

RECORDING REQUESTED BY:

Department of Public Utilities
City of Fresno
No Fee [Gov't Code ' ' 6103 & 27383]

WHEN RECORDED MAIL TO:

Stephen A. Hogg
Department of Public Utilities
Wastewater Management Division
City of Fresno
2600 Fresno Street,
Fresno, California 93721-3602

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TITLE OF DOCUMENT

Adopt an Ordinance of the City of Fresno, California, adding Article 9 of Chapter 6 of the Fresno Municipal Code relating to the use of recycled water for plumbing and landscape irrigation and referred to as the "Recycled Water Ordinance" and applicable to all Council districts as recycled water availability and future related projects develop (Citywide)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, ADDING ARTICLE 9 OF CHAPTER 6 OF
THE FRESNO MUNICIPAL CODE RELATING TO THE USE
OF RECYCLED WATER FOR PLUMBING AND
LANDSCAPE IRRIGATION

WHEREAS, the people of the State of California have a primary interest in the development of facilities to reuse water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the State (California Water Code, Section 13510);

WHEREAS, conservation of all available water resources requires the maximum reuse of wastewater for beneficial uses of water (Water Code Section 461);

WHEREAS, continued use of potable water for irrigation of greenbelt areas and other non-potable uses may be an unreasonable use of such water where recycled water is available;

WHEREAS, the State Water Resources Control Board adopted Resolution No. 2009-0011, which intends to establish requirements to increase the use of recycled water in California;

WHEREAS, the State Water Resources Control Board adopted an Order, which creates General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water (General Permit); and

WHEREAS, the City of Fresno Urban Water Management Plan (Resolution No. 2008-207, August 19, 2008) identifies the City's need to develop 25,000 acre-feet per

Date Adopted:

Page 1 of 14

Date Approved

Effective Date:

City Attorney Approval: BC

Ordinance No.

year of recycled water by 2025 to offset potable water use in order to help meet future water supply needs for the Fresno Metropolitan area;

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

SECTION 1. Article 9 is added to Chapter 6 of the Fresno Municipal Code to read:

ARTICLE 9

RECYCLED WATER ORDINANCE

Section	6-901.	Title.
	6-902.	Purpose and Intent.
	6-903.	Definitions.
	6-904.	Administration.
	6-905.	User Agreement.
	6-906.	Application Process for User Agreement.
	6-907.	Recycled Water Service Eligibility.
	6-908.	Requirements to Use Recycled Water.
	6-909.	Voluntary Use Inside and Outside of the Recycled Water Project Area.
	6-911.	Construction and Dust Control Activities.
	6-913.	Sanctions.
	6-915.	Conflicting Provisions.

SECTION 6-901. TITLE. This section shall be known as the "Recycled Water Ordinance" of the City of Fresno and may be so cited.

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 (Plan) (currently under development) and subsequent additions, revisions or updates of the Plan. It is the intent of the City that existing owners of property and future development, identified in the 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 statutes, ordinances, regulations and other requirements.

SECTION 6-903 DEFINITIONS.

(a) "Approved use" means the uses defined by State law as being approved for use of tertiary treated recycled water.

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

(c) "Customer", "Consumer", or "User" means a person or entity having a connection to the recycled water system or potable water system owned and operated by the City.

(d) "Dual plumbed system" means a system that utilizes separate piping systems for recycled water and potable water within a facility and where the recycled water is used for either of the following:

- a. To serve plumbing outlets (excluding fire suppression systems) within a building, or
- b. Outdoor landscaping irrigation at individual residences.

(e) "On-site recycled water system" means facilities under the control of the owner, normally downstream of the recycled water meter.

(f) "Potable water" means water which conforms to the Federal, State and local standards for human consumption.

(g) "Recycled water" means non-potable tertiary treated water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

(h) "Recycled water distribution system" means recycled water pipelines, transmission mains, pump stations, storage reservoirs, and appurtenances acquired or constructed and owned by the City, and used for the conveyance of recycled water between the wastewater treatment plant and the recycled water service connections.

(i) "Recycled water project area" means those geographical areas identified in the Fresno Recycled Water 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.

(j) "Recycled water service connection" means the point of connection (POC) of the user/customer's recycled water line with the recycled water service line of the City, which shall normally be the downstream end of the recycled water meter tailpiece.

(k) "Rules and regulations" means the Rules and Regulations for Recycled Water Use and Distribution within the City of Fresno.

(l) "Use area" means an area of recycled water use with defined boundaries. A use area may contain one or more facilities.

SECTION 6-904. ADMINISTRATION. The Director of the Department of Public Utilities (Director) shall administer, implement, and enforce the provisions of this section. Any powers granted to or duties imposed upon the Director may be delegated by the Director to persons in the employ of the City.

The Director will develop and enforce rules and regulations necessary to the administration of this section. The Director may amend such rules and regulations from time to time as conditions require. These rules and regulations shall be consistent with the general policy established herein by the City.

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

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), as may be amended from time to time.

SECTION 6-906. APPLICATION PROCESS FOR USER AGREEMENT. Applicants 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 Master Plan and all other applicable statutes. Upon determination that a property shall 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 6-907. 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.

However, the Director, or his or her designee, may determine that currently, connection to the recycled water system 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 6-908. REQUIREMENT TO USE 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 tentative map, subdivision map, land use permit, or other development project, the Director shall review the Master Plan and make a preliminary determination whether the current or proposed use of the subject property require it to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future, due to its location within an existing or proposed Recycled Water Project Area. 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. Requirement for Commercial Properties 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 subdivision of land for which a tentative map or parcel map is required and are located within the Recycled Water Project Area, shall be conditioned 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 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. Requirement for Residential Uses in the Recycled Water Project Area.

New Apartments and Condominiums: Apartment and Condominium projects involving new commercial subdivisions of land for which a tentative map or parcel map is required and are located within the Recycled Water Project Area, shall be conditioned 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 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: Single family residential home projects involving new residential subdivisions of land for which a tentative map or parcel map is required and are located within the Recycled Water Project Area, shall be conditioned to provide for 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 6-909. VOLUNTARY USE INSIDE AND OUTSIDE OF THE RECYCLED WATER PROJECT AREA.

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 6-910. 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 6-911. 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.

SECTION 6-912. 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 6-913. 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 6-914. 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 9-915. 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 9-916. 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 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, 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 _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Brandon M. Collet, Deputy Date

BMC:prn [64611prn/ord] 05-19-14