



## AGENDA REPORT

**Meeting Date:** August 18, 2015

**Item Number:** F-2

**To:** Honorable Mayor and City Council

**From:** Trish Rhay, Assistant Director of Public Works Services   
Infrastructure & Field Operations

David Lightner, Deputy City Manager & Director of Capital Assets

Aaron Ledet, Senior Management Analyst – Capital Assets 

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING STAGE D WATER CONSERVATION REQUIREMENTS FOR EXTERIOR WASHDOWN OF BUILDINGS, VEHICLES, SIDEWALKS AND OUTDOOR DINING AREAS

**Attachments:** 1. Proposed Ordinance

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### RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "An Ordinance Of The City Of Beverly Hills Amending The Beverly Hills Municipal Code Regarding Stage D Water Conservation Requirements For Exterior Washdown Of Buildings, Vehicles, Sidewalks And Outdoor Dining Areas" be introduced and read by title only.

### INTRODUCTION

This amended ordinance has been revised in order provide clarity for interpreting and enforcing the municipal code as it pertains to the washdown of building exteriors, vehicles, sidewalks and outdoor dining areas. It will do so by providing a clear distinction between building exterior and vehicle washdown exemptions as well as introducing language which allows for the washdown of sidewalks and outdoor dining areas as needed for compliance with health laws and regulations. The revised language

will also provide clear definitions for key terms and specify achievable washdown alternatives designed to meet the goals and objectives of Stage D.

### **BACKGROUND**

On May 5, 2015, the City Council adopted a Resolution to institute a Stage D water conservation program, which includes the following prohibition:

"Exterior washdown of buildings and washdown of vehicles shall be prohibited, unless:

- (1) The washing is done on the immediate premises of a commercial car wash or commercial service station or with reclaimed wastewater; or
- (2) The health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as the cleaning of garbage trucks and vehicle transport food and perishables;"

The current interpretation of the code is as follows:

1. Exterior washdown of buildings is prohibited unless reclaimed wastewater is used;
2. Washdown of vehicles is prohibited unless it is done in a commercial car wash or commercial service station or it is done using reclaimed wastewater.

In Beverly Hills, there is demand for car washing services. Residents, visitors and business patrons use several types of car washing services. Residents have regularly scheduled mobile car washing services while visitors and business customers use valet car washing services or those available inside parking structures. In addition, patrons of car dealerships, commercial service stations and car rental services often receive complementary car washes as part of the service level provided in the city.

As it is currently written, the municipal code does not allow for the feasible application of the aforementioned practices; nor does it currently allow for practical alternatives or solutions.

As a result, staff recommends a series of amendments to the Stage D language in order to allow for the responsible use of water that both employs some of the best management practices in water conservation and meets the service needs of the City's residential and business communities.

### **DISCUSSION: WASHDOWN OF VEHICLES**

The current written structure of the municipal code prohibits many of the usual car washing services available in the city. Since there is no commercial car wash service station or the availability of reclaimed wastewater in the city, residents, visitors, and business patrons will only have the commercial service station ("gas station") where they are allowed to receive car washing services, and only if it is available. The current code essentially prohibits the use of mobile car washing services in the residential areas. Staff has become aware of two issues as a result of the prohibition. First, staff has received anonymous reports of mobile car washers in the city that is violating Stage D. Second, staff has learned that some residents have terminated long term service agreements with their mobile car washing service which has impacted this small type of businesses.

In addition, car dealerships and car rental businesses were also affected by the prohibition. Car dealerships are prohibited from washing their cars on the display lot; and car rental services would not be allowed to wash their cars for lease because of the unavailability of reclaimed wastewater. These businesses have expressed their concerns that car wash down prohibitions affects their service efficiency and customer service satisfaction.

The current written structure of the municipal code has also made it difficult for staff to interpret and communicate approved alternatives and enforce the law because of undefined terms such as "washdown," "commercial car wash," "commercial service stations," or "reclaimed wastewater."

In an effort to simplify the interpretation and clarify the enforcement of this section, staff is proposing the following new language and definitions for Stage D:

Exterior washdown of vehicles shall be prohibited unless:

1. Using a Reclaimed Water System whereas:

Reclaimed Water System shall mean a system that initially uses potable water and then collects the runoff, treats the runoff and uses the runoff for non-potable uses for multiple cycles.

