App.3d 512). In *Swanson*, the plaintiff, an owner of an undeveloped parcel within the MMWD service area, challenged an emergency moratorium imposed by MMWD in 1973 prohibiting new water service, arguing that because the reservoirs still held water sufficient to serve existing customers, there was no justification for the declaration of a shortage. The court rejected this, noting that the MMWD data indicated that the District's existing safe yield was less than its expected water consumption. The court also rejected the Plaintiff's arguments that the District's ordinance was constitutionally invalid because it discriminated against landowners that were not currently receiving water, noting that the Plaintiff had no constitutional right to be treated the same as existing water customers on parcels that already had a water service connection.

In 1990 the courts again addressed a moratorium on new water service connections and restriction on existing customers (*See Building Indus. Ass'n v MMWD* (1991) 235 Cal.App.3d 1641). In this challenge by the Building Industry Association, the court stated that the plain language of Water Code section 353 provides a water supply agency with discretion to determine how to conserve water supply for the greatest public benefit and permits an agency to respond to a supply emergency by imposing rationing on existing customers. The court also confirmed that Water Code section 356 explicitly allows an agency to also include a ban on new service connections.

The WDO Policy, and the WDO fees and requirement that new development offset demand, represent a reasonable means of addressing the legal requirement for the City to address water shortage emergencies while simultaneously promoting progress on long-term strategies for housing and economic development.

The City has made significant investments for over thirty years in water use efficiency programs to help customer use water wisely. These efforts have resulted in cost-effective reductions to per capita water demand. The City's gross gallons per capita per day for all types of water use decreased by 44% from 1990 (177 gpcd) to 2020 (99 gpcd). Total water use was 14% less in 2020 than in 1990. The City also requires development to be extremely water efficient by complying with the City's Water Efficient Landscape Ordinance and the State's CALGreen building code which require new development to be at least 20 percent more water efficient than existing development.

These combined efforts are critical components for successfully managing current and future water supply needs, allowing existing water supplies to go further while also supporting sustainable growth and affordable housing. Despite these efforts, as noted in the Shortage Plan, during severe water shortage, water supplies are not sufficient to serve ordinary demand.

To inform the public about the proposed WDO Policy and fees, staff engaged in an extensive outreach effort, sending information letters to 59 developers, contractors and interested parties and to 127 local environmental and community groups. In addition, staff made a presentation to the Governmental Affairs Committee of the North Coast Builders Exchange on October 14, 2021. Staff also published a WDO Policy public information webpage on October 20, 2021 (<https://www.srcity.org/3641/Water-Demand-Offset-Policy-and-Fees>), which includes the proposed WDO Policy and WDO Fee Study for public review.

The WDO Policy and fees have also been discussed in Study Sessions and Public Hearings before both the Board of Public Utilities (BPU) and the City Council.

At a meeting on March 17, 2022, the BPU reaffirmed its earlier recommendation that the City Council adopt the WDO Policy and adopt the WDO fees. Previously, the BPU had also recommended that the City Council consider a General Fund subsidy to offset the WDO fee for affordable housing projects. The BPU has not disavowed this recommendation but recognizes that support of a subsidy and the details regarding any subsidy are within the purview of the City Council and are now explored in the alternatives analysis that staff are presenting to the City Council.

PRIOR CITY COUNCIL REVIEW

On April 27, 2021, the City Council held a Study Session and reviewed the 2020 Urban Water Shortage Contingency Plan and 2020 Water Shortage Contingency Plan.

On June 8, 2021, the City Council, by resolution, adopted the 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan.

On October 26, 2021, the City Council held a Study Session and reviewed the proposed WDO Policy and provided input.

On November 30, 2021, the City Council held a public hearing and adopted the Amended 2020 Water Shortage Contingency Plan.

On November 30, 2021, the City Council also held a public hearing and, at the conclusion of the discussion, directed staff to complete additional analysis and develop additional alternatives for City Council consideration at a later date. This agenda packet includes the results of that work.

ANALYSIS

The purpose of the WDO Policy and WDO Fee Study is to ensure that the City can adequately address short-term water shortages and comply with Water Code section 10632(a), which requires that the City plan for water shortages by adopting an updated UWMP and an updated Shortage Plan every five years and implementing the response actions set forth in the Shortage Plan. These plans must include an urban water shortage contingency analysis, which includes a process for conducting an annual water supply and demand assessment, along with the establishment of defined water shortage levels (“stages”) corresponding to progressive ranges of shortages and percentage reductions in water supply. Shortage Plans must also include response actions to achieve water use reductions when the shortage level reaches a defined stage.

