

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

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

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,  
AMENDING SUBSECTION (w) OF SECTION 6-501,  
SUBSECTIONS (a) and (e) OF SECTION 6-520, AND  
SECTION 6-522 OF THE FRESNO MUNICIPAL CODE,  
RELATING TO REGULATIONS FOR URBAN WATER  
CONSERVATION AND WATER EFFICIENT LANDSCAPE  
STANDARDS

WHEREAS, on August 29, 2016, following the severe drought that occurred in 2014-2015, Governor Brown signed SB814 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, establishing a definition of “excessive water use” and implementing a prohibition of certain wasteful practices at all times; and

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: KASL jmk

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 updating 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 and 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, on March 24, 2023, Governor Newsom signed Executive Order N-5-23 affirming that the multi-year drought continues to have significant, immediate impacts on communities with vulnerable water supplies across California. Although conditions have improved, they have not abated severe drought conditions that remain in some parts of the state, including those with groundwater basins that are depleted. Hydrology is uncertain and the most efficient way to preserve the State's improved surface water supplies is for Californians to continue their ongoing efforts to make conservation a way of life; and

WHEREAS, on May 26, 2023, the State Water Board readopted an emergency regulation that bans using drinking water for watering non-functional turf in CII areas throughout the state. This emergency regulation remains in effect until June 5, 2024; and

WHEREAS, in order to protect the City of Fresno's water supply, proposed changes to Fresno Municipal Code adds restrictions and enforcement procedures that will align to the current state regulations specified to prevent, hinder, or delay the effects of drought conditions.

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

SECTION 1. Subsection (vv) of Section 6-501 shall be amended as follows:

(vv) "Excessive Water Use" means, for customers in single-family residences or multi-unit housing in which each unit is individually metered or sub-metered, using potable water in excess of ~~the maximum gallons per hour, depending on the City's current Water Shortage Contingency Plan stage, during days or hours when outdoor irrigation is prohibited, more than one day during the monthly billing period, as recorded by the City. The maximum gallons per hour are: Stage 1 – 400 gallons per hour recommended, Stage 2 – 400 gallons per hour, Stage 3 – 350 gallons per hour, Stage 4 – 300 gallons per hour.~~ 400 gallons per hour, during days or hours when outdoor water use is prohibited, more than one day in a two-week period, as recorded by the City.

SECTION 2. Subsection (a) of Section 6-520 shall be amended 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 [or otherwise apply water outdoors on a property] 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. School and park facilities, 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 [or designee] may approve a modified Outdoor Water Use Schedule [allowing] ~~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 [or

designee] 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 [or designee] 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. [All Annual Exemptions shall be approved or denied based on the current/active Water Shortage Contingency Plan (WSCP) water shortage stage. A moratorium on Annual Exemptions will be enacted in water shortage stages 3, 4, and 5.]

(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 [a one-time use, such as solar panel cleaning.]~~to use water for a bona fide use, such as solar panel cleaning or other use necessary for health or preservation of property.~~

[c. Complete fill of a new or refurbished Swimming Pool.]

d. Drain and complete fill of a swimming pool to complete structural repairs or to comply with public health standards, as determined by the Department of Public Health.

e. Properties seeking a bona fide use necessary for health or the 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 [or designee] 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 [or designee] 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 [or designee] shall automatically expire on the date set forth on the Short-Term Exemption permit.

[All Short-Term Exemptions shall be approved or denied based on the current/active Water Shortage Contingency Plan (WSCP) water shortage stage. A moratorium on Short-Term Exemptions will be

enacted in water shortage stages 3, 4, and 5, except that the Short-Term Exemptions in FMC Section 6-520 (a)(6)(ii)(d) and (e) will be permitted during this time.]

(7) Sprinkle or irrigate any yard, ground, premise, or vegetation [or otherwise apply water outdoors on a property] 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 [or otherwise apply water outdoors on a property] during and within 48 hours after measurable rainfall [of at least one fourth of one inch of rain].

(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 [five] ~~three~~ years, except as necessary to complete structural repairs or to comply with public health standards, as determined by the ~~County Health Officer~~ [Department of Public Health]. Residents with private swimming pools shall file [an online] ~~a written~~ application for a ~~permit~~ [Short-Term Exemption] 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 [Public] 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 [Public] Health is permitted. The [Short-Term Exemption] 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~~ [Short-Term Exemption] from the City of Fresno Water Division. [Residents with private swimming pools shall file an online application for a Short-Term Exemption with the City of Fresno Water Division at least 48 hours prior to filling the pool. Documentation from the pool service company defining construction or repair work must accompany the application.]

