

ORDINANCE NO. 3-2026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCFARLAND, CALIFORNIA ADDING SECTION 13.04.695, SECTION 13.04.705, AND CHAPTER 13.10 OF THE MCFARLAND MUNICIPAL CODE PROHIBITING WATER THEFT, UNAUTHORIZED WATER USE, AND UNAUTHORIZED CONNECTION TO FIRE HYDRANTS AS ALLOWED BY STATE LAW

Section 1. Recitals

WHEREAS, the City of McFarland is a local agency that provides retail water services directly to its customers and is responsible for protecting the integrity, reliability, and safety of its water system; and

WHEREAS, the City's current Municipal Code classifies violations of water system regulations as misdemeanors, while incidents of water theft, particularly unauthorized use of fire hydrants, have become an increasing concern throughout California, often linked to unpermitted commercial activities and resulting in water loss, infrastructure damage, and public safety risks; and

WHEREAS, existing California law, including Penal Code sections 498, 624, and 625, and Civil Code section 1882 et seq., establishes criminal and civil penalties for the theft of utility services and allows the City to pursue damages for water theft and system tampering; and

WHEREAS, the State Legislature has authorized local agencies to adopt ordinances that prohibit water theft and allow for administrative fines and citation-based enforcement, including provisions requiring procedures for imposing penalties and offering hardship waivers, thereby enabling more flexible and proportionate enforcement responses; and

WHEREAS, California Senate Bill 394, effective January 1, 2026, authorizes local agencies to implement a graduated system of administrative civil penalties for water-related violations, providing a scalable enforcement framework that aligns penalties with the severity and frequency of offenses while strengthening deterrence and protecting public resources,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.04.695 is added to the McFarland Municipal Code as follows:

13.04.695 - Rules for use.

No one shall, in any manner whatsoever, tap, meddle, or interfere with any part of the water system of the city. No one shall use water supplied by the city for any purpose other than that described in the city's application for service, or in any way supply water to other persons other than those living on the property described in the application. A violation of this section constitutes unauthorized water use, as described in Chapter 13.10 of this Code.

Section 2. Section 13.04.705 is added to the McFarland Municipal Code as follows:

13.04.705 - Use of fire hydrants.

All fire hydrants connected to the city's water system shall be operated only by the city, the Kern County Fire Department, or a person who has been duly issued a permit to do so by the city. Any person desiring to use water through any city fire hydrant must comply with all applicable water rates, rules, and regulations. A violation of this section constitutes an unauthorized connection to a fire hydrant, as described in Chapter 13.10 of this Code.

Section 3. Chapter 13.10 is added to the McFarland Municipal Code as follows:

Chapter 13.10 — Water Theft and Unauthorized Water Use

13.10.010 – Authorization.

This chapter is adopted pursuant to California Government Code sections 53069.45 and 53069.46, as those sections may be amended from time to time.

13.10.020 – Definitions.

The following definitions shall apply to this chapter:

- A. "Responsible party" means any person who is responsible for violating the provisions of the Municipal Code.
- B. "Water theft" means an action to divert, tamper, or reconnect water utility services.
- C. "Divert" means to change the intended course or path of water without the authorization or consent of the utility.
- D. "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.
- E. "Reconnection" means the reconnection of water service by a customer or other person after service has been lawfully disconnected by the utility.
- F. "Unauthorized connection to a fire hydrant" includes, but is not limited to, the following scenarios:
 - 1. The unauthorized use of a City-owned fire hydrant, fire hydrant meter, or fire detector check;
 - 2. The use of water from a City-owned fire hydrant for any use other than fire suppression, except where a permit has been duly issued by the City, for temporary service;
 - 3. Any use of a City-owned hydrant in violation of the terms and conditions of a hydrant permit
- G. "Unauthorized water use" includes, but is not limited to, the following scenarios:
 - 1. Meter tampering;
 - 2. The use of water from a stationary service connection where lawful water service has not been established or has been disconnected by the utility;
 - 3. The use of water supplied by the City for any other purpose than that described in the City's application for service, or in any way supplying water to other persons other than those living on the property described in the application, as described in Section 13.04.695 of this Code.
- H. "Person" has the same meaning as defined in Section 13.04.086 of this Code.