Table 1 summarizes the prohibitions and restrictions on water use implemented during each Stage of a water shortage emergency. Response actions include the following prohibitions and restrictions:

Table 1: Prohibitions and Restrictions During Water Shortage Emergencies

Stage	Prohibition/Restriction*	Existing Services	New Constr.
All Stages	Water Waste Ordinance	x	x
Stage 1	Hose shut off nozzles required	x	x
	Prohibit washing hard surfaces with hose	x	x
Stage 2	Restaurants serve water only on demand	x	
	Lodging linens washed only on request	x	
Stage 3	Prohibit power washing	x	x
	Limit hours of irrigation	x	x
Stage 4	Prohibit operation of ornamental features	x	
Stage 5	Water allocations (rationing) (Stages 5-8)	x	
	Prohibit filling new pools	x	x
	Recycled water for construction dust control if avail	x	x
Stage 6	Prohibit filling/topping existing pools	x	
	Prohibit installing landscaping at new construction	x	x
Stage 7	Prohibit replanting landscapes at existing sites	x	
Stage 8	Prohibit all irrigation with potable water	x	x

* Prohibitions and restrictions from earlier stages are in effect in later stages.

During declared water shortage emergency stages that require water allocations (water rationing), as set forth in the Shortage Plan, existing water connections are assigned very restrictive individual water allocations that require water conservation sufficient to ensure that water demand does not exceed the limited supply for the duration of the water shortage emergency.

Table 2 summarizes the water allocations assigned to each existing water service during water shortage emergencies during Stages 5 through 8 and the required water use reductions by customer sectors.

Table 2: Water Allocations and Impacts on Existing Customers

Sector	Stage 5 Allocation	Average Percentage (%) Reduction in Water Use
Residential	40 gpcd + 2,000 gal/mo May-Oct	20-30% (winter vs summer)
Commercial, Institutional, Industrial	85% cap	15%
Health & Safety	95% cap	5%
Irrigation services	40% of ET	54%

Sector	Stage 6 Allocation	Average Percentage (%) Reduction in Water Use
Residential	36 gpcd + 1,000 gal/mo May-Oct	30-40% (winter vs summer)
Commercial, Institutional, Industrial	80% cap	20%
Health & Safety	90% cap	10%
Irrigation services	20% of ET	77%

Sector	Stage 7 Allocation	Average Percentage (%) Reduction in Water Use
Residential	32 gpcd	36-50% (winter vs summer)
Commercial, Institutional, Industrial	75% cap	25%
Health & Safety	85% cap	15%
Irrigation services	10% of ET	88%

Sector	Stage 8 Allocation	Average Percentage (%) Reduction in Water Use
Residential	28 gpcd	45-55% (winter vs summer)
Commercial, Institutional, Industrial	70% cap	30%
Health & Safety	80% cap	20%
Irrigation services	No allocation	100%

gpcd = gallons per capita per day
ET – Evapotranspiration

When the City is experiencing water shortage emergency stages that require existing customers to adhere to very restrictive water allocations, no water is available for new demand. To ensure that development can continue consistent with the City’s water conservation policies, while acknowledging and responding to the severity of the housing shortage crisis, the Shortage Plan allows development to continue as long as developers offset the new water demand that is created by their projects, when the City is in water allocation Shortage Plan stages. The offsets required in the Amended 2020 Shortage Plan adopted by City Council on November 30, 2021 for Stages 5 through 8 are shown in Table 3.

Table 3: Water Demand Offset Requirement for New Development

Shortage Stage	Offset Required
Stage 5 - 8	100% offset

The proposed WDO Policy implements the WDO requirements of the Shortage Plan during water shortage emergency stages that require implementation of water rationing (allocations). The proposed policy has been revised since the November 30, 2021 City Council meeting. Changes were made to ensure added flexibility and allow applicants to propose an alternative to the payment of the WDO fee. Therefore, to achieve the requirement that new construction must offset new demand, the WDO Policy requires the payment of a fee that will be used to implement demand management efforts, water supply projects, and/or conservation programs in order to offset the new demand, and the WDO Fee Study describes the basis for the WDO fees and structure, or alternative project requirements.

