RESOLUTION NO. 1328

RESOLUTION OF THE BOARD OF PUBLIC UTILITIES RECOMMENDING THE SANTA ROSA CITY COUNCIL ADOPT THE ATTACHED PROPOSED ORDINANCE THEREBY AMENDING SANTA ROSA CITY CODE CHAPTER 14-21 WATER WASTE REGULATIONS TO INCLUDE ADMINISTRATIVE FINES AND CLARIFY ENFORCEMENT AND APPEALS PROCESS

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 further declares that it is self-executing; and

WHEREAS, careful water management that includes active water conservation and demand management measures at all times is essential to ensure a reliable minimum supply of water to meet current and future water supply needs; and

WHEREAS, Chapter 14-21 Water Waste Regulations was added to the City Code by the Council of the City of Santa Rosa in 1999 pursuant to section 2 of Ordinance No. 3426, and Chapter 14-21 was subsequently amended in 2007 pursuant to section 7 of Ordinance No. 3845; and

WHEREAS, the Water Waste Regulations authorize the Director of Santa Rosa Water to issue a written warning and disconnect a customer's water service if a water waste violation is not corrected; and

WHEREAS, Santa Rosa Water has instituted a substantial investment in Automatic Metering Infrastructure that has allowed staff to more expeditiously diagnose and notify customers of water waste violations; and

WHEREAS, for health, safety, and local economic reasons, it is not always feasible to disconnect water service when a customer remains non-compliant and non-responsive to notification of a water waste violation; and

WHEREAS, the Water Waste Regulations do not include an exception and appeals process for violations; and

WHEREAS, Santa Rosa Water staff are recommending amendment of City Code Chapter 14-21 to include administrative fines for unaddressed water waste, provide for an exception and an appeals process, and make other clarifying changes that will result in better enforcement of the Water Waste Regulations; and

WHEREAS, the adoption of these revisions to Santa Rosa City Code Chapter 14-21 Water Waste Regulations will assist the City of Santa Rosa in ensuring compliance with state law.

NOW, THEREFORE, BE IT RESOLVED that the City of Santa Rosa Board of Public Utilities recommends that the City Council of Santa Rosa adopt the proposed ordinance, attached hereto, thereby amending Santa Rosa City Code Chapter 14-21 to include administrative fines and clarify enforcement and appeals processes.

DULY AND REGULARLY ADOPTED by the City of Santa Rosa Board of Public Utilities this 21st day of September 2023.

AYES: (4) Vice Chair Arnone, Board Member Bartholow, Board Member Walsh, Board Member Wright

NOES:

ABSENT: (2) Chair Galvin, Board Member Badenfort

ABSTAIN:

APPROVED: William Arnone
William Arnone (Sep 26, 2023 09:31 PDT)

William Arnone, Vice Chair

ATTEST: Michelle Montoya

Michelle Montoya, Recording Secretary

APPROVED AS TO FORM:

Morgan S. Biggerstaff
Morgan S. Biggerstaff (Sep 26, 2023 08:00 PDT)

Morgan Biggerstaff, Assistant City Attorney

Exhibit A: Ordinance No. XX of the City of Santa Rosa Amending Chapter 14-21 of the Santa Rosa City Code

Exhibit A

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING CHAPTER 14-21 OF THE SANTA ROSA CITY CODE, WATER WASTE REGULATIONS, TO INCLUDE ADMINISTRATIVE FINES AND CLARIFY ENFORCEMENT AND APPEALS PROCESS

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 further declares that it is self-executing; and

WHEREAS, careful water management that includes active water conservation and demand management measures at all times is essential to ensure a reliable minimum supply of water to meet current and future water supply needs; and

WHEREAS, Chapter 14-21 Water Waste Regulations was added to the City Code by the Council of the City of Santa Rosa ("City Council") in 1999 pursuant to section 2 of Ordinance No. 3426, and Chapter 14-21 was subsequently amended in 2007 pursuant to section 7 of Ordinance No. 3845; and

WHEREAS, pursuant to Government Code section 53069.4, the City Council may make any violation of any ordinance subject to an administrative fine or penalty; and

WHEREAS, the purpose of the administrative fines and penalties assessed pursuant to Chapter 14-21 of Title 14 of the City Code is to assure future compliance by water customers through the imposition of increasingly significant fines and penalties so as to create a meaningful discincentive to commit future violations of the rules and regulations contained and referenced herein.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and incorporated herein.

