



DATE: January 26, 2010

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Introduction of two Ordinances: a) Amending Chapter 10 to Add Article 23 Relating to the City of Hayward Indoor Water Use Efficiency; and b) Introduction of an Ordinance Amending Article 2 of Chapter 11 to Add Section 11-2.47 Relating to the City of Hayward Water Waste Prohibition

RECOMMENDATION

That Council introduces two (2) ordinances: (1) the Indoor Water Use Efficiency Ordinance and (2) the Water Waste Prohibition Ordinance and finds that the ordinances are not subject to the California Environmental Quality Act.

SUMMARY

This report provides Council with a summary of two recommended ordinances: 1) the Indoor Water Use Efficiency Ordinance, which would require the installation of water efficient indoor fixtures in new buildings and in certain remodel projects; and 2) the updated Water Waste Prohibition Ordinance, which would increase the number of prohibited water wasting activities.

BACKGROUND

Hayward has implemented a number of water conservation programs to encourage customers to reduce indoor and outdoor (irrigation) water use. An overarching strategy has been the implementation of an increasing block rate structure, which ties the unit cost of water to usage.

Apart from the rate structure, the focus of the indoor programs has been to reduce water use through financial incentives (rebates) to install water efficient appliances and plumbing fixtures, distribution of low flow devices at no charge to customers, a school education program that includes curriculum and water conservation kits for about 600 fifth grade students annually, and public outreach and education. Outdoor water use has been primarily addressed through educational materials and workshops, and the City's Water Efficient Landscape Ordinance, an updated version of which was adopted by the City Council in December 2009.

Hayward customers have responded positively to these programs over the years. Through November 2009, over 300 rebates have been issued for the installation of high efficiency toilets since the program started in September 2008. The number of rebates for high efficiency clothes washing machines exceeds 2,000, and at least 7,500 water conserving showerheads and faucet aerators have been distributed over the years. While incentive programs and distribution of water conserving devices will remain the cornerstone of the City's indoor water conservation program and the focus of significant financial investment, it is necessary to pursue other means of achieving water savings in order to help meet the Council's expressed desire to conserve resources, as well as to live within future water supply limitations.

As Council is aware, Hayward purchases 100 percent of its water supply from the San Francisco Public Utilities Commission (SFPUC), the source of which is the Hetch Hetchy Regional Water System. The Council approved a new Water Supply Agreement with SFPUC in July that addresses issues of common concern to all SFPUC wholesale customers, such as rate setting and cost allocation. As part of this new agreement, SFPUC imposed an interim supply limitation of 184 million gallons per day (MGD) for all wholesale customers, at least through 2018, in response to the environmental community's desire not to take more water from the Tuolumne River than SFPUC has historically used.

Based on current estimates, without significant additional conservation, water demand from SFPUC wholesale customers is expected to exceed available supplies before 2018. Further, it is uncertain what, if any, additional supplies will be available from SFPUC after 2018. In order to administer the interim 184 MGD limit, SFPUC will impose individual supply limitations on its wholesale customers. In the event the 184 MGD limit is exceeded in a given year, on an overall, system-wide basis, agencies that utilize water in excess of their individual limitations will be subject to environmental surcharge fees.

There are also efforts at the State level to reduce water consumption throughout California. Senate Bill 407 establishes requirements and timeframes for replacing non-water conserving fixtures in residential and non-residential properties. In general, single-family properties will need to comply with the legislation by installing water conserving toilets, showerheads, and faucets by January 1, 2017, and multifamily and commercial properties will need to comply by January 1, 2019. SB 7, signed by the Governor in November, requires a state-wide reduction of 20 percent in per capita water use by 2020. Staff is currently evaluating the provisions of SB 7 to determine its impacts on Hayward; however, in general, the legislation requires urban water agencies to reduce per capita usage by a certain percentage depending on current use and climate conditions.

As a final background note, it is important to recognize that Hayward customers already use water very efficiently, and it will be a significant challenge to further reduce usage. Hayward's residential per capita use, one of the most accurate indicators of overall water use efficiency, is among the lowest of all SFPUC wholesale customers. The gross per capita use, which includes all business and institutional water usage, is in the bottom half of the range of SFPUC customers, despite Hayward having a state university, community college, two hospitals and an active industrial sector.

