

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO,  
CALIFORNIA, AMENDING CHAPTER 6, ARTICLE 9, OF  
THE FRESNO MUNICIPAL CODE, THE RECYCLED  
WATER ORDINANCE

WHEREAS, recycled water is a source of water for approved non-potable uses as specified in the California Code of Regulations Title 22 Recycled Water Criteria; and

WHEREAS, the Department of Public Utilities Wastewater Management Division constructed a 5 MGD Disinfected Tertiary Treatment Facility able to deliver treated wastewater at a tertiary level for less restrictive uses and as allowed by Title 22 Recycled Water Criteria; and

WHEREAS, the sale of recycled water to water customers that can use the water for approved purposes will benefit wastewater ratepayers by raising additional revenue for the wastewater utility; and

WHEREAS, recycled water is also a component of the City's Metropolitan Water Resources Management Plan, the long-range plan to develop a sustainable water supply portfolio; and

WHEREAS, the City's long term plan is to develop the recycled water system to meet the increasing urban demand and offset potable uses; and

WHEREAS, in order to prepare for the City's long-term plan to expand its recycled water service, the City desires to require certain new developments to install

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



Ordinance No.

facilities necessary for the delivery of recycled water, as a condition of development;  
and

WHEREAS, the City intends to deliver the recycled water to customers on a voluntary basis, for the benefit of wastewater ratepayers, until such time as the City is prepared to expand its recycled water service; and

WHEREAS, the City's Recycled Water Ordinance was originally adopted in 2014;  
and

WHEREAS, the Recycled Water Ordinance needs to be revised to reflect the current recycled water program; and

WHEREAS, the proposed changes will align the FMC to the current state of the Recycled Water Master Plan, and will clarify for potential users that the City is currently delivering recycled water on a voluntary basis, and therefore, recycled water use is not mandatory.

NOW, THEREFORE, the City amends the Recycled Water Ordinance as set forth below.

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

SECTION 1. Section 6-902 of the Fresno Municipal Code is amended to read:

SECTION 6-902. - PURPOSE AND INTENT. The purpose and intent is to provide recycled water to all service areas in the City identified in the Recycled Water Master Plan [(RW Master Plan)] ~~(Plan) (currently under development)~~ and subsequent additions, revisions or updates of the [RW Master ]Plan. It is the intent of the City that existing owners of property and future development,

identified in the [RW] Master Plan as being potential users within areas designated for recycled water use, qualify for a recycled water use agreement from the City in accordance with this Recycled Water Ordinance.

It is also the intent of the City that such recycled water be used in a manner and for types of uses that are in compliance with any and all applicable Federal, State and local statues, ordinances, regulations and other requirements.

SECTION 2. Section 6-903 subsections (b), (i), and (k) of the Fresno Municipal Code is amended to read:

(b) "Cross-connection" means any unapproved and/or unprotected connection between a potable water system and a ~~nonpotable~~ [non-potable] system. No cross connections are allowed between recycled water and potable water systems.

....  
(i) "Recycled water project area" means those geographical areas identified in the Fresno ~~Recycled Water~~ [RW] Master Plan and designated by the City to which the City will provide recycled water service where it is expected to be available. Customers within the Recycled Water Project Area are eligible for recycled water service for approved uses when it becomes available.

....  
(k) "Rules and regulations" means the Rules and Regulations for Recycled Water Use and Distribution within the City of Fresno [, as may be amended from time to time].

SECTION 3. Section 6-905 of the Fresno Municipal Code is amended to read:

SECTION. 6-905. - USER AGREEMENT. Recycled water shall not be delivered, used, or discharged upon any property or use area~~[, including those owned and controlled by the City,]~~~~not owned or controlled by the City~~ unless a user agreement has been ~~established~~executed.

The City will issue to each recycled water customer a user agreement for each site or combination of sites, which grants permission to use recycled water and requires the customer to use recycled water in accordance with the rules, regulations and standards of the City's Recycled Water Rules and Regulations and all applicable State and local rules and regulations, including Titles 17 and 22 of the California Code of Regulations (CCR)~~[ and General Order WQ 2016-0068-DDW Recycled Water Use,]~~ as may be amended from time to time.

SECTION 4. Section 6-906 of the Fresno Municipal Code is added to read:

[SECTION 6-906 RECYCLED WATER SITE SUPERVISOR. Users shall designate a Recycled Water Site Supervisor in accordance with the rules, regulations, and standards set forth in the City's Recycled Water Rules and Regulations and all applicable State and local rules and regulations, as may be amended from time to time. The Recycled Water Site Supervisor shall be responsible for the On-Site Recycled Water System at each use area under their control.]

