

**ORDINANCE NO. O2023.49**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 33, ARTICLE VII, TEMPE CITY CODE, RELATING TO WATER CONSERVATION BY AMENDING SECTIONS 33-140, 33-141, AND 33-142.**

WHEREAS, under the Arizona Constitution, a city with a population of more than 3,500 people is entitled to establish a charter for its government and is granted autonomy over matters of local interests;

WHEREAS, Tempe voters established the Tempe City Charter in 1964 vesting policymaking authority in the Tempe City Council;

WHEREAS, the Arizona Groundwater Management Act of 1980 created the Arizona Department of Water Resources (ADWR) to manage the state's finite water resources;

WHEREAS, ADWR created Active Management Areas (AMA), which must be in compliance with the current version of ADWR's Management Plan;

WHEREAS, to be in compliance with the state statute and good stewards of water resources, the City of Tempe participates in the Non-Per Capita Conservation Program (NPCCP);

WHEREAS, participation in the NPCCP is essential for the health and safety of Tempe residents;

WHEREAS, the NPCCP requires the City of Tempe to review, revise, and/or adopt relevant rules and regulatory mechanisms to provide the City with adequate legal authority to meet the requirements of the current Phoenix AMA Management Plan Permit;

WHEREAS, after a thorough review of existing Code provisions, rules, and regulations, it has been determined that certain changes to Chapter 33, Article VII of the Tempe City Code are required for the City of Tempe to comply with the NPCCP; and

WHEREAS, the proposed changes to the Tempe City Code are in the best interests of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

**Section 1.** That Chapter 33, Article VII, is hereby amended by amending Sections 33-140, 33-141, and 33-142 as follows (with additions in capital letters and deletions in strikethrough):

**Sec. 33-140. - New non-residential buildings or structures AND NEW COMMERCIAL PORTIONS OF MIXED-USE BUILDINGS OR STRUCTURES, REQUIRE A "Water Conservation Report".**

A building permit shall not be issued for new non-residential AND NEW COMMERCIAL PORTIONS OF MIXED-USE buildings or structures unless a "Water Conservation Report", signed by an Arizona registered architect or engineer, is filed with the Municipal Utilities Department. THE MUNICIPAL UTILITIES DEPARTMENT SHALL PROMPTLY NOTIFY THE BUILDING SAFETY DIVISION OF COMMUNITY DEVELOPMENT WHEN A WATER CONSERVATION REPORT

HAS BEEN FILED FOR A SPECIFIC PROJECT. A "Water Conservation Report" shall contain the following SECTIONS:

(1) IF APPLICABLE, a detailed section on proposed uses of water in the industrial process which must demonstrate conservation-oriented techniques, and that the water use is employing the latest commercially available technology consistent with reasonable economic return;

(2) IF APPLICABLE, a section which reports on the **IRRIGATION SYSTEM INCLUDING CONTROLLERS AND** exterior landscaping compliance with the Zoning and Development Code, Section 4-702(B); and

(3) A SECTION DETAILING THE TYPE AND EFFICIENCY RATING OF ALL INDOOR WATER FIXTURE UNITS (AS DEFINED IN THE TECHNICAL PLUMBING CODE OF THE CITY) THAT WILL BE INSTALLED IN NON-RESIDENTIAL BUILDINGS, STRUCTURES AND THE NON-RESIDENTIAL PORTIONS OF NEW MIXED-USE BUILDINGS OR STRUCTURES;

(4) A SECTION DESCRIBING ANY PLANNED WATER-COOLED SYSTEMS; AND

~~(3)~~ (5) A section which notes all other areas of planned conservation in interior/exterior water use which demonstrates a bona fide commitment to reasonable conservation efforts.

**Sec. 33-141. - Additions, alterations, or repairs TENANT IMPROVEMENTS to existing non-residential OR COMMERCIAL PORTIONS OF MIXED-USE buildings or structures, REQUIRE A "Water Conservation Report".**

Additions, alterations, or ~~repairs~~ TENANT IMPROVEMENTS may be made to any existing nonresidential OR COMMERCIAL PORTIONS OF MIXED-USE buildingS or structureS without requiring compliance with Section 33-140 above provided the addition, alteration, or ~~repair~~ TENANT IMPROVEMENT conforms to that required for a new building or structure and provided that the additions, alterations, or ~~repairs~~ TENANT IMPROVEMENTS ~~within a twelve (12) month period do not exceed fifty percent (50%) of the value of the existing building or structure.~~ WILL NOT RESULT IN AN INCREASE IN THE NUMBER OF WATER FIXTURE UNITS (AS DEFINED IN THE TECHNICAL PLUMBING CODE OF THE CITY) OR WATER CONSUMPTION. When additions, alterations, or ~~repairs~~ TENANT IMPROVEMENTS ~~within any twelve (12) month period exceed fifty percent (50%) of the value of an existing building or structure~~ RESULT IN AN INCREASE IN THE NUMBER OF WATER FIXTURE UNITS OR WATER CONSUMPTION, a "Water Conservation Report" shall be filed in accordance with Section 33-140.

