



**DATE:** May 23, 2017

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT** Rescinding of Stage I Water Shortage Declaration, and Introduction of Ordinance Amending Hayward Municipal Code Chapter 11, Article 2, 11-2.00 and Chapter 11, Article 2, 11-2.47, Pertaining respectively to Definitions and the Wasteful Water Practices Prohibitions contained in the Hayward Municipal Water System Code

## **RECOMMENDATION**

That the City Council:

1. Adopts the attached resolution rescinding the City's Stage I Water Shortage declaration and implementation of Stage I Water Shortage Contingency Plan, and taking action to make permanent prohibitions on certain wasteful water practices contained in the Stage I Water Shortage Contingency Plan; and
2. Introduces an Ordinance amending Hayward Municipal Code Chapter 11, Article 2, 11-2.00 and Chapter 11, Article 2, 11-2.47, pertaining respectively to Definitions and the Wasteful Water Practices Prohibitions contained in the Hayward Municipal Water System Code, to make permanent additional prohibitions on wasteful water practices.

## **SUMMARY**

Following five years of drought conditions, the winter of 2017 was one of the wettest on record. The Governor formally declared an end to the drought emergency in most of California on April 7, 2017, while maintaining water reporting requirements and prohibitions on wasteful practices, such as watering during or right after rainfall. The San Francisco Public Utilities Commission (SFPUC), the City's wholesale water supplier, has announced that available water has exceeded what is needed to ensure all water system reservoirs will fill by July 1, 2017, and that SFPUC will be able to meet 100% of its customers' needs this year. In late April, the State Water Resources Control Board (State Water Board) adopted a resolution rescinding the Emergency Regulation related to drought conditions and keeping in place on a permanent basis the prohibitions on wasteful water use.

In view of the changed water supply outlook and actions by State entities, staff recommends that the Council formally rescind the Stage I Water Shortage declaration adopted in September 2014. Staff further recommends amendments to the City's Wasteful Water Practices Prohibition Ordinance (formerly known as the Nonessential Water Use Prohibition Ordinance) to codify prohibitions on additional wasteful water uses.

The Council Sustainability Committee received a report on water supply availability and the State's actions regarding water conservation on May 8. The Committee reviewed staff's recommendations regarding rescinding the Stage I Water Shortage Declaration and amending the Wasteful Water Practices Prohibition Ordinance and unanimously recommended approval.

## **BACKGROUND**

The recent drought included the driest four-year statewide precipitation, from 2012 to 2015, and some of the warmest temperatures. These conditions prompted the State and the City to take various actions to reduce urban water use. In September 2014, the City Council amended the Stage I Water Shortage Contingency Plan to include additional water use prohibitions. At the same time, the Council declared that a Stage I Water Shortage was in effect and implemented the City's Stage I Water Shortage Contingency Plan. The Stage I Water Shortage Contingency Plan was further amended in April 2015 to add additional water use prohibitions, in response to a State directive. The Stage I Water Shortage remains in effect until the Council formally rescinds the declaration.

Precipitation during the winter of 2017 has been significantly above normal, with numerous and sustained winter storms bringing significant quantities of snow to the Sierra and rainfall throughout the State. The change in water conditions has affected supply availability and eased state-wide drought restrictions. On April 4, 2017, SFPUC issued its final water supply availability estimate for this year, confirming that the Hetch Hetchy watershed experienced exceptionally wet conditions this past winter. SFPUC indicated that the SFPUC water system will fill this year and that it will have sufficient supply to meet 100% of its customers' needs this year. Governor Brown formally ended the State-wide drought emergency on April 7, 2017 in most of California, citing unprecedented water conservation and plentiful winter rain and snow.

Among other provisions, the Governor's Executive Order ending the drought maintains prohibitions on wasteful practices such as watering during or after rainfall and washing sidewalks and driveways with potable water. In response to the Governor's directive, the State Water Board adopted Resolution 2017-0024 in late April rescinding the Emergency Regulation related to the drought and mandating that most prohibitions on wasteful water practices that were put into place during the drought be made permanent.

Concurrent with the Governor's termination of the emergency drought declaration, State agencies released a long-term framework for future water conservation regulations, titled "Making Water Conservation a California Way of Life." The final plan can be accessed at: [http://www.water.ca.gov/wateruseefficiency/conservation/docs/20170407\\_EO\\_B-37-16\\_Final\\_Report.pdf](http://www.water.ca.gov/wateruseefficiency/conservation/docs/20170407_EO_B-37-16_Final_Report.pdf). The framework is designed to establish long-term water conservation measures and improved planning for more frequent and severe droughts. Largely because of the drought, urban water agencies have achieved significant reductions in water use. The new conservation framework seeks to build on this momentum and make the reductions permanent through strengthened water use efficiency standards and removing negative incentives for using more water than needed during non-drought conditions.