Per the revised policy, a developer may also propose an alternative means of achieving a full offset in lieu of paying a fee. If an applicant wishes to undertake measures to achieve a full offset of the new demand created by a project, through, for example, providing the City with a fully permitted public water supply source or completing a self-funded water conservation project within the City’s service area, the applicant can include a detailed description of the proposed alternative with the WDO Application and subsequently provide any studies, plans, reports, and analyses as deemed required by the City to assess whether the alternative will provide the required water demand offset. Alternative proposal applications and alternative projects are subject to service fees to recover the City’s cost to make a determination on the proposed alternative, and, if the alternative is approved, the cost to conduct any subsequent inspections, water use analyses, or other actions as needed to ensure the approved alternative project complies with standards and achieves the required offsets.

After the WDO Policy takes effect, the WDO Policy and requirement to pay WDO fees or implement an alternative project when the City is in certain declared stages of shortage would apply to all development projects, public and private, that would increase water demand and be subject to new or increased connection fees. The City will implement a process to make it clear at the time an application for a building permit is submitted that the provisions of the WDO Policy apply. Projects that had applied for a building permit prior to the adoption of the WDO Policy would not be subject to the provisions of the WDO Policy.

Under the proposed WDO Policy provisions, all construction projects would have to complete and submit to the City a WDO Application as part of the building permit application process to establish the anticipated demand and the fee or alternative project that may apply. After the development project has submitted a WDO Application, staff would review the WDO Application and request any corrections and/or additional information needed.

Staff would finalize the determination of the WDO fees or alternative project requirements, include these in a WDO Agreement, and prepare the WDO Agreement for signatures. The WDO Agreement would have to be executed and submitted to the City prior to issuance of a building permit.

Payment of WDO fees or final completion of an approved alternative project would be required when the development project requests building permit final or occupancy of any type, provided a declared water shortage emergency condition exists at that time and requires water allocations for existing customers and water demand offsets for construction projects. If a declared water shortage emergency condition requiring water allocations for existing customers and water demand offsets for construction projects does not exist when the project requests building permit final or occupancy of any type, then payment of the WDO fees would not be required.

To develop the WDO fee structure, the WDO Fee Study considered the purpose of the fee and the water use factors for new development and programmatic costs and water use reductions associated with implementing specific water saving programs at existing water customer sites. Water use factors were determined by examining the water use of existing customers, based on data from the most recent four fiscal years (FY 2018 through FY 2021). City staff provided information on current water conservation measures, costs, and water savings. Staff and the financial consultant jointly developed estimates for a standardized approach for determining the cost of measures that would provide lasting and measurable water savings benefits.

Programmatic costs and associated water savings were based on an analysis of three water saving programs that could be quickly implemented by the City, would likely generate high participation rates, and would result in sustained water savings. The programs include (1) direct install bathroom conversions consisting of installation of high efficiency toilets, faucet aerators, and showerheads, as well as installation of kitchen faucet aerators by qualified licensed plumbing contractors, (2) enhanced rebates for high

efficiency residential clothes washer upgrades, and (3) enhanced rebates for ornamental turf conversion to low water using landscape at commercial, industrial, and institutional (CII) sites.

The WDO Fee Study is based on the weighted average of the estimated costs and water savings associated with those three programs. Analysis of these program costs does not imply that the City is limited in the future to only those programs to achieve the water savings to offset demand. The water utility could use WDO Fee revenue on any programs or measures that would achieve the needed water demand offsets.

The proposed WDO Fee structure delineates fees for different types of development , with differing fees set forth for residential development and some other development types based on the size of the development.

The WDO Fee Study report is attached, and the fee schedule is provided in Table 4. Staff has also followed the procedures required by recent laws addressing impact fee nexus studies (AB 602).

Table 4: Proposed WDO Fee Schedule (draft)

Type of Development	WDO Fee
Residential Per Housing Unit	
Single Family Residential	
Small Lot (6,000 sq ft and under)	\$1,964
Large/Medium Lot (over 6,000 sq ft to 1 acre)	\$2,782
Large Lot (over 1 acre)	\$5,047
Duplexes and Triplexes per unit	\$1,649
Condos, Apartments, Mobile Homes per unit	
With separate irrigation service	\$1,259
Without separate irrigation service	\$1,498
Eligible ADUs, Senior Housing, Single Room Occupancy, and Small, High-Density Apartments per unit*	\$868
Commercial, Industrial, Institutional and Irrigation (CII)	
Per thousand-gallon unit (TGAL) per month	\$415

*Applies to ADUs that are subject to Demand Fees. "SROs" are single Room Occupancy. Small, High-Density apartments include apartments 750 square feet and smaller.

