

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTION 6-520 OF THE FRESNO MUNICIPAL
CODE, RELATING TO REGULATIONS FOR URBAN
WATER CONSERVATION

WHEREAS, on August 29, 2016, following the severe drought that occurred in 2014-2015, Governor Brown signed SB 814 into law, requiring the City to define “excessive water use,” and to establish a method to identify and discourage excessive water use; and

WHEREAS, on April 7, 2017, Governor Brown issued Executive Order B-40-17 directing the State Water Resources Control Board (State Water Board) to make permanent prohibitions on certain practices which do not conserve water; and


WHEREAS, on April 27, 2017, the State Water Board adopted Resolution 2017-0024 rescinding mandatory water conservation standards statewide, but continuing prohibitions on certain wasteful practices; and

WHEREAS, in response to the Governor’s Executive Order and the State Water Board Resolution, the Fresno City Council (Council) adopted revised water conservation requirements through Ordinance No. 2017-56, effective November 19, 2017, including a definition of “excessive water use” and the prohibition of certain wasteful practices at all times; and

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

WHEREAS, on April 11, 2019, the Council adopted Resolution No. 2019-073 amending the Water Shortage Contingency Plan to set the Outdoor Water Use Schedule, and Resolution No. 2019-074 adopting the 549th amendment to the Master Fee Schedule Resolution No. 80-420 to update penalties for incidents of water waste; and

WHEREAS, on April 25, 2019, the Council approved Ordinance No. 2019-011 amending sections 6-501 and 6-520 of the Fresno Municipal Code relating to regulations for urban water conservation and excessive water use, and establishing an appeal process for customers objecting to fines imposed for incidents of water waste; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, on March 28, 2022, Governor Newsom signed Executive Order N-7-22 directing the State Water Board to consider adopting emergency regulations to increase water conservation; and

WHEREAS, on May 24, 2022, the State Water Board approved Resolution No. 2022-0018 adopting emergency regulations to reduce water demand and improve water conservation. These emergency regulations went into effect on June 10, 2022; and

WHEREAS, on June 10, 2022, the City Manager signed a Declaration of Water Shortage Stage 2 in the City of Fresno, to comply with State Water Resources Control Board Resolution No. 2022-0018; and

WHEREAS, the State Water Board emergency regulations include a prohibition on the use of potable water for the irrigation of non-functional turf at commercial, industrial, and institutional (CII) sites, and makes the irrigation of CII non-functional turf an infraction; and

WHEREAS, the State Water Board emergency regulations make 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 may choose to enforce violations of the regulation; and

WHEREAS, during times of severe drought, the State Water Board may adopt certain emergency regulations restricting or allowing the use of potable water; and

WHEREAS, the Fresno Municipal Code authorizes the enforcement of specific water regulations, but does not include the authority to enforce additional emergency regulations imposed by the State Water Board or other regulatory entities.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection 6-520(a)(19) shall be added to of the Fresno Municipal Code as follows:

(a) In the use of potable water supplied by the City, no customer shall do or permit any of the following:

(1) Use potable water to irrigate or water outdoor landscaping in a manner that causes runoff such that water flows onto adjacent property,

non-irrigated areas, private and public walkways, roadways, parking lots or structures,

(2) Keep, maintain, operate, or use any water connection, hose, faucet, hydrant, pipe, outlet, or plumbing fixture which is not tight and free from leakage,

(3) Willfully or negligently waste water,

(4) Flood any part of the premises of another,

(5) Sprinkle the premises of another so as to prevent the normal use thereof or unreasonably wet objects thereon which should not be subjected to a spray of water except as naturally caused by the elements or by action of the owner of the object,

(6) Sprinkle or irrigate any yard, ground, premise, or vegetation except as set forth in the City's Outdoor Water Use Schedule,

(i) Annual Exemptions. The following properties may submit an application for a one-year exemption to the Outdoor Water Use Schedule in effect at the time of the application:

a. Properties with multiple addresses, and

b. Properties with turfed or landscaped areas of two acres or larger, and

c. Properties without street addresses.

