

ORDINANCE NO. 15-

AN ORDINANCE ADDING ARTICLE 6 TO CHAPTER 11 OF THE HAYWARD  
MUNICIPAL CODE REGARDING RECYCLED WATER USE

WHEREAS, recycled water is a beneficial alternative to potable water for the  
uses for which it is intended and also preserves the limited supply of potable water; and

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

WHEREAS, the City of Hayward intends to construct facilities to deliver  
recycled water within service areas to be designated;

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

Upon adoption of this ordinance, Chapter 11, Article 6 of the Hayward  
Municipal Code pertaining to policies regarding recycled water use is hereby enacted to  
read as follows:

CHAPTER 11

ARTICLE 6

RECYCLED WATER USE

Section	Subject Matter
1.0	FINDINGS
2.0	RECYCLED WATER POLICY
3.0	DEFINITIONS
4.0	RECYCLED WATER SERVICE AREAS
5.0	RECYCLED WATER USE BY EXISTING WATER USERS
6.0	RECYCLED WATER USE BY NEW DEVELOPMENTS
7.0	PENALTIES
8.0	SEVERANCE
9.0	EFFECTIVE DATE

SECTION 1.0: FINDINGS. The policies described above are in the best interest of the City of Hayward. This ordinance is necessary to protect the common water supply of the region, which is vital to public health and safety. The City is highly dependent on limited supplies of imported water for domestic, irrigation and industrial uses. The reliability of the supply of imported water is uncertain, particularly during years of drought conditions, and by developing and utilizing recycled water, the reliance on imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable where recycled water is available.

SECTION 2.0: RECYCLED WATER POLICY. It is the policy of the City that recycled water determined to be available pursuant to Section 13550 of the Water Code shall be used for nonpotable uses within the designated Recycled Water Service Areas, to be set forth within the jurisdiction consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

SECTION 3.0: DEFINITIONS. The following terms are defined for the purposes of this ordinance:

- 3.1 Artificial Lake - A human-made lake, pond, lagoon, or other body of water that is used wholly or partly for landscape, scenic or noncontact recreational purposes.
- 3.2 Commercial - Any building for office or commercial uses with water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and decorative fountains.
- 3.3 Industrial Process - Water used by any industrial facility with process water requirements which include, but are not limited to, rinsing, washing, cooling and circulation, or construction, including any facility regulated by the industrial waste discharge ordinance of Hayward.
- 3.4 Irrigation – Water used for landscape maintenance, including but not limited to landscaping of streets and medians, golf courses, cemeteries, common landscaped areas and parks.
- 3.5 Potable Water - Water which conforms to the federal, state and local standards for human consumption.
- 3.6 Recycled Water - Water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or controlled use that would not otherwise occur. (See Water Code Section 13050(n).)

SECTION 4.0: RECYCLED WATER SERVICE AREAS. The City shall prepare and adopt Recycled Water Service Areas to define, encourage, and develop the use of recycled water where the City can or may in the future use recycled water in lieu of potable water. The following provisions shall apply to the Recycled Water Service Areas:

- 4.1 Establishment of Recycled Water Service Areas. The Recycled Water Service Area shall be established based upon evaluation of the location and size of present and future wastewater treatment facilities, distribution pipelines, pump stations, storage facilities and other related recycled water facilities.
- 4.2 Types of Uses of Recycled Water in Recycled Water Service Areas. Recycled water uses within the Recycled Water Service Areas may include, but are not limited to, the irrigation, filling of artificial lakes, and appropriate industrial and commercial uses.
- 4.3 Mandatory Recycled Water Use in Recycled Water Service Areas. Irrigation, filling of artificial lakes, and appropriate industrial process and commercial uses within the Recycled Water Service Areas shall be limited to the use of recycled water, unless a waiver is granted by the City as specified in Section 5 of this Ordinance.

SECTION 5.0: MANDATORY RECYCLED WATER USE BY EXISTING WATER USERS. The following provisions shall govern the mandatory use of recycled water by existing water users:

- 5.1 Preliminary Determination. The City shall evaluate each existing customer's water use within the recycled water service areas and make a preliminary determination as to whether irrigation, commercial or industrial processes or filling of artificial lakes shall be converted to the use of recycled water. Each affected water customer shall be notified of the basis for a determination that conversion to recycled water will be required, as well as the proposed conditions and schedule for conversion.
- 5.2 Notice. The notice of the preliminary determination, including proposed conditions and schedule for compliance, price of recycled water, and customer responsibilities will be sent to the water customer by certified mail.
- 5.3 Appeals. The water customer may appeal the City's preliminary determination within 30 days after a notice of determination is delivered or mailed to the customer. The customer may request reconsideration of the determination, or modification of the proposed conditions or schedule. The reasons for the appeal must be specified in writing. The City staff shall review the appeal and shall confirm, modify or abandon the preliminary determination.

SECTION 6.0: RECYCLED WATER USE BY NEW DEVELOPMENTS. The following provisions shall govern the mandatory use of recycled water in new developments:

- 6.1 Preliminary Determination. Upon application by a developer, owner or water customer (herein referred to as "applicant") for a new industrial or commercial facility or residential subdivision located within the designated Recycled Water Service Areas, the staff shall make a preliminary determination whether the proposed use of the subject property is required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use shall be required as a condition of approval of any such application, in addition to any other conditions of approval.
- 6.2 Alterations and Remodeling. On a case by case basis, upon application for a permit for the alteration or remodeling of multi-family, commercial or industrial structures (including, for example, commercial office buildings) within the Recycled Water Service Areas, the staff shall make a preliminary determination whether the subject property shall be required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use, may be required as a condition of approval of the application.
- 6.3 Final Notice of Determination. Prior to final approval of the development application, applicants shall be provided with a final determination of whether the proposed use of the subject property is required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future as a condition of approval.
- 6.4 Temporary Use of Potable Water. At the discretion of the City, potable water may be made available to new development on a temporary basis, until recycled water is available.

SECTION 7.0: PENALTIES. Violation of any part of this Ordinance may result in penalties that include, but are not limited to, discontinuance of potable water service and monetary fines to be established by the City Council.

SECTION 8.0: SEVERANCE. Should any part of this ordinance be declared by a final decision of 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 9.0: 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 \_\_\_\_, 2015, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: 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