To account for inflation, the City would adjust the WDO Fees on an annual basis at the beginning of the calendar year (January 1) starting in 2023, using the Engineering News Record's 20-Cities CCI (20-cities CCI). The 20-cities CCI is a broadly accepted construction cost index that attempts to reflect the monthly changes in general construction and labor costs. Adjusting WDO Fees annually using this index helps the City maintain fees commensurate with inflationary cost changes between periodic comprehensive updates. The WDO Fees have been indexed to a 20-cities CCI value of 12,464 (August 2021).

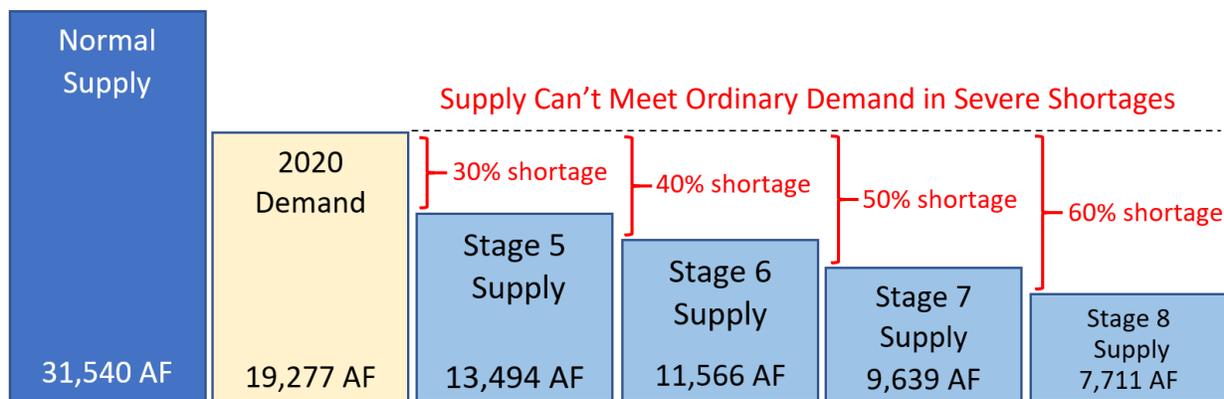
The City would update WDO Fee calculations whenever it is updating the Water Shortage Plan in accordance with the statutory requirements. The update to the Shortage Plan is scheduled to occur every five years, and when undertaking the update, the City would seek to ensure that the fee structure will continue to effectively offset the new water demand created by development.

If a development project wished to protest the final WDO Application determination of staff regarding the project’s water demand, the required WDO fee, and/or the adequacy of a proposed alternative project, the applicant would have to submit a written protest to the Board of Public Utilities within fifteen (15) days of notice of the final staff decision. If an applicant wished to appeal the decision of the Board of Public Utilities, the development project would have to submit a written appeal to the City Council of the final decision of the Board of Public Utilities.

In response to the direction from City Council during the Public Hearing on November 30, 2021, staff conducted additional analysis and considered additional alternatives. The results of that work are summarized below.

During average rainfall water years, the City has adequate water supply for current and future needs. During times of water shortages, the water supply is less than demand. During severe shortage (Stages 5-8), the City would need to implement water allocations (rationing) to conserve water for public health and safety. Each customer would have to adhere to an individual (site-specific) water use limit, and there would be no water for new demand. Figure 1 illustrates the severity of a Stage 5-8 water shortage.

Figure 1: Water Supply During Severe Shortages (Stages 5-8)



For the past year, water storage in Lake Sonoma has been historically low. In fact, storage in Lake Sonoma came critically close to dropping below 100,000 acre-feet, which can trigger a state requirement in Sonoma Water’s water rights permits to reduce their water diversions by 30% or more, which could put Santa Rosa in a Stage 5 (or worse) water shortage condition. Currently, despite the rain events in late 2021, water storage levels in Lake Sonoma remain at historically low levels.