In addition to making permanent the prohibitions on certain water wasting activities, as discussed above, key provisions within the conservation frame work include:

- **New Water Use Targets:** New water use efficiency targets will be developed using a method that establishes efficiency standards for indoor residential, outdoor residential, and non-residential use.
- **Permanent monthly reporting:** Mandatory monthly reporting initiated as part of the emergency regulations will be required on a permanent basis.
- **Minimizing Water Loss:** Water suppliers will need to quantify and minimize water system leaks to reduce water waste within the distribution system.
- **Drought Risk Assessments and Water Shortage Contingency Plans:** Water agencies would submit water budget forecasts on an annual basis to the State, and would prepare five-year drought assessments every five years.

The framework will help guide Hayward's efforts to build on the community's success in reducing water use during the drought. Hayward responded to calls for water use reductions, significantly exceeding the State-mandated 8% reduction requirement. Between June 2015 and June 2016, Hayward achieved a water use reduction of 23%, as compared to the same period in 2013 with substantial water use reductions occurring in every customer classification. Hayward's success during the drought was especially impressive because of its already low pre-drought water use, reflected in the fact that Hayward's reduction target was set at 8%--the lowest of the assigned reduction tiers.

One of the most telling measures of water use efficiency is the average gallons of residential water use per capita per day. During Fiscal Year 2016, average *residential* water use was 46 gallons per capita per day (gpcd), which was below the minimum quantity of 50 gpcd that was used by the State to calculate minimum health and safety needs during the drought. For 2017, Hayward's cumulative water use savings year-to-date is 20%, compared to 2013.

Hayward customers have continued to demonstrate their interest in water use efficiency through participation in water conservation programs and reports of water waste activities. The City will continue to support these efforts with implementation of innovative programs and education. Staff also continues to prioritize water conservation through water system leak detection and control and water efficient City landscaping.

As part of the City’s overall and long-standing commitment to water conservation, the Hayward City Council first adopted an ordinance to prohibit wasteful water practices in 1993. Known as the Nonessential Water Use Prohibition Ordinance, it was amended to incorporate additional wasteful practices in 2010. However, the existing ordinance does not cover all the prohibitions required by the State Water Board’s recent resolution.

**DISCUSSION**

Rescinding the Stage I Water Shortage Declaration

With the termination of the statewide drought emergency declaration and confirmation from SFPUC that sufficient water supplies are available to meet 100% of demand this year, staff recommends that the City Council formally rescind the Stage I Water Shortage Declaration and implementation of the Stage I Water Shortage Contingency Plan. As discussed in the following section, most of the Stage I water use prohibitions are proposed to be made permanent by amending the City’s Wasteful Water Practices Prohibition Ordinance.

Amendment of the Wasteful Water Practices Prohibition Ordinance

Staff recommends modifications to the City’s Wasteful Water Practices Prohibition Ordinance to make permanent most of the prohibitions on wasteful water activities contained in the Stage I Water Shortage Contingency Plan, consistent with the State Water Board’s resolution. The City currently prohibits many, but not all, of the State prohibitions. The following table compares the State Drinking Water Use Prohibition and current City prohibitions, and indicates what amendments are needed to the City’s ordinance.

State Drinking Water Use Prohibition	Current City Ordinance Prohibition	Recommended Revision
Landscape irrigation that results in runoff onto non-irrigated areas	Included	Update language to be consistent with the State requirement
Landscape irrigation during and within 48 hours after measurable rainfall	Not included	Add
Using a hose to wash vehicles without a shutoff nozzle	Included	None

State Drinking Water Use Prohibition	Current City Ordinance Prohibition	Recommended Revision
Washing of driveways and sidewalks	Washing of hardscapes with hose unless fitted with a shutoff nozzle	Revise to prohibit washing of driveways and sidewalks
Use in non-recirculating fountains and other decorative water features	Limited to <u>new</u> fountains and decorative water features	Revise to prohibit in <u>all</u> non-recirculating fountains and decorative water features
Irrigation of ornamental turf on public street medians	Not included	Add
Irrigation of landscapes of newly constructed homes and buildings inconsistent with State requirements	Not included	Add
Use of water due to a leak within the end user's control	Excessive water use due to broken or defective plumbing systems	None
Serving water other than upon request in eating and drinking establishments	Not included	Add
Require hotels and motels to offer guests the option of not having towels and linens changed daily	Not included	Add

In addition to the additional prohibitions, hotels and motels would be required to offer guests the option of not laundering towels and linens daily, and to prominently display notice of that option. Some additional wording changes are also proposed to make the language consistent with the State Water Board's resolution.

