



Legislation Details (With Text)

File #: ID17-721 **Version:** 1 **Name:**
Type: Action Item **Status:** Passed
File created: 5/10/2017 **In control:** City Council
On agenda: 10/12/2017 **Final action:** 10/12/2017

Title: Actions related to updating water conservation measures and the City’s Water Shortage Contingency Plan:
1 Adopt the Negative Declaration prepared for Environmental Assessment No. EA-17-014, dated August 11, 2017;
2. BILL (for introduction) - Amending Fresno Municipal Code Sections 6-501, 6-502, and 6-520 relating to regulations for Urban Water Conservation and Excessive Water Use;
3. ***RESOLUTION - Amending the City of Fresno Water Shortage Contingency Plan; (Subject to Mayor’s Veto)
4. ***RESOLUTION - 534th Amendment to the Master Fee Resolution (MFS) No. 80-420 adopting a new schedule of fines associated with Urban Water Conservation and Excessive Water Use in the Conditions of Services Works in the Public Utilities Department Section. (Subject to Mayor’s Veto)

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: , , , ,

Date	Ver.	Action By	Action	Result
10/12/2017	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

October 12, 2017

FROM: THOMAS C. ESQUEDA, Director
Department of Public Utilities

SUBJECT

Actions related to updating water conservation measures and the City’s Water Shortage Contingency Plan:
1 Adopt the Negative Declaration prepared for Environmental Assessment No. EA-17-014, dated August 11, 2017;
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RECOMMENDATION

The Administration recommends the City Council adopt the Finding of Conformity to the Fresno General Plan Master Environmental Impact Report (MEIR SCH# 2012111015) prepared for Environmental Assessment No. EA-17-014; approve a bill for introduction amend Sections 6-501, 6-502, and 6-520 of the Fresno Municipal Code to comply with State regulations adopted in February of 2017; approve a resolution amending the City's Water Shortage Contingency Plan; and adopt the 534th Amendment to the Master Fee Resolution adopting an enforcement schedule of fines for incidents of water waste and excessive water use.

If approved by the Fresno City Council, the revisions to the FMC will become effective 31 days after final passage; changes to the Water Shortage Contingency Plan will become effective upon final passage; and the revised enforcement schedule will become effective January 1, 2018.

EXECUTIVE SUMMARY

On April 1, 2015, the Governor of the State of California issued the first in a series of unprecedented Executive Orders to reduce water consumption in response to the severe drought conditions that existed throughout the State of California. In response to the Governor's Executive Orders, the State Water Resources Control Board ("Water Board") issued a series of Emergency Drought Regulations mandating water conservation standards for urban water suppliers such as the City of Fresno. The Governor's Executive Order B-40-17 declared the drought over in all of California except for in several counties, including Fresno County, in April of 2017. The Executive Order also mandated the Water Board extend regulations prohibiting wasteful practices.

Based on the City's experience responding to the Executive Orders and the Emergency Drought Regulations, City staff proposes to amend Sections 6-501, 6-502, and 6-520 of the Fresno Municipal Code to comply with California Code of Regulations, Title 23, section 864. In addition, City staff has determined that there is a need to update the City's Water Shortage Contingency Plan and the City's enforcement schedule for incidents of water waste and excessive water use.

BACKGROUND

The City was required to reduce water demands in the City's water service area by 28 percent as compared with calendar year 2013. During calendar year 2014, 2015, and 2016, the City of Fresno's water users reduced water demand by 27 billion gallons, as compared with calendar year 2013.

On April 7, 2017, the Governor issued Executive Order B-40-17 directing the State Water Resources Control Board to rescind portions of the emergency regulations requiring a water supply stress test or mandatory conservation standard for urban water agencies. Executive Order B-40-17 also directed the State Water Resources Control Board to continue the portions of the emergency regulations prohibiting certain wasteful water practices and require water use reporting. The Water Board then issued Resolution 2017-0024, which continues statewide the prohibitions on wasteful practices listed in California Code of Regulations, Title 23, section 864, including serving drinking water other than upon request in restaurants, automatically changing sheets and towels in hotel rooms, or hosing driveways and sidewalks, among others.