DISCUSSION

Proposed Indoor Water Use Efficiency Ordinance -

For reasons discussed in the previous section, it is prudent to take steps to reduce demand at this time to address both the impact of the interim water supply limitation and to assist the City in meeting the requirements of SB 7. To this end, wholesale customers, in coordination with the Bay Area Water Supply and Conservation Agency (BAWSCA), an agency comprised of the 26 wholesale customers of SFPUC, prepared a Water Conservation Implementation Plan. The goal of this Plan was to identify potential cost effective conservation measures that, if implemented, could achieve the water savings necessary to maintain water demands within the available supplies through 2018. Five such measures were identified, including the adoption of an Indoor Water Use Efficiency Ordinance.

In response to its member agencies' request, BAWSCA facilitated the development of indoor water use efficiency standards and a model ordinance through a workgroup comprised of representatives from many of the agencies. Hayward staff participated in all phases of the development process. The purpose of the ordinance is to mandate the installation of fixtures that exceed the current plumbing code standards, where applicable. In most cases, the standards would meet or exceed those contained in the California Green Building Code. The City's Green Building Ordinance does not include specific standards of its own, but does require qualified projects to be "GreenPoint Rated" in order to promote sustainability. Applicants have a number of options for achieving the required GreenPoint rating and must include some water conservation measures among the mix of alternatives. The proposed Indoor Water Use Efficiency Ordinance will complement the Green Building Ordinance by making some of the optional water conservation measures mandatory and thus assisting applicants to achieve the necessary points for GreenPoint compliance. The proposed fixture standards are readily available on the market, and their performance has been verified by reputable third parties, such as EnergyStar, PG&E, and EPA WaterSense.

The proposed ordinance is substantially the same as the BAWSCA model, with some additional language added to clarify how the standards would apply to kitchen and bathroom remodel projects. Alameda County Water District (ACWD) is a BAWSCA member and serves water to the Cities of Fremont, Union City and Newark. Staff expects that ACWD will adopt the ordinance as it relates to new or expanded water service that may be needed to serve new development. Like other water districts, ACWD will need to work with the cities within its service area so that these cities adopt the standards for remodels and renovations, since ACWD does not have authority to enforce the ordinance provisions for these types of projects. A similar situation exists with the East Bay Municipal Utility District (EBMUD), which services the neighboring communities of Castro Valley, San Leandro, and San Lorenzo. In July 2009, EBMUD adopted standards that are similar to the standards proposed for Hayward for new or expanded water service. A few of EBMUD's standards are less stringent, e.g., pre-rinse spray valves allow a higher output, however, this is mainly due to the timing of EBMUD's ordinance and the fact that the technology has advanced in recent months to make the devices more efficient. EBMUD's standards do not currently apply to remodel projects over which EBMUD has no authority.

The following table summarizes the applicable standards:

Fixture	Residential	Non-Residential
Toilets	≤ 1.28 gpf	≤ 1.28 gpf
Urinals	≤ 0.5 gpf	≤ 0.5 gpf
Showers	≤ 2.0 gpm	≤ 2.0 gpm
Bathroom faucets	≤ 1.5 gpm	≤ 0.5 gpm
Kitchen faucets	≤ 2.2 gpm	≤ 2.2 gpm
Clothes washers	≤ 6.0 Water Factor	≤ 6.0 Water Factor
Dishwashers	≤ 6.5 gal/cycle, or Energy Star Qualified	Energy Star Qualified
Cooling towers	≥ 5 - 10 cycles, or ≥ 2.5 LSI	≥ 5 - 10 cycles, or ≥ 2.5 LSI
Food steamers	--	Boilerless, or Self-contained
Ice machines	--	≤ 25 gal/100 lbs ice, or Air-cooled
Pre-rinse spray valves	--	≤ 1.15 gpm
Automatic vehicle wash facilities	--	≥ 50% of water that is recycled on site
Commercial refrigeration	--	Closed loop, or Air-cooled
Meters	Submeters for RMF, and Separate meter for outdoor if landscape >5000 sq. ft.	Submeters, and Separate meter for outdoor if landscape >5000 sq. ft.