There was concern expressed during the November 30, 2021 City Council meeting that WDO fees could drive up the cost of new housing and reduce housing development, particularly in the affordable housing sector. To better understand the potential impact, Staff estimated WDO fees based on actual projects and then compared the WDO fees to the estimated cost to build (for senior housing and affordable housing multifamily residential complexes) and valuation (for market rate multi-family and single-family residential developments). The example projects used for this analysis are not subject to the WDO fee as they have already applied for building permits.

The analysis shows that the WDO fee is less than one-fifth of one percent of the cost to build senior housing and affordable housing complexes and less than one percent of the valuation of market rate multi-family and single-family housing developments. The WDO fee would add approximately two to five percent to the City’s existing fee structure. Table 5 provides more detail.

Table 5 – Potential Impact of WDO Fee on Cost to Build/Valuation of Housing

Example 1: Senior Housing MFR		Example 3: Market Rate MFR	
3575 Mendocino Avenue	94 units	325 Yolanda Avenue	248
Estimated cost to build	\$56.61 million	Estimated Valuation	\$38.81 million
WDO Fee: \$868 per unit	\$81,592	WDO Fee: \$1,259 per unit	\$312,232
WDO Fee as % of cost to build	0.14%	WDO Fee as % of valuation	0.80%
WDO Fee as % of all City fees	2%	WDO Fee as % of all City fees	5%

Example 2: Affordable Housing MFR		Single Family Residential Homes	
5173 Highway 12	99 units	Average home value*	\$691,334
Estimated cost to build	\$71.03 million	WDO Fee small lot	\$1,964
WDO Fee: \$1,259 per unit	\$124,641	WDO Fee as % of valuation	0.28%
WDO Fee as % of cost to build	0.18%	WDO Fee lg/med lot	\$2,782
WDO Fee as % of all City fees	3%	WDO Fee as % of valuation	0.40%
		WDO Fee large lot	\$5,027

During the meeting on November 30, 2021, there was concern expressed about the potential Impact of WDO fees on rent, particularly for lower income residents. Rent for market rate apartments and homes is driven by what the market will bear. However, if the WDO fee were passed on to renters in market rate housing, it is likely to be passed on over a long period of time and would have far less than one percent impact on rent. To assess the potential impact of WDO fees on residents participating in low-income housing programs, staff conferred with the City’s Housing and Community Services Managers in Affordable Housing and Housing Choice Vouchers.

As shown in Table 6, calculations to determine the rent paid by participants in both programs are based on household size and the income of the residents. Participant rent is capped at 30 to 40 percent of household income based on the program limits and the household income. The rent calculations would not be impacted by WDO fees.

Table 6 – Rent Calculations for Affordable Housing and Section 8 Programs

Housing Program	Size of Program	Rent Calculation
Affordable Housing	5,000 units	Participant rent based on household income and size. Capped at approx. 30% of income.
Section 8	2,000 households	Participant rent capped at approx. 30-40% of household income.

At the Public Hearing on November 30, 2021, City Council requested sample budgets to illustrate how WDO fees would be used to implement water conservation programs to achieve offsets for new demand. The multi-family residential developments analyzed in Figure 2 are used to develop example budgets. However, these developments are not subject to the WDO fee as they have already submitted building permits.

As shown in Table 7, Staff developed the following budgets to illustrate how collected WDO fees would be used to implement the Bathroom Conversion Program (analyzed in the WDO Fee Study). About 10% of the WDO fees would be used to fund City staff time, 87% would be used for plumber service fees and supplies, and 3% for graphic design and ad buys essential to achieving the desired participation. Budgets for other programs (e.g., rebate enhancements) would have similar ratios (except rebates would be funded, instead of plumber services and supplies).

Table 7 – Three Example Budgets for Achieving Water Demand Offsets

1. SENIOR HOUSING			
	WDO Fee / Unit	Number of Units	Total WDO Fee
Water Demand Offset Fee	\$868	94	\$81,592
Offset Project	Conversions needed per new Unit	Number of New Units	Total Conversions
Bathroom conversions at existing sites	1.1	94	104
Budget	Cost per Conversion	Number of Conversions	Total Budget
City labor (salary + benefits)	\$79	104	\$8,267
Conversions (plumber service fee, toilets, etc)	\$684	104	\$71,136
Outreach campaign (graphic design, ads)	\$21	104	\$2,189
Total	\$785	104	\$81,592

2. AFFORDABLE HOUSING			
	WDO Fee / Unit	Number of Units	Total WDO Fee
Water Demand Offset Fee	\$1,259	99	\$124,641
Offset Project	Conversions needed per new Unit	Number of New Units	Total Conversions
Bathroom conversions at existing sites	1.6	99	159