The owners of such properties shall submit a proposed modified Outdoor Water Use Schedule in writing to the Director or designee for approval or modification. The Director may approve a modified

Outdoor Water Use Schedule for with more frequent watering or different watering days than allowed by the Outdoor Water Use Schedule in effect at the time the application for an exemption is submitted for consideration. If the Director determines the proposed exemption will adversely impact system water pressures in the service area, the proposed exemption will be denied. All Annual Exemptions approved by the Director shall automatically expire on December 31 of each year, and the property owners must re-apply for an exemption to the Outdoor Water Use Schedule.

(ii) Short-term Exemptions. The following properties may submit an application for an exemption from the Outdoor Water Use Schedule for a specific time period not to exceed one month.

- a. Properties with new lawns not yet established.
- b. Properties seeking to use water for a bona fide use, such as solar panel cleaning or other use necessary for health or preservation of property.

The owners of such properties shall submit a proposed modified Outdoor Water Use Schedule in writing to the Director or designee for approval or modification no less than 48 hours before the proposed non-compliant water usage. The Director may approve a modified Outdoor Water Use Schedule that may provide for more frequent outdoor water use or different outdoor water use days than allowed by the Outdoor Water Use Schedule in effect at the time the

application for an exemption is submitted for consideration. If the Director determines the proposed exemption will adversely impact system water pressures in the service area, the proposed exemption will be denied. All Short-term Exemptions approved by the Director shall automatically expire on the date set forth on the Short-Term Exemption permit.

(7) Sprinkle or irrigate any yard, ground, premise, or vegetation unless the watering device used is controlled by an automatic shut-off device, or a person is in immediate attendance of the hose or watering device,

(8) Wash any privately owned motor vehicle, trailer, or boat except from a bucket or in a commercial car wash, provided a hose equipped with a shut-off nozzle may be used for a quick rinse without causing water to flow onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures,

(9) Wash or rinse with a hose or watering device any sidewalk, driveway, parking area, tennis court, patio, or any other exterior paved area, except for public health and safety reasons at public gathering places, or

(10) Use potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(11) Irrigate ornamental turf on public street medians with potable water, except where:

(i) The turf serves a community or neighborhood function, including but not limited to, recreational uses and civic or community events;

(ii) The turf is irrigated incidentally by an irrigation system primarily intended to irrigate trees;

(iii) The turf is irrigated with recycled water.

This prohibition does not include trees and shrubs on public medians, which may be irrigated.

(12) Irrigate outdoor landscapes with potable water during and within 48 hours after measurable rainfall.

(13) Serve drinking water other than upon request in eating or drinking establishments, including but not limited to, restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served or purchased.

(14) Irrigate landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

(15) Automatically change towels and linens in hotels and motels daily. Operators of hotels and motels shall provide guests the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

(16) Drain swimming pools more than once every three years, except as necessary to complete structural repairs or to comply with public health standards, as determined by the County Health Officer. Residents with private swimming pools shall file a written application for a permit with the City of Fresno Water Division at least 48 hours prior to draining the pool. Any customer whose swimming pool is drained by order of the Department of Health for failure to maintain it properly will also be issued a notice of violation of the City of Fresno Municipal Code. The draining of pools for reasons of health and safety hazards as determined by the City of Fresno Water Division and/or the Department of Health is permitted. The application shall include the results of a pool water test conducted by an independent testing organization which shows a cyanuric acid level above 100 parts per million, total dissolved solids over 2,500 parts per million, or calcium over 450 parts per million, or stating the nature and duration of repairs to be made and the date on which the pool will be drained.

(17) Fill newly constructed or refurbished swimming pools without a pool fill permit from the City of Fresno Water Division.

(18) Refill (top off) established swimming pools except during times when outdoor water use is allowed at the property address pursuant to the Outdoor Water Use Schedule.

[(19) Use potable water to irrigate or water outdoor landscaping in a manner that is prohibited by or inconsistent with any Federal or State regulations or other requirements not specifically identified in this section.]

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2022.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2022
Mayor Approval/No Return: _____, 2022
Mayor Veto: _____, 2022
Council Override Vote: _____, 2022

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
RINA M. GONZALES
Interim City Attorney

By: _____
Jennifer M. Quintanilla Date
Senior Deputy City Attorney