Staff is recommending that the ordinance be applied to all new construction, as well as to remodel projects that involve changes to a kitchen and/or bathroom, exceed 500 square feet, or are expected to cost \$50,000 or more. (Kitchen and bathroom remodels that are both less than 500 square feet and \$50,000 in cost will require only replacement of fixtures within the remodeled rooms.) Staff believes that these thresholds are reasonable and appropriate. The thresholds will cover a significant number of projects, but will exempt many smaller home remodels that may have tighter budget constraints.

As an example of how the ordinance could apply, consider a home addition project that adds more than 500 square feet of living space or costs more than \$50,000, but does not include renovations to the kitchen or bathrooms. In such a case, the applicant would typically be required to change existing toilets to 1.28 gpf models, replace existing higher flow showerheads with 2.0 gpm showerheads, and exchange existing faucets with new faucets that meet the applicable standards. For the foreseeable future, most applicants would be eligible for rebates of up to \$150 per unit for the toilet replacements to help offset the cost of this work. Of course, there will also be ongoing cost savings related to lower water usage. For projects that are lower in cost and size, only bathrooms and kitchens that are included in the project would be subject to the provisions of the proposed ordinance.

Since the fixtures are readily available, the ordinances should not cause hardship or delays for applicants. A checklist will be developed to make the process straightforward for the applicant and to facilitate staff's review for compliance. The proposed thresholds would result in the retrofit of some properties ahead of the dates legislated in SB 407.

As mentioned above, in some cases, applicants may be eligible for rebates for the purchase of water conserving fixtures under the guidelines of the City's programs and programs offered by other entities, such as PG&E. Presently, rebates are available for high efficiency toilets and clothes washing machines; other rebate programs may be funded in the future. These rebates help offset the cost of the higher efficiency models, making them more attractive alternatives. Staff will prepare materials and work with applicants to make them aware of the rebates.

Hayward is among the first BAWSCA member agencies to consider adoption of the Water Use Efficiency Standards Ordinance. However, BAWSCA has been working closely with representatives throughout the service area, including member agencies, cities, counties, and Santa Clara Valley Water District, with the goal of developing a model ordinance that would be used throughout the service area. This regional consistency was supported by those entities that participated in the development process for the ordinance, and it is expected that jurisdictions will consider action on the template ordinance with minor changes, if necessary. BAWSCA member agencies include Alameda County Water District (which serves Fremont, Union City and Newark), Milpitas, and a number of other cities and districts in the South Bay and on the Peninsula.

Water Waste Prohibition Ordinance -

In response to the drought conditions experienced in the later 1980s and early 1990s, Council adopted a Water Waste Prohibition Ordinance in 1993 to restrict or ban certain non-essential, wasteful activities, including:

- Use of water through a broken or defective plumbing or irrigation system
- Water uses that result in flooding or runoff to gutters or streets
- Use of water through a hand-held hose for washing of vehicles or any other purpose, unless the hose is equipped with an automatic shutoff nozzle

The existing ordinance also recommends, but does not require, the use of recycled (recirculated) water for commercial car washes.

Staff is proposing that the existing ordinance be updated to include additional requirements and prohibitions as follows:

- Require use of recirculated water in decorative fountains and other decorative water devices
- Prohibit single-pass cooling systems
- Require use of recirculated water in commercial vehicle washing facilities and commercial laundries

ECONOMIC IMPACT

The impact of the Indoor Water Use Efficiency Ordinance on new building projects would not be significant, as water efficient fixtures are becoming widely available and increasingly less costly. A selection of high efficiency toilets, for example, is available at most retail stores that carry plumbing fixtures, as are high efficiency clothes washing machines. For non-residential projects, particularly

food-related businesses, the main impact would be added costs for the installation of water efficient fixtures, which in some cases are more expensive than higher water using units. Likewise, the cost for remodel projects may be impacted by the need to purchase high efficiency fixtures. In many cases, rebates may be available to customers, either through the City or another entity such as PG&E, to offset the cost of efficient fixtures and appliances.

Customers would benefit over time from reduced water costs associated with water efficient fixtures. It is not yet fully known if the actual cost savings to customers from reduced water use would equal or be greater than the additional incurred costs or how long the payback period would be for specific appliances. However, as water rates continue to rise over the next several years, the return on investment in water saving devices is expected to accelerate.