Budget	Cost per Conversion	Number of Conversions	Total Budget
City labor (salary + benefits)	\$79	159	\$12,639
Conversions (plumber service fee, toilets, etc)	\$684	159	\$108,756
Outreach campaign (graphic design, ads)	\$20	159	\$3,246
Total	\$784	159	\$124,641

3. MARKET RATE APARTMENTS	WDO Fee / Unit	Number of Units	Total WDO Fee
Water Demand Offset Fee	\$1,259	248	\$312,232
Offset Project	Conversions needed per new Unit	Number of New Units	Total Conversions
Bathroom conversions	1.6	248	397
Budget	Cost per Conversion	Number of Conversions	Total Budget
City labor (salary + benefits)	\$79	397	\$31,558
Conversions (plumber service fee, toilets, etc)	\$684	397	\$271,548
Outreach campaign (graphic design, ads)	\$23	397	\$9,126
Total	\$786	397	\$312,232

At the Public Hearing on November 30, 2021, City Council asked staff to bring forward all potential alternatives, even if they were not feasible or not preferable, to ensure full consideration of all options. Seven alternatives to the staff recommendation were discussed during the Study Session with City Council on October 26, 2021, and the Public Hearing held by City Council on November 30, 2021. Table 8 summarizes the alternatives previously discussed with Council, associated issues, and staff recommendations.

Table 8: Alternatives Previously Discussed

Description	Issues	Finding
1. No action. Maintain status quo (no policy, no WDO fee).	De facto moratorium. No water available for new demand in Stages 5-8. Significant impacts on new housing and development.	Feasible but not recommended.
2. Revise policy to require moratorium in Stages 5-8.	Moratorium would prohibit new connections to the Water system in Stages 5-8. Significant impacts on new housing and development.	Feasible but not recommended.
3. Adopt policy. Subsidize WDO fee with General Fund.	The General Fund is limited and faces multiple competing interests.	Feasible but defer to Council.
4. Adopt policy. Subsidize WDO fee with existing water ratepayer funds.	Prop 218 violation. Any property subject to a property related fee (such as water service fee) must “specially benefit” from the service or improvement being funded by that fee.	Not feasible.

WATER DEMAND OFFSET POLICY, FEE STUDY, AND FEES
PAGE 14 OF 17

Description	Issues	Finding
5. Adopt policy. Subsidize WDO fee with cell tower revenue.	Currently this revenue pays for the Help to Others (H2O) program that assists low-income water customers.	Feasible but not recommended.
6. Revise policy to allow developers to propose an alternative project to achieve offsets	Developer may prefer to propose completing their own self-funded offset project to achieve offsets instead of paying WDO fee. Would be subject to service fee for City to evaluate proposal and conduct inspections, analyses, or other actions to verify approved alternative meets all standards and achieves offsets.	Feasible. Draft Policy has been updated to include this option.
7. Adopt policy. Subsidize WDO fee with Excess Use Penalties (EUP).	EUP unlikely to generate enough funds. 85% of water services are single family. A household that refused to conserve in Stage 5 would be penalized ~\$15/month. Ongoing noncompliance would result in shut off of service. Subsidizing WDO fee for 1 MFR unit would require 58-84 penalties. 250 units would require 14,500-21,000 penalties. Lack of offset funds likely to cause delays for development.	Not likely to be viable. Not recommended.

Council asked staff to bring forward additional alternatives, even if they are not feasible or preferable, to ensure full consideration of all options. Staff identified the following three additional alternatives. Table 9 summarizes the alternatives and staff recommendations.

Table 9: Additional Alternatives

Description	Issues	Finding
8. Adopt policy. Subsidize by adding a new WDO fee to water rates.	Prop 218 violation. Property subject to fee must “specially benefit” from service or improvement being funded and existing ratepayers cannot be charged fee that is used to address impacts of unrelated new development.	Not feasible.
9. Revise policy. Institute smaller WDO fee on all development, all the time to accrue an Offset Fund over time to fund all offsets.	Violation of the Mitigation Fee Act. Charging a fee when there is sufficient water supply (no mitigation needed) violates mandate for a clear and “essential nexus” between impact of project and mitigation requirement (no offsets required except when City is in Stages 5-8 shortage).	Not feasible.
10. Revise Shortage Plan. Allocate water for new development in Stages 5-8 by reducing allocations for existing customers.	This would revise the allocation methodology in the Shortage Plan to reduce allocations even further for existing customers to carve out allocation for new development. Likely to be extremely unpopular with current residents, businesses, etc. Could cause development delays if allocation isn't sufficient for all new demand.	Feasible but not recommended.

