

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF FINES FOR VIOLATIONS OF THE FRESNO MUNICIPAL CODE'S WATER CONSERVATION REGULATIONS BASED ON WATER METER DATA AND RESCINDING RESOLUTION NO. 2018-253

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

WHEREAS, in the summer of 2018, the Department of Public Utilities (DPU) partnered with the University of Chicago (UC) to conduct a Pilot Program (Pilot) that studied the impacts of several factors on water conservation practices including various

Date Adopted:
Date Approved:
Effective Date:

City Attorney Approval: 

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thresholds of “excessive water use,” varying levels of fines, and the effectiveness of visual enforcement versus the use of automated meter data for enforcement (automated enforcement); and

WHEREAS, although the Pilot program gathered important data to analyze the effectiveness of water conservation methods, the program resulted in a large backlog of customer calls; and

WHEREAS, on November 1, 2018, the Council adopted Resolution No. 2018-253 which states that until Council adoption of new water usage rules, the City shall not issue fines based upon water meter data for violations of Fresno Municipal Code, Chapter 6, Article 5, Water Regulations. The moratorium pertains only to the issuance of excessive water use fines based on water meter data, and allows for the issuance of fines based upon direct physical observation of water waste; and

WHEREAS, following the conclusion of the Pilot, DPU utilized the data analysis provided by UC to assess the water conservation program and regulations; and

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, consistent with the direction in Section 4 of Ordinance No. 2019-011, DPU planned to return to Council in Spring 2020 to request that Council lift the moratorium

on automated enforcement fines, after gathering one year of data under the new water conservation regulations; and

WHEREAS, the COVID-19 pandemic hit in Spring 2020, disrupting the lives of all Fresnoans and impacting the financial stability of customers, making it an inopportune time to return to Council to lift the moratorium on automated enforcement fines; 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, the State Water Board emergency regulations include a requirement that each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources implement all demand reduction actions identified in the supplier's water shortage contingency plan for a shortage level of ten (10) to twenty (20) percent and declare a Level 2 shortage; and

WHEREAS, the City's Water Shortage Contingency Plan, adopted by Council on July 15, 2021, via Resolution No. 2021-197, as part of the Urban Water Management Plan, relies on fines and penalties for the enforcement of water conservation regulations during shortage conditions; 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, 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 31, 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; and

WHEREAS, without the ability to issue fines based on water meter data, the City holds no effective enforcement mechanism to obtain customer compliance with water conservation regulations, thereby hindering the City's ability to ensure a reduction in water usage amidst drought conditions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Resolution No. 2018-253 is hereby rescinded.
2. The City shall begin issuing fines based upon water meter data for violations of Fresno Municipal Code Chapter 6, Article 5, Water Regulations.
3. The City shall continue issuing fines based upon direct physical observation of water waste and/or provide notices of water waste to customers.
4. This resolution shall be effective upon final approval.

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

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution 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