(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 3. Subsection (e) of Section 6-520 shall be amended as follows:

(e) [Enforcement of Water Conservation Regulations.] ~~The provisions of this section are conditions of service~~

[(1) The provisions of this Section are conditions of service.]

~~(1)~~[(2)] Each incident of Excessive [Water] Use as defined in section 6-501, or use of water inconsistent with the provisions of this section, is an incident of water waste.

~~(2)~~(3) If a customer has one or more incidents of water waste ~~during a month~~ [in a two-week period], as observed by City staff or as recorded by the City's water meter reading system, the customer shall be issued a Notice of Water Waste and, if applicable, charged a fine as set forth in the Master Fee Schedule. Such fines shall be added to the customer's monthly utility bill and shall be due and payable with that utility bill and subject to the FMC 6-106, Late Payment of Municipal Service Bills.

~~(3)~~(4) Incident counts for water waste shall be monitored, recorded, [and] documented. ~~and~~ [Incidents will be] enforced ~~on a monthly basis during the calendar year~~ [based on a two-week period] for individual customers, and the incident counts shall be reset January 1 of each year.

~~(4)~~(5) If a customer performs or ~~permits~~ [allows repeated] incidents of water waste [the City may implement any or all of the measures identified in (a) – (e) below. Any measures implemented will be in addition to the fines set forth in the Master Fee Schedule. For purposes of this section, “repeated incidents” shall mean five or more incidents of water waste in a calendar year.] ~~more than six consecutive months, the water service to the customer may be terminated unless in the opinion of the Director such termination would result in an unreasonable risk to the health and safety of persons. If water service is terminated for successive incident of~~

~~water waste, the water service may only be restored upon execution of an agreement with the customer to adhere to the conditions of service described in this section.~~

[(a) Require a customer to get a water-wise landscape consultation, an irrigation efficiency audit, and exterior water leak survey, as appropriate, in order to learn efficient water use. This work shall be completed by a Landscape Irrigation Auditor certified by the Irrigation Association. The work may be performed by a qualified City of Fresno Water Conservation employee. If customer refuses, customer shall be responsible for hiring an Auditor to perform this work at customer's expense.]

(b) Require a customer to repair any defects in the watering system of such person within fourteen calendar days of notice by the city to repair.

(c) Installation by the city of flow restrictors.

(d) Termination of all water service to a customer unless, in the opinion of the Director of Public Utilities, such termination would result in an unreasonable risk to the health and safety of persons.

(e) Require that restoration of water service after termination be contingent on an agreement by the customer to adhere to the provisions of this section.]

(5)[(6)] If a customer objects to a fine [or other enforcement measure] imposed for an incident of water waste pursuant to this section, the following appeal process may be used.

Step 1.

(a) Within thirty days of [(1)] issuance of the utility bill including the fine [imposed for an incident or incidents of water waste or (2) the implementation of some other enforcement measure], the customer may contact the Water Conservation Program to appeal an incident [or incidents] of water waste resulting in a fine [or other enforcement measure] with the staff person who initiated the enforcement measure. The staff person shall gather the facts about the incident. [The staff person has no authority to rescind the fine or other enforcement measure.]

(b) The customer may provide staff with evidence there was no incident of water waste, or of a bona fide reason for the incident of water waste, including evidence of a water leak, or another reasonable justification for the water use, within ten business days of the customer's first communication with the Water Conservation Program regarding the alleged incident of water waste.

(c) Within ten business days of the initiation of an appeal, staff shall provide the customer with documentation demonstrating the incident of water waste, if applicable.

(d) The staff will provide the facts and evidence related to the appeal to the Water Conservation Program Supervisor, who will determine whether to rescind the enforcement measure. The Water Conservation Program Supervisor will provide a written decision to the customer within fifteen business days of the customer's appeal, or receiving any applicable evidence from the customer, whichever comes later.

Step 2. If the customer is not satisfied with the decision of the Water Conservation Program Supervisor, they may appeal to the Director or designee within ten business days of the date of the Water Conservation Program Supervisor's decision. The Director or designee shall review the appeal and any evidence the customer previously submitted, and provide a written decision within ~~thirty~~ twenty business days of receiving the appeal.

Step 3. If the customer is not satisfied with the decision of the Director of Public Utilities, the customer may appeal to the City's Administrative Hearing Officer in the

manner provided in Chapter 1, Article 4 of this code. Such decision shall be final.

