

ORDINANCE NO. _____

AN ORDINANCE OF [*insert name of GOVERNING BODY OF JURISDICTIONAL ENTITY*] ESTABLISHING INDOOR WATER CONSERVATION REGULATIONS

THIS ORDINANCE is adopted in light of the following facts and circumstances, which are hereby found and declared by the [*Council/Board of Directors/Board of Supervisors*]:

WHEREAS, a reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of [*insert City or County name*], California.

WHEREAS, Northern California [*or insert County name*] is a Semi-Arid region and is largely dependent upon [*local surface water/ground water/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.

WHEREAS, 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.

WHEREAS, 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.

WHEREAS, 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.

WHEREAS, current supply and demand projections for the Bay Area Water Supply and Conservation Agency member agencies 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.

WHEREAS, The [*City Council/Board of Directors/Board of Supervisors*] 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 BAWSCA member agencies in achieving water savings.

WHEREAS, 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/ Board of Directors/*

Board of Supervisors] 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).

WHEREAS, 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/Board of Directors/Board of Supervisors*] 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.

WHEREAS, [*For Cities and Counties only*] 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.

WHEREAS, [*For Water Districts*] the District has the power to perform all acts necessary to carry out fully the provisions of the County Water District Law (Water Code Section 31001), may establish rules and regulations for the distribution and use of water supplies (Water Code Section 31024), may adopt and enforce a comprehensive water conservation program to reduce potable water consumption and conserve supplies (Water Code Section 375), and may require as a condition of new service, that reasonable water-saving devices and water reclamation devices be installed to reduce water use (Water Code Section 31035).

WHEREAS, [*For Water Districts*] the District has followed the procedures for notice, public participation and adoption set forth in Section 375 of the California Water Code.

WHEREAS, the [*City Council/Board of Directors/Board of Supervisors*] 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. [*Comment for Cities & Counties -- see Cal. Health and Safety Code 17958.5*]

WHEREAS, the [*City Council/Board of Directors/Board of Supervisors*] 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.

WHEREAS, the adoption and enforcement of this Ordinance is necessary to manage the [*Entity*]'s potable water supply in the short and long-term and to avoid or minimize the effects of

drought and shortage within the [Entity]. This Ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

NOW, THEREFORE, THE [COUNCIL/BOARD OF CITY/COUNTY OR DISTRICT] DOES ORDAIN AS FOLLOWS:

I. Title

THIS ORDINANCE shall be known as the [insert name of Entity] Indoor Water Use Efficiency Ordinance.

II. Coordination with the Plumbing Code

[For Cities and Counties]

The code of rules and regulations printed in one volume and published by the International Association of Plumbing and Mechanical Officials, under the title “California Plumbing Code, 2007 Edition,” and the appendices printed therein, and all supplements subsequently issued thereto, hereinafter collectively called the “Plumbing Code,” prescribing regulations for the installation of all plumbing fixtures, printed in book form and filed in the office of the city clerk as of [insert date for city/county] is adopted, and by reference incorporated herein as if set forth, as the Plumbing Code of the [City/County] establishing the rules, regulations, and standards within the [City/County] as to all matters therein contained; subject however, to the amendments, additions, and deletions set forth in this chapter. The mandatory requirements of the adopted appendix to the California Plumbing Code, 2007 Edition, shall be enforceable to the same extent as if contained in the body of the Plumbing Code. One copy of the Plumbing Code shall at all times be kept on file in the office of the [City/County] clerk.

To the extent the provisions of this Ordinance conflict with any provisions in the existing Plumbing Code, the California Building Standards Code, or [insert other applicable code or regulation known to be in conflict] then the provisions of this Ordinance shall supersede and control with regard to the indoor fixture requirements described herein.

[For Water Districts]

The District acknowledges that it is not legally empowered to adopt or enforce the code of rules and regulations printed in one volume and published by the International Association of Plumbing and Mechanical Officials, under the title “California Plumbing Code, 2007 Edition,” and the appendices printed therein, and all supplements subsequently issued thereto, hereinafter collectively called the “Plumbing Code,” prescribing regulations for the installation of all plumbing fixtures. However, the District intends to implement the measures provided for in this Ordinance in connection with an application for new or expanded water service.

III. 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.
 2. All kitchen and bathroom remodels requiring a building permit, plan check, design review, 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; and
 3. Any remodel:
 - a. the cost of which exceeds [insert dollar amount or ____ % of property value]; or
 - b. the size of which exceeds [____] square feet, as determined by the local agency, in its sole discretion; or
 - c. requires expanded water service.
- B. This 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 [*chief building official/other city/district official with proper authority*], 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.