Implementation of the Water Waste Prohibition may have a financial impact on customers who have leaks, defective irrigation equipment, or other situations that result in water waste, and under the new ordinance will be required to fix their systems to prevent the waste. However, the expenditures may be offset over time due to savings in avoided water costs. Staff will work with customers for whom repairs represent an economic hardship to determine the most cost effective course of action.

FISCAL IMPACT

Regarding the Indoor Water Use Efficiency Ordinance, some additional staff time may be required to educate applicants on the new requirements and to ensure they have been met; however, there will be no direct impact to the General Fund or the Water Enterprise Fund as a result of adopting the ordinance. Building Inspection staff will take the lead on enforcing the ordinance as part of the normal review process, with at least initial support and assistance from Utilities staff.

The Water Waste Prohibition Ordinance provides an enforcement tool for staff and will not have an impact on either the General Fund or the Water Enterprise Fund.

PUBLIC CONTACT

Hayward's commitment to resource conservation and efficient use of water has been in the public domain for several years, particularly with the adoption of the Climate Action Plan and Green Building Requirements for Private Development. In fact, the proposed ordinance contains water efficiency standards that are among the menu of choices currently available to developers to meet the Build It Green GreenPoint rating system requirements utilized by the City. Because the proposed ordinance complements existing City requirements, rather than adding onerous new ones, staff determined that further meetings with developers to specifically discuss these changes would not be necessary at this time.

Time and again, the development community has stated that they want to do the right thing by implementing efficiency and conservation measures and consider the cost to be a very reasonable economic investment with measureable returns. The primary issue for developers is to be informed of new standards early in the permitting process so that they are not surprised at the last minute. To this end, if the proposed standards are adopted, staff will develop an outreach program to inform

and educate the development community on the new standards. At this time, planning is underway for a workshop for interested parties to review the Green Building Ordinance and will include a discussion of how the indoor water use efficiency standards can help applicants achieve compliance. Staff will also prepare written materials to inform applicants of the new standards early and clearly.

The ordinances have been reviewed by the City Attorney's Office and are attached to this report. A public notice was published in the Daily Review 10 days prior to the Council public hearing, and another notice would be published upon the Council's adoption of the ordinance.

NEXT STEPS

If approved, staff will prepare for implementation of the Indoor Water Use Efficiency Ordinance in late February. The checklist, which will be a key document in implementation, will be finalized. Staff will also prepare other informational handouts and work closely with customers to educate them about the requirements and to inform them of appropriate rebates.

The Water Waste Prohibition Ordinance would be added to the Municipal Code and used as necessary and appropriate to curtail wasteful water use.

Prepared by: Alex Ameri, Deputy Director of Public Works

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Gregory T. Jones, City Manager

Attachments:

- I – Ordinance: Proposed Indoor Water Use Efficiency
- II – Ordinance: Proposed Water Waste Prohibition

AN ORDINANCE ADDING ARTICLE 23 TO CHAPTER 10 OF
THE HAYWARD MUNICIPAL CODE ESTABLISHING
INDOOR WATER USE EFFICIENCY STANDARDS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS
FOLLOWS:

- Section 1. Findings and Determinations. The City Council finds and declares that:
- A. A reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of the City of Hayward.
 - B. The San Francisco Bay Area is a semi-arid region and is largely dependent upon imported water supplies. Factors such as drought, a growing population, climate change, and environmental and regulatory concerns affect our region's water reliability and make the region highly susceptible to water supply challenges.
 - C. Careful water management requires active water conservation measures, not only in times of drought but at all times, in order to ensure a reliable minimum supply of water to meet current and future water supply needs.
 - D. Article X, Section 2 of the California Constitution and Section 100 of the California Water Code declare that the general welfare requires water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.
 - E. The San Francisco Public Utilities Commission has imposed an interim water supply limitation on its wholesale customers, including local water suppliers, until at least 2018.
 - F. Current supply and demand projections for the San Francisco Public Utilities Commission wholesale customers indicate that, in the absence of increased water conservation, water demands will exceed available water supplies in 2015, and implementation of water conserving ordinances is one mechanism by which agencies can reduce future water demands and remain within existing supplies.
 - G. The City Council finds and determines that this Ordinance is consistent with the provisions requiring high efficiency water conserving fixtures and reductions in indoor water use in the 2007 California Plumbing Code and the California Green Building Standards Code, respectively, as such provisions will be implemented in the coming years. Implementation of this Ordinance is necessary to expedite the use of high efficiency water

conserving fixtures and assist the City of Hayward in achieving water savings.

