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Title: ***BILL B-26 (Intro'd 8/18/2022)(For Adoption) - Amending Section 6-520 of the Fresno Municipal Code, relating to regulations for urban water conservation (Subject to Mayor's Veto)

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: 1. 9_1_22 REVISIONS ORDINANCE - Emergency Regulation Enforcement v01 (rec'd 8-22-22)

Date	Ver.	Action By	Action	Result
9/1/2022	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

FROM: BROCK D. BUCHE, PE, PLS, Director
Department of Public Utilities

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Department of Public Utilities - Administration

SUBJECT

***BILL B-26 (Intro'd 8/18/2022)(For Adoption) - Amending Section 6-520 of the Fresno Municipal Code, relating to regulations for urban water conservation (Subject to Mayor's Veto)

RECOMMENDATION

Staff recommends that City Council approve a bill for introduction amending Section 6-520 of the Fresno Municipal Code relating to regulations for urban water conservation. If approved by the City Council, the revisions to the FMC will become effective 31 days after final passage.

EXECUTIVE SUMMARY

The State Water Board approved Resolution 2022-0018 which adopted regulations to reduce water demand and improve water conservation, which went into effect on June 10, 2022. These regulations include a prohibition on the use of potable water for the irrigation of non-functional turf at commercial, industrial, and institutional (CII) sites. The emergency regulation makes the irrigation of CII non-functional turf an infraction and any entity such as a water supplier or local government already authorized to enforce infractions, including the City of Fresno, is expected to enforce violations of the regulation.

The Fresno Municipal Code (FMC) authorizes the enforcement of specific water conservation regulations but does not include the authority to enforce additional emergency regulations imposed by the State Water Board or other regulatory entities. For the City to enforce the prohibition on non-functional turf at CII sites, as required by the State, the FMC must be updated to incorporate the authority to enforce such emergency regulations not specifically identified in Section 6-520 of the FMC.

BACKGROUND

On April 21, May 10, July 8, and October 19, 2021, Governor Newsom issued proclamations that a state of emergency exists statewide due to severe drought conditions. Further, on October 19, 2021, Governor Newsom urged the State Water Board to adopt emergency regulations to supplement voluntary conservation by prohibiting certain wasteful water practices. The State Water Board adopted such emergency regulations, which went into effect on January 18, 2022.

Further, in response to extreme and expanding drought conditions, Governor Newsom issued Executive Order N-7-22 in May 2022 urging the State Water Board to adopt additional emergency regulations to increase water conservation. The State Water Board subsequently approved Resolution 2022-0018 which adopted regulations to reduce water demand and improve water conservation, which went into effect on June 10, 2022.

The regulations include a prohibition on the use of potable water for the irrigation of non-functional turf at commercial, industrial, and institutional (CII) sites. The emergency regulation makes the irrigation of CII non-functional turf an infraction and any entity such as a water supplier or local government already authorized to enforce infractions, including the City of Fresno, is expected to enforce violations of the regulation.

The Fresno Municipal Code authorizes the enforcement of specific water conservation regulations but does not include the authority to enforce additional emergency regulations imposed by the State Water Board or other regulatory entities. For the City to enforce the prohibition on non-functional turf at CII sites, as required by the State, the FMC must be updated to incorporate the authority to enforce such emergency regulations not specifically identified in Section 6-520 of the FMC.

The Department of Public Utilities (DPU) recommends that Council approve a bill amending Section 6-520 of the FMC relating to regulations for urban water conservation, which incorporates the authority for DPU to enforce emergency regulations not specifically identified in the section.

DPU is sending letters to all CII property owners and/or managers with information about the current emergency regulations related to non-functional turf at CII sites. Water Conservation Program staff are available to assist individual CII customers with the identification of areas of non-functional turf and compliance needs for the specific property. There will be no enforcement of the current emergency regulations until public outreach has been performed and customers are given reasonable opportunity to achieve compliance.

City Attorney has reviewed the attached ordinance and approved to form.

ENVIRONMENTAL FINDINGS

On March 28, 2022, Executive Order N-7-22 issued by Governor Newsom suspended the

environmental review required by the California Environmental Quality Act (CEQA) to allow State Water Board-adopted drought conservation emergency regulations and other actions to take place quickly to respond to emergency conditions. Therefore, an environmental review for this enforcement action is not required.

LOCAL PREFERENCE

Local preference was not implemented because this action does not include a bid or an award of a contract.

FISCAL IMPACT

This ordinance will have no impact on the General Fund. Fines collected for violations of water conservation regulations, including the prohibition on non-functional turf at CII sites, will be deposited into the Water Enterprise Fund.

Attachment - Ordinance