IV. Definitions

- A. “certified professional” means a licensed contractor, licensed architect or licensed professional engineer.
- B. “Energy Star Qualified” means that a given fixture meets the United States Environmental Protection Agency standard for an energy efficient product.
- C. “gal/cycle” means gallons per cycle.
- D. “gal/100 lbs ice” means gallons per hundred pounds of ice.
- E. “gpf” means gallons per flush.
- F. “gpm” means gallons per minute.

- G. “local agency” means a city or county, including a charter city or charter county, or water district that is responsible for adopting and implementing the Ordinance. The local agency is also responsible for the enforcement of this Ordinance, including but not limited to, in the case of a city or county, approval of a permit and plan check or design review of a project; and in the case of a district, approval of a new or expanded water service application.
- H. “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.
- I. “local water purveyor” means any entity, including a public agency, city, county, or private water company that provides retail water service.
- J. “permit” means the document issued by local agencies in connection with new construction, remodels or renovations and which authorizes the lawful initiation of construction, improvements or repairs to a building or structure.
- K. “Project applicant” means the individual or entity submitting a Indoor Water Use Efficiency Checklist as required under Section VII, and requesting a permit, plan check, design review, or new or expanded water service application from the local agency. A Project applicant may be the property owner or his or her designee.
- L. “RMF” means residential multi-family.
- M. “sq. ft.” means square feet.

V. 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, and ≥ 350 grams	≤ 1.28 gpf, and ≥ 350 grams
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	--	Boiler less, 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.

VI. Compliance with Ordinance

A. The local agency shall:

1. Provide the Project applicant with the Ordinance and the Indoor Water Use Efficiency Checklist requirements when it provides applicant with the procedures for permits, plan checks, design reviews or new or expanded water service applications;

2. Review the Indoor Water Use Efficiency Checklist submitted by the Project applicant;
 3. Approve or deny the Project applicant's Indoor Water Use Efficiency Checklist submittal;
 4. 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;
 5. In 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; and
 6. Submit a copy of the complete Indoor Water Use Efficiency Checklist to the local water purveyor or land use authority, as the case may be.
- B. The Project applicant shall:
1. Meet the minimum water use efficiency standards for indoor fixtures and appliances provided for in the Indoor Water Use Efficiency Table and Checklist.
 2. Prior to construction, submit all portions of the Indoor Water Use Efficiency Checklist to the local agency for verification.

VII. Components of the Indoor Water Use Efficiency Checklist

The Indoor Water Use Efficiency Checklist shall require, at a minimum:

- A. Project Information;
- B. 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;
- C. Contain 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
- D. Bear the signature of the Project applicant, or that of a certified professional.

VIII. Penalties and Enforcement

A local agency may establish and administer penalties to the Project applicant for non-compliance with this Ordinance to the extent permitted by law.

[Note: The precise provisions of this section should be tailored to the specific policies and goals of your organization.]

- A. Violation and Notice of Correction.

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. Whenever the *[insert appropriate City/County/Water District official]* determines that a violation of this Ordinance has occurred, the *[insert appropriate City/County/Water District 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.

B. **[For Cities and Counties]** Administrative Enforcement.

In addition to any other remedy provided by the *[insert entity's name]'s* Municipal Code, any provision of this Ordinance may be enforced by an administrative order issued pursuant to any one of the administrative processes set forth in Section _____ of the *[insert entity's name]'s* Municipal Code. The *[insert commission/governing body]* shall serve as the administrative enforcement hearing officer for the purposes of considering any appeals.

C. **[For Water Districts]** Enforcement.

If an applicant for new or expanded water service fails to comply with the provisions of this Ordinance, the District may require the applicant to resubmit its water service application and revised Indoor Water Use Efficiency Checklist for approval and may withhold approval of the application until the applicant complies with the terms of this Ordinance. In addition to any other remedy provided herein, the District may also refer enforcement of violations under this Ordinance to the City Attorney of the municipality *[or District Attorney/County Counsel/County]* where the violation occurred.

IX. Public Education

The local agency shall provide information to all applicants regarding the installation of water efficient fixtures and appliances.

X. Severability

If any section, subsection, provision or part of this Ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

XI. Effective Date

This Ordinance shall become effective on _____, 2009/2010. *[For Cities/Counties, 30 days after enactment]*

INTRODUCED at a regular meeting of the [*City Council/Board of Directors/Board of Supervisors*] held on _____, 2009/2010.

PASSED AND ADOPTED at a regular meeting of the [*City Council/Board of Directors/Board of Supervisors*] of the [City of _____/District/County of _____] held on _____, 2009/2010, by the following vote:

AYES:

NOES:

ABSENT:

[MAYOR/PRESIDENT OF THE BOARD]

ATTEST:

[CITY CLERK/BOARD SECRETARY]