SECTION 5. Section 6-906 of the Fresno Municipal Code is amended to read:

SECTION. ~~6-906~~[6-907]. - APPLICATION PROCESS FOR USER AGREEMENT. Applicants [wishing to use recycled water ]shall file applications

for recycled water use with the Department of Public Utilities. The application shall contain such information as required by the Department of Public Utilities. The application shall be reviewed for conformance with the requirements in this section, the ~~Recycled Water~~[ RW] Master Plan and all other applicable statutes. Upon determination that a property shall ~~can~~ [can] be served with recycled water, ~~or adoption of a condition for development approval requiring use of recycled water,~~ and approval of the application, the owner of the property may become a user by entering into a user agreement that complies with the regulations and such other requirements deemed necessary by the Department of Public Utilities.

SECTION 6. Section 6-908 of the Fresno Municipal Code is added to read:

[SECTION 6-908. – RECYCLED WATER PRICE. The price applicable to recycled water service shall be set forth in the user agreement.]

SECTION 7. Section 6-909 of the Fresno Municipal Code is added to read:

[SECTION 6-909. – RECYCLED WATER USER INCENTIVES. The Director of Public Utilities may develop and authorize incentives to encourage the use of recycled water.]

SECTION 8. Section 6-907 of the Fresno Municipal Code is amended to read:

~~SECTION 6-907~~[6-910]. - RECYCLED WATER SERVICE ELIGIBILITY.  
All areas served by potable water service within the Recycled Water Project Area are eligible for recycled water service connections for approved uses when recycled water becomes available. [Except for those properties identified in Section 6-911, construction of recycled water infrastructure for connection to the recycled water system is voluntary.]

However, the Director, or his or her designee, may determine that currently, connection to the recycled water system [and/or provisioning of recycled water] is not economically or operationally feasible because of distance from an available recycled water source or other such condition as the Director, or his or her designee, deems appropriate. This determination can change as the system is expanded or revised in the future and will be considered at that time.

SECTION 9. Section 6-908 of the Fresno Municipal Code is amended to read:

SECTION ~~6-908~~[6-911]. - REQUIREMENT TO [PLAN FOR THE] USE [OF] RECYCLED WATER. ~~The City reserves the right to require all customers who connect (or desire to connect) to the City potable water system on or after January 1, 2015 to use recycled water in lieu of potable water for all approved uses, including, but not limited to, dual plumbing requirements for commercial buildings and single family residential irrigation. Upon application by a developer, owner or water customer for a~~ [development project involving a new or expanded water connection, for which a discretionary approval is required, including but not limited to a tentative map, tentative parcel map, conditional use permit, development permit, planned development permit, or variance, ]tentative map, subdivision map, land use permit, or other development project, the Director shall review the [RW] Master Plan and make a preliminary determination whether the ~~current or proposed~~ use of the subject property [would be best served by ] ~~require it to be served with recycled water or to include facilities designed to accommodate the use of recycled water~~ [either currently or ] in the future, due to its location within an existing or proposed Recycled Water Project

Area. Based upon such determination, construction of the facilities necessary to provide recycled water service ~~an agreement for such use~~ may be required as a condition of approval of any such application, in addition to any other conditions of approval or service.

a. Requirement for Commercial~~[, Industrial, Institutional and Governmental Development Projects]~~ in Recycled Water Project Area.

~~Existing Commercial: Existing commercial properties in the Recycled Water Project Area are required to use recycled water for landscape irrigation. Owners of existing commercial properties shall connect to the recycled water system or must provide a feasibility study to apply for an exception to this Recycled Water Ordinance.~~

~~New Commercial: Projects involving new commercial~~Commercial, industrial, and institutional or governmental development projects involving a new or expanded water connection, for which a discretionary approval is required, including but not limited to, a tentative map, tentative parcel map, conditional use permit, development permit, planned development permit, or variance ~~subdivision of land for which a tentative map or parcel map is required and are located within the [existing or proposed] Recycled Water Project Area, shall [may ]be conditioned to be dual plumbed to provide for the [potential ]internal use of recycled water and to provide for the [potential ]use of recycled water for landscape irrigation. The point of connection to the recycled water distribution system shall be coordinated between the customer and the City. The Director~~

will determine requirements for recycled water plumbing. These requirements and the use of recycled water will become conditions of approval.