13.10.030 — Water theft, unauthorized connection to a fire hydrant, and unauthorized water use.

Unauthorized use and improper connection to either a fire hydrant or the water system can lead to public health and safety issues, including potential contamination of a drinking water source due to a lack of backflow prevention and damage to water system facilities and infrastructure, or depressurization of the water system, which could make communities more vulnerable in the event of a fire. In addition, the affordability of water is impacted by water theft as the cost of water loss and damages to infrastructure is ultimately borne by ratepayers. As such, water theft, an unauthorized connection to a fire hydrant, and unauthorized water use, as such terms are defined in this chapter, are hereby prohibited.

13.06.040 - Administrative penalties.

- A. In addition to any remedy available at law, any person or responsible party in violation of any provision of this chapter is subject to the issuance of an administrative citation pursuant to Chapter 1.14 of this Code, except that the fine shall be as provided in this section.
- B. *Fines.* Administrative citations shall be accompanied by a fine as follows:
 - 1. For water theft and unauthorized water use via meter tampering, fines shall be as stated in Government Code section 53069.45.
 - 2. For water theft committed via the unauthorized connection to a fire hydrant, fines shall be as stated in Government Code section 53069.46.
 - 3. For all other forms of water theft not described in either subsection (1) or (2), violations shall be as stated in Government Code section 53069.45.
 - 4. A fine may only be issued pursuant to either Government Code section 53069.45 or section 53069.46 (but not both) for the same offense.
- C. Each day a violation of this chapter continues to exist shall constitute a new, separate, and distinct violation.
- D. *Appeals and hardship waivers.* Administrative citations issued for violations of this chapter may be appealed in accordance with the provisions of Chapter 1.14 of this Code. In addition to any other order authorized by Chapter 1.14, an Administrative Hearing Officer may reduce or eliminate the fine upon a showing by the responsible party that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

13.10.050 — Responsibility for water costs.

- A. A person who has violated this chapter shall be liable for the costs of the estimated volume of water used, as determined by the Department of Public Works, charged at the then-current applicable water rate adopted by the City Council.
- B. Costs imposed by this chapter are in addition to any other costs that may be recovered under this Code, including, but not limited to, those costs authorized by Chapter 1.14.
- C. Water costs assessed in accordance with this chapter may be billed in accordance with the usual billing practices of the Department of Public Works, where the responsible party is a customer of record. If the responsible party is not a customer of record, an invoice for payment may be served in the same manner as provided in Chapter 1.14 of this Code.

13.10.060 — Cumulative remedies; severability

- A. The remedies available in this chapter shall be cumulative with any other available remedy and in addition to any other remedy available at law or equity. The pursuit of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcement of this chapter.
- B. In addition to seeking all remedies available under any other law, the City may also seek civil damages for a violation of this section pursuant to Section 1882.1 of the Civil Code.
- C. If any phrase, section, sentence, or word of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other phrase, section, sentence, or word of the ordinance that can be given effect without the invalid phrase, section, sentence, or word, and to this end each phrase, section, sentence, or word of this ordinance is declared to be severable.

Section 4. Notice. The City clerk shall certify to the passage and adoption of this ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 6. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

Section 7. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED, at a Regular meeting of the City Council of the City of McFarland, California on 4/22/2026, by the following vote:

PASSED AND ADOPTED at a Regular meeting of the City Council of the City of McFarland on by the following vote:

	Aye	Nae	Abstain	Absent
Saul Ayon	✓			
Ricardo Cano	✓			
Anita Gonzalez	✓			
María T. Pérez	✓			
Martin Gutierrez	✓			

CITY OF MCFARLAND


Saul Ayon, Mayor

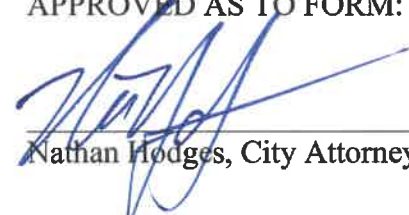
I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a Regular meeting thereof held on May 13, 2026.

ATTEST:


Erika De La Cruz, City Clerk



APPROVED AS TO FORM:


Nathan Hodges, City Attorney