- H. The State Legislature has identified the provision of a more reliable water supply and the protection, restoration and enhancement of the Delta ecosystem as a high priority for the State. Pursuant to this, in November 2009, the State Legislature passed Senate Bill 7 (7th Extraordinary Session) requiring certain urban water suppliers to reduce per capita urban water use by 20% by the year 2020. Accordingly, the City Council finds that the implementation of this Ordinance is consistent with the policies and goals established by the State Legislature in enacting Senate Bill 7 (7th Extraordinary Session).
- I. The State Legislature has identified urban water conservation as a cost-effective approach to addressing water supply needs and determined that there are many water conservation practices that produce significant energy and water resource savings that should be encouraged as a matter of state policy. Pursuant to this finding, the State Legislature passed Senate Bill 407 (Chapter 587, Stats. 2009), requiring all residential and commercial property owners to replace existing plumbing fixtures with water-conserving fixtures by 2017 and 2019, respectively, and to upgrade existing plumbing fixtures upon any remodel initiated after January 1, 2014. Senate Bill 407 further authorizes a city, county, or retail water supplier to enact local ordinances that promote compliant use of water efficient plumbing fixtures or which will result in a greater amount of water savings than those provided for in Senate Bill 407. Accordingly, the City Council finds and determines that this Ordinance is consistent with the mandates of Senate Bill 407 and will result in water savings as provided for in Senate Bill 407.
- J. Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, policy, sanitary, and other ordinances and regulations not in conflict with general laws.
- K. The City Council finds and determines that the more restrictive building standards for water conserving fixtures provided for in this Ordinance are reasonably necessary because of local climatic, geological or topographical conditions.
- L. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) (“CEQA”) pursuant to Section 15307 (the activity assures the maintenance, restoration, enhancement, or protection of a natural resource) and Section 15378(b)(2) (the activity is not a project as it involves general policy and procedure making) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, since it makes and implements policies and procedures for ensuring that water resources are conserved by reducing water consumption through the use of water efficient indoor plumbing fixtures.

- M. The adoption and enforcement of this Ordinance is necessary to manage the City of Hayward’s potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City of Hayward. This Ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

Section 2. Upon the effective date of this Ordinance, Article 23 of Chapter 10 of the Hayward Municipal Code is hereby enacted to read as follows:

“ARTICLE 23

CITY OF HAYWARD INDOOR WATER USE EFFICIENCY ORDINANCE

SECTION	SUBJECT MATTER
10-23.01	Title
10-23.02	Definitions
10-23.03	Coordination with Plumbing Code
10-23.04	Applicability
10-23.05	Minimum Indoor Fixture Requirements
10-23.06	Compliance with Ordinance
10-23.07	Components of Indoor Water Use Efficiency Checklist
10-23.08	Penalties and Enforcement
10-23.09	Public Education

SEC. 10-23.01 Title. This Ordinance shall be known as the City of Hayward Indoor Water Use Efficiency Ordinance.

SEC. 10-23.02 Definitions.

- A. “Applicable standard” means the water use standard as set forth in the Indoor Water Use Efficiency Table in Section 10-23.05 of the Hayward Municipal Code.
- B. “Certified professional” means a licensed contractor, licensed architect or licensed professional engineer.
- C. “City” shall mean the City of Hayward, a charter city.

- D. “Energy Star Qualified” means that a given fixture meets the United States Environmental Protection Agency standard for an energy efficient product.
- E. “gal/cycle” means gallons per cycle.
- F. “gal/100 lbs ice” means gallons per hundred pounds of ice.
- G. “gpf” means gallons per flush.
- H. “gpm” means gallons per minute.
- I. “Hayward Water System” means the system owned and operated by the City for the storage and distribution of potable water.
- J. “LSI” means Langlier Saturation Index providing an indication of the degree of saturation of water with respect to calcium carbonate related to cooling tower efficiency.
- K. “Permit” means the document issued by City in connection with new construction, remodels or renovations and which authorizes the lawful initiation of construction, improvements or repairs to a building or structure.
- L. “Project applicant” means the individual or entity submitting a Indoor Water Use Efficiency Checklist as required under Section 10-23.06, and requesting a permit, plan check, design review, or new or expanded water service application from City. A project applicant may be the property owner or his or her designee.
- M. “RMF” means residential multi-family.
- N. “sq. ft.” means square feet.
- O. “Water Factor” means the number of gallons per cycle per cubic foot used by a clothes washer.