~~b. Requirement for Industrial Projects in the Recycled Water Project Area.~~

~~Existing Industrial: Existing industrial properties in the Recycled Water Project Area are required to use recycled water for landscaping. Owners of existing industrial properties shall connect to the recycled water system or must provide a feasibility study to apply for an exception to this Recycled Water Ordinance.~~

~~New Industrial: New industrial projects which require a City permit and which are located within the Recycled Water Project Area are required to provide dual plumbing for internal uses of recycled water and to provide for the use of recycled water for landscape irrigation. Such projects must also provide a feasibility study analyzing the possibility of using recycled water for industrial processes and cooling. The Director will determine requirements for recycled water plumbing. The feasibility study and, if applicable, any City requirements for the use of recycled water will become conditions of approval.~~

~~c. Requirement for Institutional and Governmental Use in the Recycled Water Project Area.~~

~~New Institutional and Governmental Projects: New institutional and governmental projects which are located within the Recycled Water Project Area are required to be dual plumbed to provide for the internal use of recycled water and to provide for the use of recycled water for landscape irrigation. The Director will determine~~



~~requirements for recycled water plumbing. These requirements and the use of recycled water will become conditions of approval.~~

d[b]. Requirement for Residential Uses in the Recycled Water Project Area.

~~New Apartments and Condominiums: Apartment and Condominium projects involving [a] new [or expanded water connection, for which a discretionary approval is required, including but not limited to, a tentative map, tentative parcel map, conditional use permit, development permit, planned development permit, or variance] commercial subdivisions of land for which a tentative map or parcel map is required and are located within the [existing or proposed ]Recycled Water Project Area, shall [may ]be conditioned [required ]to be dual plumbed to provide for the [potential ]internal use of recycled water and[or] to provide for the [potential ]use of recycled water for landscape irrigation in common areas. The point of connection to the recycled water distribution system shall be coordinated between the customer and the City. The Director will determine requirements for recycled water plumbing. These requirements and the use of recycled water will become conditions of approval.~~

New Single Family Residential Homes[Developments]: Single family residential home projects involving new residential [developments for which a discretionary approval is required, including but not limited to,] subdivisions of land for which a tentative map or [tentative] parcel map is required and are located within the [existing or proposed ]Recycled Water

Project Area, shall ~~[may ]~~ be conditioned ~~[required ]~~ to provide for [the potential use of recycled water for landscape irrigation in common areas served by a Community Facilities Districts or Lighting and Landscape Maintenance Districts.] ~~landscape irrigation with recycled water.~~ The point of connection to the recycled water distribution system shall be coordinated between the customer and the City. These requirements ~~and the use of recycled water will become conditions of approval.~~

~~Existing Apartments and Condominiums: Existing apartment and condominiums are required to use recycled water for landscape irrigation in common areas. Owners of existing apartment and condominium properties shall connect to the recycled water system or must provide a feasibility study to apply for an exception to this Recycled Water Ordinance.~~

~~Home Owner Associations: Home Owner Associations are required to use recycled water for landscape irrigation in common areas. Home Owner Associations shall connect to the recycled water system or must provide a feasibility study to apply for an exception to this Recycled Water Ordinance.~~

SECTION 10. Section 6-909 of the Fresno Municipal Code is amended to read:

SECTION ~~6-909~~[6-912]. - VOLUNTARY USE ~~INSIDE AND OUTSIDE OF~~ THE RECYCLED WATER PROJECT AREA. [Existing commercial or industrial areas and new commercial, industrial, or residential development common areas located outside of the Recycled Water Project Area may be eligible for voluntary

use of recycled water in accordance with the City and State rules and regulations upon Director approval. Based upon such determination, an agreement for such use may be required as a condition of approval of any such application, in addition to any other conditions of approval or service.]

~~a.— Existing Commercial Properties in the Recycled Water Project Area.~~

~~Existing Commercial Properties: Existing commercial properties that are in the Recycled Water Project Area shall consider using recycled water for internal dual plumbing, internal cooling towers and evaporative coolers.~~

~~b.— Commercial Properties Outside of the Recycled Water Project Area.~~

~~New and Remodeled Commercial Properties: New and remodeled commercial properties that are located outside of the Recycled Water Project Area shall consider the feasibility of providing for internal dual plumbing and providing for the use of recycled water for landscape irrigation, as recycled water may be extended beyond the Recycled Water Project Area.~~

~~c.— Existing Industrial Properties in the Recycled Water Project Area.~~

~~Existing Industrial Properties: Existing industrial properties in the Recycled Water Project Area shall consider the feasibility of using recycled water for internal dual plumbing.~~

~~d.— Existing and New Institutional and Governmental Use.~~

~~Existing Institutional and Governmental Properties: Existing institutional and governmental properties in the Recycled Water Project Area shall consider the feasibility of using recycled water for internal dual plumbing and landscape irrigation.~~