The proposed amendments to the Fresno Municipal Code update specific prohibitions against wasteful water use practices to comport with state regulations (see Attachment 1, Ordinance);

establish a new definition for Excessive Use of water as required by Senate Bill 814 as codified (Attachment 1); updates outdoor watering restrictions based on drought stage declarations (Attachment 1 and Attachment 2, Resolution); and change the enforcement schedule for violations of prohibited water use practices (Attachment 1 and Attachment 2, Resolution).

The substantive changes of staff's recommendations are described below:

Excessive Water Use

The proposed addition of subsection 6-501(tt) to the Fresno Municipal Code is as follows:

(tt) "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 300 gallons per hour during days or hours when outdoor irrigation is prohibited, as recorded by the City during the monthly billing period; as well as, for all water service customers, performing or permitting any action prohibited by Section 6-520 of this Code.

Outdoor Water Restriction Changes

The proposed amendments to the Water Shortage Contingency Plan amends the four outdoor water restriction schedules that can be enacted by the Administration based on different levels of drought stage declarations. The proposed new outdoor water restriction schedules are as follows:

1. Stage 1: May through November - 3 days/week; December through April - 1 day/week
2. Stage 2: June, July, August - 3 days/week; April, May, September, October - 2 days/week; November through March - 1 day/week
3. Stage 3: May through November - 2 days/week; December through April - 1 day/week
4. Stage 4: All year - 1 day/week May through November, and 0 days/week December through April

Enforcement Schedule for Water Waste Violations

Under the proposed revisions to Section 6-520(e) of the Code, each incident of water waste shall be subject to enforcement action by the City. The enforcement schedule for incidents of water waste is as follows:

1. The first month an incident of water waste is recorded by City staff or the City's water meter reading system for a customer during the calendar year, the City shall issue a Notice of Water Waste to the customer.
2. On the second month including an incident of water waste during the calendar year, the City shall fine the customer \$50, which shall be added to the customer's monthly utility bill.
3. On the third month including an incident of water waste for a customer during the calendar year, the City shall fine the customer \$100, which shall be added to the customer's monthly utility bill.
4. On the fourth month including an incident of water waste for a customer during the calendar

year, and every month thereafter for the remainder of the calendar year, the City shall fine the customer \$200, which shall be added to the customer's monthly utility bill.

5. If a customer performs or permits incidents of water waste 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.
6. The appeal process set forth in subsection 6-522(g)(5) of the Fresno Municipal Code will apply to the enforcement measures set forth in this section.

Incident counts for water waste shall be monitored, recorded, documented and enforced on a monthly basis during the calendar year for individual customers, and the incident counts shall be reset January 1 of each year.

ENVIRONMENTAL FINDINGS

Staff has prepared an environmental assessment for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. The Initial Study resulted in staff concluding that a Negative Declaration ("Neg Dec") was appropriate. The proposed project has been determined to be partially within the scope of Master Environmental Impact Report SCH No. 2012111015, prepared for the Fresno General Plan ("MEIR"). With all applicable mitigation measures of the MEIR applied to the project, impacts have been reduced to less than significant, and the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by MEIR. No substantial changes have occurred with respect to the circumstances under which the MEIR was certified and that no new information, which was not known and could not have been known at the time that the MEIR was certified as complete, has become available. In addition, no additional mitigation measures or alternatives are required. Therefore, based on the attached environmental assessment and the list of identified mitigation measures, staff recommends the City Council find the project will not have a significant impact on the environment and that the filing of a Neg Dec is appropriate in accordance with the provisions of CEQA Section 21157.1 and CEQA Guidelines Section 15070 through 15075. A Notice of Intent to Adopt the Negative Declaration was noticed and published on August 11, 2017, as required by CEQA with no comments received within the 30 day comment period.

LOCAL PREFERENCE

Local preference was not considered because the Ordinance and Resolution do not include a bid or award of a construction or services contract.

FISCAL IMPACT

There is no financial obligation for the General Fund for these amendments to the FMC or revisions to the Water Shortage Contingency Plan.

Attachments:

Ordinance Amending Sections 6-501, 6-502, and 6-520 of the Fresno Municipal Code (Attachment 1)

Resolution - Amending the City of Fresno Water Shortage Contingency Plan (Attachment 2)

Resolutuion - 534th Amendment to the Master Fee Resolution (MFS) No. 80-420 adopting a new schedule of fines associated with Urban Water Conservation and Excessive Water Use in the Conditions of Services Works in the Public Utilities Department Section (Attachment 3)

Environmental Assessment (Attachment 4)