SECTION 4. Section 6-522 shall be amended as follows:

(a) Water used for irrigation shall be minimized to the amount needed to maintain adequate plant health and growth with a minimum of waste or over spray on adjoining areas.

(b) Operation of Efficient Irrigation Systems. All persons who have installed completely new replacement irrigation systems on existing residential units are required to file irrigation plans pursuant to ~~Code Sections 12.306.N.23 and 24,~~ [FMC Sections 15-2303 and 15-2304,] and shall use the City of Fresno Monthly Lawn Watering Chart to determine lawn water times. Longer watering times are permitted provided it can be shown necessary by calculations based on the evapotranspiration rate and sprinkler precipitation rates. For persons who use the City of Fresno Monthly Lawn Watering Chart, each area of the lawn shall receive no more than the maximum number of minutes per week for any one area of lawn.

(c) Irrigation system operation shall comply with Code Section 6-520. [Failure to operate an irrigation system consistent with Section 6-520 will be considered an incident of water waste for purposes of enforcement. Failure to operate an irrigation system consistent with Section 6-520 will be enforced consistent with the enforcement provisions contained in Section 6-520(e).]



(d) The ~~“water customer”~~ [Customer] shall modify watering duration and frequency schedules so that the sprinkler's application does not exceed the irrigated area's absorption rate and generate surface runoff.

(e) Maintenance. It is the owner's responsibility to maintain the irrigation system by checking, adjusting sprinklers, repairing or replacing defective equipment and modifying the watering times to ensure efficient use of water. The customer is responsible for any wastage of water which originates on the customer's [subject] property.

~~(f) Existing Irrigation Systems (Manual/Automatic). On resale of existing property, the new owner shall certify in writing prior to obtaining water service from the City of Fresno that:~~

~~(1) The irrigation system has been checked and that all broken or defective irrigation equipment has been repaired or replaced.~~

~~(2) That all the system's components are functioning properly.~~

~~(3) No leaks exist. [Repealed.]~~

(g) Enforcement. If a person violates any of the provisions of this section, the city may implement any or all of the ~~following~~ measures [identified in Section 6-520(e)(5).]

~~(1) Require a customer to get a landscape evaluation, lawn water audit, and water budget, as appropriate, in order to learn~~

~~efficient water use. This work shall be completed at customer expense by Landscape Irrigation Auditors certified by the Irrigation Association.~~

~~(2) Require a customer to repair any defects in the watering system of such person within fourteen days of notice by the city to repair.~~

~~(3) Installation by the city of flow restrictors or termination of water service for exterior use.~~

~~(4) Termination of all water service to a customer unless in the opinion of the Director of Public Utilities such termination would result in an unreasonable risk to the health and safety of persons.~~

~~(5) Require that restoration of water service after termination be contingent on an agreement by the customer to adhere to the provisions of this section.~~

~~A. If a water customer objects to the previously mentioned enforcement measures the following appeal process may be used.~~

~~Step 1. The customer may call the Water Conservation Program in order to discuss the incident with the staff person who initiated the enforcement measures.~~

~~The staff person has no authority to rescind the enforcement measures. However, upon being contacted by the customer, the~~

~~staff person shall gather the facts about the incident and explain them to the Water Conservation Program Supervisor, who may decide whether or not to rescind the enforcement measure.~~

~~Step 2. If the customer is not satisfied with the decision of the Water Conservation Program Supervisor, he/she may appeal to the Water Systems Manager who shall review such appeal and render a written decision within thirty days after such appeal.~~

~~Step 3. If the customer is not satisfied with the decision of the Water Systems Manager he/she may appeal to the Director of Public Utilities who shall review such appeal and render a written decision within thirty days after receiving such appeal.~~

~~Step 4. The customer may make a final appeal directly to the City Council if still not satisfied.~~

~~The appeal listed in step 2 above shall be filed in writing within thirty days of the date of the notice outlining the enforcement measure. Each subsequent appeal shall be filed in writing within 30 days from the date of the written decision being appealed.~~

[(h) If a customer objects to the previously mentioned enforcement measures, the customer may appeal using the process outlined in Section 6-520(e)(6).]

SECTION 5. 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 \_\_\_\_\_ 2024.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2024  
Mayor Approval/No Return: \_\_\_\_\_, 2024  
Mayor Veto: \_\_\_\_\_, 2024  
Council Override Vote: \_\_\_\_\_, 2024

TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy Date

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

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