SEC. 10-23.03 Coordination with the Plumbing Code. To the extent the provisions of this Ordinance conflict with any provisions in the existing Plumbing Code, as amended, or the California Building Standards Code, as amended, the provisions of this Ordinance shall supersede and control with regard to the indoor fixture requirements described herein.

SEC. 10-23.04 Applicability.

- A. The provisions of this Ordinance shall apply to the following projects:
 - 1. All new construction, regardless of building classification, requiring a building permit, plan check or design review, or requiring new or expanded water service. For new construction, all fixtures and appliances that are being installed by the Project applicant shall comply with the applicable water use efficiency standards.

2. All kitchen and bathroom remodels requiring a building permit, plan check, or design review, or requiring new or expanded water service, except that the provisions of this Ordinance will only apply to the fixtures normally included in the kitchen or bathroom, as the case may be, to be remodeled, as follows:
 - a. Residential Projects.
 - i. Kitchens. Faucets shall comply with the applicable standard. Project applicants are not required to upgrade existing dishwashers as part of the project; however, if replacement dishwashers are installed as part of the project, they shall comply with the applicable standard.
 - ii. Bathrooms. Faucets and showerheads shall comply with the applicable standards. Existing toilets that use more than 1.6 gpf shall be replaced with toilets that meet the applicable standard.
 - b. Non-Residential Projects.
 - i. Kitchen and Food Processing Facilities. Faucets, food steamers, ice machines, and pre-rinse spray valves shall comply with applicable standards. Commercial refrigeration shall comply with applicable standards. Project applicants are not required to upgrade existing dishwashers as part of the project; however, if replacement dishwashers are installed as part of the project, they shall comply with the applicable standard.
 - ii. Bathrooms. Faucets and showerheads shall comply with the applicable standards. Existing toilets that use more than 1.6 gpf shall be replaced with toilets that meet the applicable standard. Existing urinals that use more than 0.5 gpf shall be replaced with urinals that meet the applicable standard.
3. Any remodel:
 - a. the cost of which exceeds \$50,000; or
 - b. the size of which exceeds 500 square feet, as determined by the City, in its sole discretion; or
 - c. that requires new or expanded water service.

B. The provisions of this Ordinance shall not apply to:

1. Existing buildings not seeking a building permit, plan check or design review;
2. Registered local, state or federal historical sites;

3. Remodels where, in the discretion of the City Building Official, the unique configuration of the building, its drainage system or portions of the public sewer, or both, are incompatible with efficiency standards listed in the Indoor Water Use Efficiency Table and require a greater quantity of water to flush the system in a manner that is consistent with public health.
4. Projects that are not served potable water from the Hayward Water System.

SEC. 10-23.05 Minimum Indoor Fixture Requirements. All new construction and applicable remodels will have, at a minimum, fixtures that comply with the efficiency standards listed below (the “Indoor Water Use Efficiency Table”):

INDOOR WATER USE EFFICIENCY TABLE

Fixture	Residential	Non-Residential
Toilets	≤ 1.28 gpf	≤ 1.28 gpf
Urinals	≤ 0.5 gpf	≤ 0.5 gpf
Showerheads	≤ 2.0 gpm	≤ 2.0 gpm
Bathroom faucets	≤ 1.5 gpm	≤ 0.5 gpm
Kitchen faucets	≤ 2.2 gpm	≤ 2.2 gpm
Clothes washers	≤ 6.0 Water Factor	≤ 6.0 Water Factor
Dishwashers	≤ 6.5 gal/cycle, or Energy Star Qualified	Energy Star Qualified
Cooling towers	≥ 5 - 10 cycles, or ≥ 2.5 LSI	≥ 5 - 10 cycles, or ≥ 2.5 LSI
Food steamers	--	Boilerless, or Self-contained
Ice machines	--	≤ 25 gal/100 lbs ice, or Air-cooled
Pre-rinse spray valves	--	≤ 1.15 gpm
Automatic vehicle wash facilities	--	≥ 50% of water that is recycled on site
Commercial refrigeration	--	Closed loop, or Air-cooled
Meters	Submeters for RMF, and Separate meter for outdoor if landscape >5000 sq. ft.	Submeters, and Separate meter for outdoor if landscape >5000 sq. ft.