Section 2. Amendment of Code. Chapter 14-21 of Title 14 of the Santa Rosa City Code is hereby amended as follows:

a. Section 14-21.020 of Chapter 14-21 is amended to read as follows:

"14-21.020 Water waste–Definition.

Water waste means:

(A) Potable or recycled water use in outdoor areas resulting in runoff; or

(B) The escape of water through breaks or leaks or due to an equipment malfunction

within a customer's plumbing or private distribution system for any substantial period of time within which such break, leak, or equipment malfunction should have been discovered and corrected."

b. Section 14-21.040 of Chapter 14-21 is amended to read as follows:

"**14-21.040 Requirements for certain recirculating systems in new potable or recycled water services.**

New potable or recycled water services shall be equipped with recycling or reuse systems for the following equipment: evaporative cooling systems, decorative water fountains, conveyor car washes and industrial clothes washers."

c. Section 14-21.050 of Chapter 14-21 is amended to read as follows:

"**14-21.050 Enforcement–Administrative Fines and Disconnection.**

(A) Administrative Fines. Notwithstanding any other provisions contained within the Santa Rosa City Code, the Director of Santa Rosa Water, or the Director's designee, may impose the following administrative fines for violations of section 14-21.030. Any violation of section 14-21.030 that continues for longer than seventy-two hours shall constitute a separate violation.

(1) First violation during a twelve-month period: A written warning describing the violation and the penalties for subsequent violations shall be issued to the customer.

(2) Second violation during a twelve-month period: If 7 calendar days have elapsed from the date the written warning was issued under section 14-21.050(A)(1), a written notice of violation describing the violation and the penalty shall be issued to the customer. A penalty of $100 shall be imposed, but this penalty may be removed from the water service bill if, within seventy-two hours after the date of the penalty notice, the customer begins actively working towards finding and fixing the leak and has provided evidence to staff of this progress.

(3) Third violation during a twelve-month period: A written notice of violation describing the violation and the penalty shall be issued to the customer. A penalty of $200 shall be imposed.

(4) Fourth violation and any successive violations during any twelve-month: A written notice of violation describing the violation and the penalty shall be issued to the customer. A penalty of $500 shall be imposed.

(B) Disconnection.

(1) For violations of section 14-21.030, depending on the nature and extent of the water waste, Santa Rosa Water may also disconnect water service pursuant to section 14-04.210(B).

(2) For violations of section 14-21.040, Santa Rosa Water may disconnect water service pursuant to section 14-04.210(B)."

d. Section 14-21.070 is hereby added to Chapter 14-21 and shall read as follows:

"**14-21.070 Exceptions**.

(A) Any customer may, in advance of receiving a notice of violation under section 14-21.030, make written application for an exception to the water waste regulations contained within this chapter, which application shall describe in detail why applicant believes an exception is justified.

(B) The Director of Santa Rosa Water, or the Director's designee, may grant exceptions for use of water otherwise prohibited by this chapter if an exception is necessary to avoid an adverse impact on health, sanitation, or safety of the applicant or the public, or to avoid undue hardship for the applicant or the public. Any exception granted shall not be broader than necessary or of duration longer than necessary to avoid the adverse effect on health, sanitation, fire protection, or safety or to avoid the undue hardship.

(C) The decision of the Director of Santa Rosa Water, or the Director's designee, may be appealed to the Board of Public Utilities (BPU) by submitting a written appeal to the Recording Secretary for the BPU within fifteen calendar days of the date of the Director's decision. Upon granting any appeal, the BPU may impose any conditions it determines to be just and proper. Exceptions granted by the BPU shall be in writing, and the BPU may require the exception be recorded at applicant's expense."

e. Section 14-21.080 is hereby added to Chapter 14-21 and shall read as follows:

"**14-21.080 Appeal.**

Any customer may appeal the final decision of Santa Rosa Water staff regarding violations of this chapter to the Director of Santa Rosa Water, or a final decision of the Director of Santa Rosa Water to the Board of Public Utilities, by submitting a notice of appeal within fifteen calendar days of the date of the final decision."

Section 3. Codification. The City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting this ordinance. The City Clerk is authorized to resolve, after consultation with the City Attorney, any numbering conflicts

or scrivener's errors accordingly.

Section 4. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on _____, 2023.

IN COUNCIL DULY PASSED AND ADOPTED this _____ day of _____, 2023.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney

20230921_BPU_Resolution No. 1328

Final Audit Report 2023-09-26

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By:	Michelle Montoya (mmontoya@srcity.org)
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