**Sec. 33-142. – Water USE plan required for new non-residential users AND NEW COMMERCIAL PORTIONS OF MIXED-USE USERS greater than ~~9,000 gallons per day~~ 10 ACRE FEET (AF) OR MORE PER YEAR.**

A BUILDING PERMIT SHALL NOT BE ISSUED FOR new non-residential users AND NEW COMMERCIAL PORTIONS OF MIXED-USE USERS who have ~~an estimated~~ A PROJECTED annual WATER use ~~which averages nine thousand (9,000) gallons per day~~ OF 10 ACRE FEET or more (excluding turf-related facilities) ~~are required to submit~~ UNTIL a "water use plan" sealed by an Arizona registered architect or engineer IS APPROVED BY THE MUNICIPAL UTILITIES DEPARTMENT, WATER UTILITIES DIVISION. ~~that it complies with this section as a condition to issuance of a building permit.~~ The "water use plan" shall contain at least the following: THE MUNICIPAL UTILITIES DEPARTMENT

SHALL PROMPTLY NOTIFY THE BUILDING SAFETY DIVISION OF COMMUNITY DEVELOPMENT WHEN A WATER USE PLAN HAS BEEN FILED FOR A SPECIFIC PROJECT. A "WATER USE PLAN" IDENTIFIES ALL ANTICIPATED WATER USES BY THE CUSTOMER AND THE WATER EFFICIENCY MEASURES ASSOCIATED WITH THE USES. THE "WATER USE PLAN" IS IN LIEU OF A "WATER CONSERVATION REPORT". THE "WATER USE PLAN" MUST INCLUDE A STATEMENT OF ANY CHANGES TO THE CURRENT GENERAL PLAN APPROVED FOR THE PROJECT AND AT LEAST FIVE OF THE FOLLOWING:

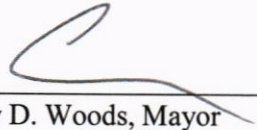
- ~~(1) A description of any available water conservation training programs offered to employees. Employee training information will be offered by the City to the facility after the construction is completed;~~
- ~~(2) Whether alternative water sources will be used (i.e., effluent, poor quality groundwater or other non-groundwater sources);~~
- ~~(3) Operating levels of total dissolved solids (TDS) or conductivity for cooling towers and total cooling capacity;~~
- ~~(4) Whether the user will use the best available conservation technologies in accordance with existing process uses (i.e., recirculating systems for process water, alternative dust control methods, automatic shut-down devices to eliminate continual running water);~~
- ~~(5) Any plans for the reuse of wastewater or process water at the facility; and~~
- ~~(6) Type of landscaping and irrigation system.~~

- (1) STATEMENT OF WATER EFFICIENCY POLICY;
- (2) WATER CONSERVATION EDUCATION/TRAINING FOR EMPLOYEES;
- (3) IDENTIFICATION OF ON-SITE RECYCLING AND REUSE STRATEGIES;
- (4) TOTAL COOLING CAPACITY AND OPERATING TOTAL DISSOLVED SOLIDS OR CONDUCTIVITY FOR COOLING TOWERS;
- (5) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES USED FOR PROCESS, COOLING, AND DOMESTIC WATER USES;
- (6) LANDSCAPE WATERING SYSTEM DISTRIBUTION UNIFORMITY AND LANDSCAPE WATER BUDGET;
- (7) TOTAL ANNUAL WATER BUDGET FOR THE FACILITY.


**Section 2.** Pursuant to Tempe City Charter section 2.12, ordinances are effective thirty (30) days after adoption. This Ordinance applies to all building permits applied for after the Ordinance's effective date but does not apply to building permits applied for but not yet issued as of the effective date.

**Section 3.** If any section, subsection, sentence clause, phrase, or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

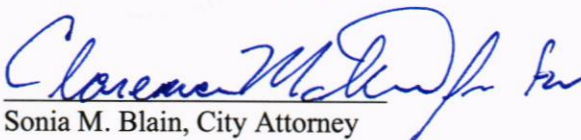
**PASSED AND ADOPTED** BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,  
this 28th day of September, 2023.

  
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Corey D. Woods, Mayor

ATTEST:

  
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Kara A. DeArrastia, Interim City Clerk

APPROVED AS TO FORM:

  
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Sonia M. Blain, City Attorney