SEC. 10-23.06 Compliance with Ordinance.

A. The Project applicant shall:

Attachment I – Draft Ordinance

1. Meet the minimum water use efficiency standards for indoor fixtures and appliances provided for in the Indoor Water Use Efficiency Table and Checklist; and
2. Prior to construction, complete and submit all portions of the Indoor Water Use Efficiency Checklist, on a form approved by the City, to the Building Division for verification.

B. The Building Division shall:

1. Review the Indoor Water Use Efficiency Checklist submitted by the Project applicant;
2. Approve or deny the Project applicant's Indoor Water Use Efficiency Checklist submittal;
3. Only upon approval of the Indoor Water Use Efficiency Checklist, issue a permit or approve the plan check, design review or new or expanded water service application for the Project applicant; and
4. At its discretion, inspect the installation of the water efficient fixtures and appliances to verify that they have been installed and are performing at the required use levels.

SEC 10-23.07 Components of the Indoor Water Use Efficiency Checklist. The Indoor Water Use Efficiency Checklist shall require, at a minimum, the following:

1. Project Information, including applicant name and phone number, project type, site address and project size;
2. Quantity and unit water use factors of all indoor fixtures and appliances relative to the standards listed in the Indoor Water Use Efficiency Table and Checklist;
3. The following statement to be completed by the Project applicant: "I certify that the subject project meets the specified requirements of the Indoor Water Use Efficiency Ordinance"; and
4. Signature of the Project applicant, or that of a certified professional.

SEC. 10-23.08 Penalties and Enforcement. The City Building Official is authorized to enforce all provisions of this Ordinance. It is unlawful for any person, firm, partnership, association, or corporation subject to the requirements of this Ordinance to fail to comply with the water use efficiency requirements or to alter or replace the fixtures and appliances required by this Ordinance with other noncompliant fixtures or appliances after the completion of construction or remodel. The provisions of this Ordinance may be enforced by one or more of the following measures:

1. **Violation and Notice of Correction.** Whenever the City Building Official determines that a violation of this Ordinance has occurred, the City Building Official may serve a notice of correction on the owner(s) of the property on which the violation is situated. The owner(s) of record shall have ninety (90) days to take corrective action.
2. **Administrative Citation.** In addition to other remedies available to the City, violations of this Ordinance may be subject to an administrative citation. The amount of the fine shall be set forth by Resolution of the City Council. Citations shall be issued and administered in accordance with Chapter 1, Article 7 of the Hayward Municipal Code.

SEC. 10-23.09 Public Education. The City shall provide information to all Project applicants regarding the installation of water efficient fixtures and appliances.”

Section 3. Severability. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this Ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2010.

ADOPTED at a regular meeting of the City Council of the City of Hayward held on the _____ day of _____, 2010, by the following votes of the said City Council:

AYES:	COUNCIL MEMBERS:
	MAYOR:
NOES:	COUNCIL MEMBERS:
ATTEST:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

APPROVED:

Mayor of the City of Hayward

DATE:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. _____

AN ORDINANCE ADDING SECTION 11-2.47 TO
CHAPTER 11, ARTICLE 2 OF THE HAYWARD
MUNICIPAL CODE ESTABLISHING PROHIBITIONS
ON WATER WASTE ACTIVITIES AND ADOPTING
PENALTIES AND FINES FOR VIOLATIONS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. Findings and Determinations. The City Council finds and declares that:

- (a) A reliable supply of potable water is essential to the public health, safety and welfare of the people and economy of Hayward.
- (b) Careful management of water resources, including active water conservation, is essential to ensure a reliable supply of potable water to meet current and future water demands.
- (c) The adoption and enforcement of water waste prohibition provisions is necessary to help ensure a reliable and sustainable water supply.
- (d) The specific uses prohibited or restricted by this ordinance are nonessential and will not affect water use for domestic use, sanitation, or fire protection.
- (e) The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) (“CEQA”) pursuant to Section 15307 (the activity assures the maintenance, restoration, enhancement, or protection of a natural resource) and Section 15378(b)(2) (the activity is not a project as it involves general policy and procedure making) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, since it makes and implements policies and procedures for ensuring that water resources are conserved by prohibiting wasteful and nonessential uses of water.