Staff is further recommending that the Ordinance be known in the future as the Wasteful Water Practices Prohibition Ordinance to better convey the intention of the Ordinance and to be consistent with current language used by the State and other entities. A copy of the proposed Ordinance is attached and a version of the Ordinance showing the proposed changes can be viewed at: <http://www.hayward-ca.gov/sites/default/files/Redline%20Ordinance%20-%20Wasteful%20Water%20Practices%20Prohibition.pdf>.

The Stage I Water Shortage Contingency Plan limits landscape irrigation to two days per week. Staff is not recommending this limitation on a permanent basis, but will continue to encourage water efficient landscaping through lawn replacement incentives and implementation of the City's Water Efficient Landscaping Ordinance.

## Council Sustainability Committee Recommendations

The Council Sustainability Committee received a report on water supply availability and the State's actions regarding water conservation on May 8. The Committee reviewed staff's recommendations regarding rescinding the Stage I Water Shortage declaration and amending the existing ordinance to permanently prohibit additional wasteful water practices, and unanimously recommended approval and provided additional input to staff as follows.

The Committee requested that staff promote the use of non-bottled water at events. In 2010, the City Council adopted Resolution 10-016 to join Green Cities California. Among other provisions, the resolution committed the City to work towards eliminating purchased bottled water at City-sponsored events. Information regarding this policy was sent to employees, as part of an effort to achieve "zero waste" meetings and events, and staff will continue striving for increased awareness.

The Committee also directed staff to prepare a water bill insert to alert the community that the drought has officially ended but that efforts to use water efficiently must continue. The bill insert would also provide an opportunity to remind customers of prohibitions on wasteful water practices.

### **ENVIRONMENTAL REVIEW**

Staff reviewed the project and has determined that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3), as an activity covered by the general rule that (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. The proposed amendments included would increase the number of wasteful water practices prohibited by the City, and staff concluded that the overall impact of the ordinance amendment would benefit the environment. This ordinance would also qualify as exempt pursuant to Section 15378(b)(3) of the CEQA Guidelines as the term "project" does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

### **ECONOMIC IMPACT**

The costs of implementing actions to meet the State Water Board's conservation regulations will be included as future water rates are set. While water conservation, i.e., less usage, would typically result in a reduction in water bills, the water rates may have to increase to pay for fixed costs.

## **FISCAL IMPACT**

Water conservation program management is provided by the Utilities & Environmental Services Department and is funded entirely in the Water Operating Fund. There are no additional costs involved in rescinding the Stage I Water Shortage declaration and amending the Wasteful Water Practices Prohibition Ordinance.

A limited amount of staff time will be needed to evaluate the State's new conservation framework and implementation strategies. All water conservation program costs are funded in the Water Operating Fund. There are no General Fund impacts.

## **SUSTAINABILITY FEATURES**

Although precipitation greatly increased in the winter of 2017, water conservation and water use efficiency remain critical to ensuring adequate water supply reliability during water shortages. The "Making Water Conservation a California Way of Life" framework will guide the City's efforts to build on the community's successful response to the recent drought and to lock in a portion of the water savings achieved.

## **PUBLIC CONTACT**

A strategic communications plan was in place throughout the drought to raise awareness and educate the community about the importance of conservation and the programs available to assist customers in reducing their water use. A key component of the communications plan has been the City's "Drought Watch" website, developed to provide relevant information about drought conditions locally and throughout the State. The website can be accessed at: <http://www.hayward-ca.gov/droughtwatch/>. If the Council acts to rescind the Stage I Water Shortage, staff will update the website to include information on how our customers contributed to water savings during the drought, acknowledge their efforts and the City's appreciation, and raise awareness of and educate the community on which wasteful water use practices are permanently prohibited by the City.

The proposed actions were presented and discussed at the Council Sustainability Committee meeting of May 8. Recommendations by the Committee are summarized in the Discussion section of this report.

## **NEXT STEPS**

If Council concurs with the recommended actions, a second reading and adoption of the amended ordinance will be scheduled for June 6, 2017. Public notice regarding the proposed amended ordinance will be published in the Daily Review prior to adoption. Upon Council adoption, staff will take the necessary actions to publicize and implement the Wasteful Water Practices Prohibition Ordinance to permanently prohibit wasteful water practices consistent with State water conservation regulations, including preparation of a bill insert as requested by the Council Sustainability Committee. In addition, staff will continue to monitor and participate in the State's efforts to develop and implement the new long-term conservation framework.

*Prepared by:* Jan Lee, Water Resources Manager

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Approved by:



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Kelly McAdoo, City Manager