--	--	--

Table 10 summarizes six feasible options, without reference to staff recommendations.

Table 10: Feasible Options

Option	Notes
1. Take no action. Maintain status quo.	De facto moratorium. No water available for new demand in Stages 5-8.
2. Revise policy. Require moratorium in Stages 5-8.	Moratorium in Stages 5-8. Also requires Shortage Plan amendment.
3. Adopt policy. Subsidize WDO fee with General Fund.	Competing needs, interests. Staff and BPU determined this is within Council purview.
4. Adopt policy. Subsidize WDO fee with cell tower revenues.	Currently funds Help to Others (H2O) program for low-income water customers.
5. Revise Shortage Plan. Allocate water for new development by reducing water allocations for existing customers.	Negatively impacts existing residents, businesses, etc. May not be sufficient supply for all new demand (could delay projects). Also requires Shortage Plan and policy revisions.
6. Adopt proposed WDO.	Council could establish subsidies in the future (e.g., when water conditions warrant declaring Stage 5, 6, 7, or 8 shortage).

If City Council wishes to subsidize WDO fees with General Fund, this could be done at any point (e.g., at such time that water conditions warrant declaring Stage 5, 6, 7, or 8). Council could limit eligibility for subsidies to align with their housing goals. Options might include:

1. Projects anywhere in the City
 - a. All housing projects
 - b. Projects that are “100% affordable” housing
 - c. Projects with some “affordable housing”
 - d. Only the “affordable housing” units within projects
2. Projects located within Priority Development Areas
 - a. All housing projects
 - b. Projects that are “100% affordable” housing
 - c. Projects with some “affordable housing”
 - d. Only the “affordable housing” units within projects

FISCAL IMPACT

There is no fiscal impact to the Water Department as funds needed for implementing the WDO Policy would be collected from the proposed project. Any received WDO fees would be segregated into a restricted fund and used exclusively for City demand management efforts, water supply projects, and/or water conservation programs to offset new water demands. The restricted fund would be administered with a job ledger account to track fee use, quantify implementation progress, and maintain compliance with the Mitigation Fee Act (Gov. Code Section 66000 and following).

ENVIRONMENTAL IMPACT

The WDO Policy implements the Water Shortage Contingency Plan that is required by the UWMP Act. Water Code Section 10652 states that the California Environmental Quality Act (CEQA) does not apply to the preparation and adoption of plans developed to comply with the UWMP Act or to the implementation of actions to accomplish the requirements to reduce consumption during shortages consistent with the terms of a Shortage Plan. Therefore, this WDO Policy is not subject to environmental review under CEQA.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On May 20, 2021, the Board of Public Utilities, by resolution, recommended that the City Council adopt the 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan.

On June 8, 2021, the City Council, by resolution, adopted the 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan.

On October 5, 2021, the City Council/Board of Public Utilities Liaison Meeting reviewed the WDO Policy, Fee Study, and WDO Fee Schedule and provided comments.

On October 7, 2021, the Board of Public Utilities held a Study Session and reviewed the WDO Policy, Fee Study, and WDO Fee Schedule and provided comments.

On October 14, 2021, the Planning Commission reviewed the WDO Policy, Fee Study, and WDO Fee Schedule and provided comments.

On November 18, 2021, the Board of Public Utilities, by resolution, recommended that Council adopt the Amended 2020 Water Shortage Contingency Plan, including a 1:1 offset of new demand in Shortage Stages 5-8.

Also on November 18, 2021, the Board of Public Utilities, by resolution, recommended that Council adopt the WDO Policy, WDO Fee Study, and WDO Fee Schedule.

On March 17, 2022, the Board of Public Utilities, by motion, reaffirmed its recommendation that Council adopt the WDO Policy, WDO Fee Study, and WDO Fee Schedule.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Water Demand Offset Policy revised (redline)
- Resolution
 - Exhibit A – Council Policy 000-72 - Water Demand Offset Policy
 - Exhibit B– Water Demand Offset Fee Study

CONTACT

Colin Close, CClose@srcity.org, (707) 543-4524