Section 2. Upon the effective date of this Ordinance, Ordinance No. 93-10 is hereby repealed.

Section 3. Upon the effective date of this Ordinance, Section 11-2.47 is hereby enacted to read in full as follows:

“SEC. 11-2.47 Prohibition of Nonessential Water Use. No person shall use water obtained from the Water System for nonessential uses as herein defined.

(a) Nonessential Uses Defined. The following uses of water are hereby determined to be nonessential, except as further provided herein:

- (i) Excessive use, loss or escape of water due to broken or defective plumbing, sprinkler, watering, or irrigation systems, for any period of time after such use of water should have reasonably been discovered and corrected, and in no event more than seventy-two hours after the customer has received written notice from the City.
- (ii) Use of water that results in flooding or runoff in gutters or streets.
- (iii) Use of water for irrigation of any lawn, landscaping or other vegetated area in a manner that causes or allows excessive water flow, overspray or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch.
- (iv) Use of water through a hose for washing buildings, structures, mobile homes, sidewalks, walkways, driveways, patios, parking lots, tennis courts, or other hard-surface areas, unless the hose is equipped with a positive shut-off nozzle.
- (v) The washing of all vehicles through a hose, including but not limited to automobiles, motorcycles, recreational vehicles, trucks, transit vehicles, trailers, boats, trains and airplanes, unless the hose is equipped with a positive shut-off nozzle.

(b) Other Water Use Prohibitions. The following devices shall not be installed in new applicable facilities unless the City specifically approves a waiver:

- (i) Water fountains or other decorative water features that do not use re-circulated water.
- (ii) Single-pass cooling systems in new buildings.
- (iii) Non-recirculating water systems in new commercial car washes.
- (iv) Non-recirculating water systems in new industrial laundries.

(c) Application. The provisions of this section shall apply to any person in the use of potable water provided by the Water System, except for uses of water necessary to protect public health or safety or for essential government services such as police and fire service and water system maintenance services.

(d) Enforcement. The Director of Public Works is authorized to enforce all provisions of this section. The provisions of this section may be enforced by one or more of the following measures:

- (i) **Correction Notice.** When the City becomes aware of a violation of the provisions of this section, a correction notice shall be delivered to the property and to the customer of record (if mailing address is different) for the property. Said notice shall: 1) describe the date, approximate time, address or description of the location of the violation; 2) describe the violation and the subsection violated; 3) order that the violation be corrected and abated immediately, or within a specified time as the Director of Public Works determines is reasonable; and 4) explain the consequences of failure to correct the violation, including a monetary fine.
- (ii) **Administrative Citation.** In addition to other remedies available to the City, violations of this section may be subject to an administrative citation. The amount of the fine shall be set forth by Resolution of the City Council. Citations shall be issued and administered in accordance with Chapter 1, Article 7 of the Hayward Municipal Code. Administrative citations may be issued to the property owner, customer of record for the property, or to any other person causing wasteful use of water as described in this section.
- (iii) **Installation of Flow Restricting Measures.** The City may, after one written notice, install a flow-restricting device on the service line of any customer violating any of the provisions of this section.
- (iv) **Reduction or Discontinuance of Water Service.** Water waste consisting of continued water consumption in violation of the provisions of this section may result in the reduction or discontinuance of water service by the City. The City may reduce or discontinue water service after two correction notices, as described in Section 11-2.47.d.i, have been delivered to the property and to the customer of record (if mailing address is different) and if the corrective actions required are not taken within the time frame specified.
- (v) **Injunctive Relief.**

Costs incurred by the City for the reduction or discontinuance of water service and for the resumption of water service will be the responsibility of the customer. Water service shall not be resumed until the Director of Public Works is satisfied that the violation has been fully corrected.

(f) **Penalties.** Violation of this section shall not constitute a crime and may be enforced only through civil measures as stated herein.”

Section 4. Severability. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

