

ORDINANCE O2023-\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE SECTION 13.04.050 (FROM “METERED RATES FOR INTERRUPTIBLE SURPLUS AGRICULTURAL WATER SERVICE” TO “INTERRUPTIBLE SURPLUS AGRICULTURAL WATER SERVICE”), SECTION 13.04.350 (FROM “WATER FOR CONSTRUCTION PURPOSES” TO “WATER FOR TEMPORARY PURPOSES”), CHAPTER 13.09 (FROM “PERMANENT WATER CONSERVATION REGULATIONS” TO “WATER CONSERVATION REGULATIONS”), AND CHAPTER 13.10 (FROM “MODERATE WATER SHORTAGE REGULATIONS” TO “WATER SHORTAGE REGULATIONS”); REPEALING NAPA MUNICIPAL CODE CHAPTER 13.12 (“SEVERE WATER SHORTAGE REGULATIONS”); AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA.

WHEREAS, Napa Municipal Code (“NMC”) Section 13.04.050 authorizes the City to provide interruptible surplus agricultural water service and has been revised to update administrative procedures and agreement requirements for such service; and

WHEREAS, NMC Section 13.04.350 authorizes the City to provide temporary water through a fire hydrant and has been revised to define specific criteria wherein temporary water may be made available and to require an agreement or permit to procure temporary water; and

WHEREAS, NMC Chapter 13.09 contains regulations related to water conservation requirements and has been updated to reflect current water conservation practices and to remove requirements that are no longer applicable; and

WHEREAS NMC Chapter 13.10 contains regulations applicable in the event of a moderate water shortage and has been updated to provide comprehensive regulations for stage 1 through stage 6 water shortage levels consistent with the City’s Urban Water Management Plan; and

WHEREAS NMC Chapter 13.12 contains regulations applicable in the event of a severe water shortage and can be repealed due to these conditions being covered by the changes in NMC Chapter 13.10; and

WHEREAS, the actions authorized by this ordinance are exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to: (a) CEQA

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Guidelines Section 15168 and Section 15183, since sufficiency of water supplies was adequately analyzed in the program level EIR for the 2040 General Plan certified by the City Council on September 20, 2022 by City Council Resolution R2022-085; (b) CEQA Guidelines Section 15307 and Section 15308, since this ordinance establishes regulations that will assure the maintenance, restoration, enhancement, or protection of the environment; and (c) Public Resources Code Section 21065, CEQA Guidelines Sections 15060(c) and/or 15378, since the revision of the City's interruptible surplus agricultural water service and water for temporary purposes ordinance is not subject to environmental review under CEQA, as it does not constitute a "project," does not commit the City to a definite course of action, does not constitute discretionary approval of a specific project, and will not result in a direct or reasonably foreseeable indirect physical change in the environment; the revised ordinance merely codifies and updates the terms and conditions governing the long-standing practice in the City to enter into agreements for agricultural surplus water service and provide water for temporary purposes; the ordinance makes clear that the provision of water, if any, will be based on a variety of factors such as supply, demand, storage, and weather forecasts and there is no guarantee of any water delivery or that water service will continue; any water delivered would be conveyed through existing facilities; any new service requests, including any requests to extend pipelines, would be subject to independent permitting requirements and CEQA analysis; the ordinance revision does not propose, nor would it result in, any construction or changes to existing uses or conditions.

WHEREAS, even if the revision of the City's interruptible surplus agricultural water service and water for temporary purposes ordinance was considered a project, it would be exempt from CEQA as it falls within the "common sense" exemption set forth in CEQA Guidelines Section 15061(b)(3), which excludes projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The revision of the Napa Municipal Code will not result in any physical development, nor will there be an expansion of use or existing structures as a result of its adoption. The proposed ordinance makes any delivery of water discretionary, so the City is not committing to the delivery of any water by updating this code. Any new service requests would be required to undergo appropriate CEQA review at the time of application when the scope of the project can be seen with certainty. This ordinance merely establishes the terms and conditions of the contract between the City and the customer and specifies the scope of authority to enter into and restrict water use under such agreements. As a regulation, this ordinance does not have the possibility of having a significant effect on the environment.

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings; and

WHEREAS, the City Council hereby finds that the facts and findings set forth in the recitals to this Ordinance accurately reflect the findings and determinations of the City Council, and form the basis for adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

**SECTION 1.** California Environmental Quality Act (“CEQA”). The City Council hereby determines that the actions authorized by this Ordinance are exempt from CEQA based on the facts, analyses, and findings set forth in the recitals to this Ordinance.

**SECTION 2.** Amendment. Napa Municipal Code Section 13.04.050 (“Metered Rates for Interruptible Surplus Agricultural Water Service”) is hereby amended by repealing the previous language in its entirety, and adopting language to read as set forth on Exhibit “A,” attached hereto and incorporated herein by reference: “Adding a New Section 13.04.050 (“Interruptible Surplus Agricultural Water Service”) to the Napa Municipal Code”.

**SECTION 3.** Amendment. Napa Municipal Code Section 13.04.350 (“Water for Construction Purposes”) is hereby amended by repealing the previous language in its entirety, and adopting language to read as set forth on Exhibit “B,” attached hereto and incorporated herein by reference: “Adding a New Section 13.04.350 (“Water for Temporary Purposes”) to the Napa Municipal Code”.

**SECTION 4.** Amendment. Napa Municipal Code Chapter 13.09 (“Permanent Water Conservation Regulations”) is hereby amended by repealing the previous language in its entirety, and adopting language to read as set forth on Exhibit “C,” attached hereto and incorporated herein by reference: “Adding a New Chapter 13.09 (“Water Conservation Regulations”) to the Napa Municipal Code”.

**SECTION 5.** Amendment. Napa Municipal Code Chapter 13.10 (“Moderate Water Shortage Regulations”) is hereby amended by repealing the previous language in its entirety, and adopting language to read as set forth on Exhibit “D,” attached hereto and incorporated herein by reference: “Adding a New Chapter 13.10 (“Water Shortage Regulations”) to the Napa Municipal Code”.

**SECTION 6.** Repeal. Napa Municipal Code Chapter 13.12 (“Severe Water Shortage Regulations”) is hereby repealed in its entirety.

**SECTION 7:** Note to Codifier for tables of contents. All relevant Tables of Contents for Napa Municipal Code Title 13 are hereby amended to document all amendments, and one repealed chapter, as set forth in this Ordinance.

**SECTION 8:** Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-

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sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 9: Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

MAYOR: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }  
COUNTY OF NAPA } SS:  
CITY OF NAPA }

I, Tiffany Carranza, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 16<sup>th</sup> day of May, 2023, and had its second reading and was adopted and passed during the public meeting of the City Council on the \_\_\_ day of \_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_

Tiffany Carranza  
City Clerk

Approved as to Form:

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Michael W. Barrett  
City Attorney