~~New Institutional and Governmental Properties Outside of Recycled Water Project Area: New institutional and governmental properties that are located outside of the Recycled Water Project Area shall consider the feasibility of using recycled water for internal dual plumbing and landscape irrigation, as recycled water is expected to be extended beyond the Recycled Water Project Area.~~

~~e. Residential Uses Outside of Recycled Water Project Area.~~

~~Remodeled Apartments and Condominiums: Remodeled apartment and condominium properties shall consider the feasibility of dual plumbing to provide for the internal use of recycled water and using recycled water for landscape irrigation in common areas.~~

~~Existing Apartments and Condominiums: Existing apartment and condominiums shall consider the feasibility of using recycled water for landscape irrigation in common areas.~~

~~Home Owner Associations: Home Owner Associations are encouraged to consider the feasibility of using recycled water for landscape irrigation in common areas.~~

~~These statements apply to residential uses outside of the Recycled Water Project Area as recycled water may be extended beyond the current Recycled Water Project Area.~~

~~f. Industrial Projects; Inside and Outside of Recycled Water Project Area.~~

~~All existing and new industrial projects shall consider the feasibility of providing for the use of recycled water for industrial processes and cooling and dual plumbing.]~~

SECTION 11. Section 6-910 of the Fresno Municipal Code is amended to read:

SECTION ~~6-910~~[6-913]. - EXISTING POTABLE WATER SERVICE: VOLUNTARY RETROFITS. Existing potable water customers in the Recycled Water Project Area may be provided with the opportunity by the City to retrofit their system to accept recycled water, ~~such as existing commercial properties and existing institutional and governmental properties.~~

SECTION 12. Section 6-911 of the Fresno Municipal Code is amended to read:

SECTION ~~6-911~~[6-914]. - CONSTRUCTION AND DUST CONTROL ACTIVITIES. Any person applying for a construction permit for a project that includes dust control activities is required to use recycled water for those activities within the Recycled Water Project Area~~, if feasible based on the project's proximity to a recycled water fill station~~.

SECTION 13. Section 6-912 of the Fresno Municipal Code is amended to read:

SECTION ~~6-912~~[6-915]. - RECYCLED WATER RULES AND REGULATIONS. The City will at all times have Recycled Water Rules and Regulations which will be prepared, maintained and updated by the Director, or ~~his or her~~ designee. The purpose of the Recycled Water Rules and Regulations is to detail the requirements of the City's recycled water system, namely: this section; the California Code of Regulations Titles 17 and 22; and other State and

local rules and regulations related to the use of recycled water as they may be adopted or changed from time to time.

SECTION 14. Section 6-913 of the Fresno Municipal Code is amended to read:

SECTION ~~6-913~~[6-916]. - SANCTIONS. Any owner and or operator who violates this Recycled Water Ordinance may, for each day of violation, or portion thereof, be subject to penalties in accordance with Chapter 1, Article 3 of the City Municipal Code.

SECTION 15. Section 6-914 of the Fresno Municipal Code is amended to read:

SECTION ~~6-914~~[6-917]. - ENFORCEMENT. Any person, firm, corporation, association, or agency found to be violating any provisions of this section or the terms and conditions of the user agreement, permit or any applicable Federal, State, County, or City statute, regulation, resolution, ordinance or other requirement may be subject to termination of the recycled water service without notice.

SECTION 16. Section 6-915 of the Fresno Municipal Code is amended to read:

SECTION ~~6-915~~[6-918]. - CONFLICTING PROVISIONS. In the event of any conflict, between the provisions of the most current version of the Uniform Plumbing Code, and the provisions of this Section, the provisions of this Section shall apply.

SECTION 17. Section 6-916 of the Fresno Municipal Code is amended to read:

SECTION ~~6-916~~[6-919]. - SEVERABILITY. If any section, subsection, provision or part of this Recycled Water Ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the

remainder of this Recycled Water Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Recycled Water Ordinance are severable.

SECTION 18. 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, YVONNE SPENCE, 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 \_\_\_\_\_ 2021.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2021  
Mayor Approval/No Return: \_\_\_\_\_, 2021  
Mayor Veto: \_\_\_\_\_, 2021  
Council Override Vote: \_\_\_\_\_, 2021

YVONNE SPENCE, CRM MMC  
City Clerk

BY: \_\_\_\_\_  
Date

Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN,  
City Attorney

BY: \_\_\_\_\_  
Jennifer M. Quintanilla Date  
Senior Deputy City Attorney