2. Performed in accordance with an alternative plan that promotes water conservation and is approved in writing by the Director of Public Works or his/her designee; or
3. Required to meet laws or governmental regulations to protect health and safety, such as the cleaning of garbage trucks and vehicles to transport food.

Under the new language, staff is proposing that the term "washdown" be practicably interpreted as the "application of water" using a device or object such as a hose, pressure washer, buckets and/or containers to wash vehicles.

Upon careful consideration, staff believes the proposed language updates the City's washdown exemptions that use modern technology and techniques demonstrating water conservation. The current BHMC was written in 1992 and assumed that the only water conservation car washing techniques available were in commercial car wash and commercial service stations if equipped with reclaimed water systems. Today, reclaimed water systems come in different types. Staff research discovered there are the traditional built-in-systems that may use existing clarifier water as its water source, temporary above ground systems and portable systems. These systems are available in the open market and can be installed as quickly as one day. Likewise, staff research discovered there are many commercial car washing products that use minimal to no water to wash an entire car. These commercial products typically may need less than 5-gallons of potable water to make a solution and are applied by using a terry cloth or shammy towel to wipe off all the dirt from a car and provide a good finish.

If the proposed language is adopted, a business or a car washing service would be in compliance if it implements one of the following methods:

1. Installs a Reclaimed Water System:

A facility could install a Reclaimed Water System. The system could be a permanent system or a portable/temporary system. If a portable/temporary Reclaimed Water System is used, it must be used at all times while the declared Emergency Water Conservation Provisions is in effect. At start-up, all Reclaimed Water Systems will be allowed to use potable water based on the system's specifications. Staff research determined the range varies from 50 to 250 gallons based the available area inside the car washing section, existing washwater source (i.e. clarifier size or berm collection system) and car washing frequency during in a day. The business or service will need to contact the Public Works Services Department for inspection and approval.

2. Exercises an alternative plan that promotes water conservation and is approved by the Director of Public Works or his/her designee:

A business or car washing service can submit alternatives to the Department for approval. Alternatives should demonstrate minimal water use or waterless car washing techniques. These could include spray-on waterless formulas that are applied by using a cloth to wipe away the dirt from cars and wheels instead of using the typical car washing methods: using potable water to pre-wash, soap and rinse. In addition, newer types of waxes and car dusters are now available that cleans cars without using potable water.

The intent of "minimal water use" is to describe the use of less than 5-gallons of water mixed with a commercial product to make a car washing solution and applying it by wiping the vehicle rather than washing or rinsing.

Businesses and car washing services will need to comply with the proposed ordinance upon its effective date, at which time the Reclaimed Water System will need to be installed and in operation. Staff estimates that the effective date will be October 1, or 30-days after the second reading of the ordinance. During the week of August 10 staff conducted an outreach campaign which consisted of meeting with a total of 18 businesses within the City that would be impacted by the amended ordinance, including car dealerships, mobile car wash businesses and car rental facilities. During the meetings businesses were provided with a written summary of the proposed amendment and compliance schedule. If a business encounters problems installing a Reclaimed Water System by October 1, staff is proposing to allow a 15-day maximum extension. If a business intends to use the second alternative, the alternative shall be approved in writing by the Department on or before October 1.

**DISCUSSION: WASHING BUILDING EXTERIORS, SIDEWALKS AND OUTDOOR DINING AREAS**

The same Municipal Code section establishing Stage D requirements for car washes also regulates exterior building washing. As previously noted, Stage D specifies that "the exterior washdown of buildings and washdown of vehicles shall be prohibited, unless:

- (1) The washing is done on the immediate premises of a commercial car wash or commercial service station or with reclaimed wastewater; or

- (2) The health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as the cleaning of garbage trucks and vehicles to transport food and vegetables.”

In accordance with the Code regulations specified in Stage D, staff reached out to more than twenty municipal water districts and private-investor owned public utilities in order to determine the City's options for procuring reclaimed wastewater. Staff findings concluded that municipal water districts with wastewater treatment facilities declined to sell reclaimed wastewater to the City, primarily citing that Title 22 of the California Code of Regulations does not specify “exterior building washdowns” as a permissible use for reclaimed wastewater.

Staff also communicated with a number of local business owners, tenants and building service vendors who expressed concern with Stage D's prohibition against the use of potable water for the washdown of building exteriors, as the prohibition serves as a “cease and desist” to their power-washing operations. Staff surveyed 15 building services vendors and discovered that similar to the City, none of the vendors were able to obtain reclaimed wastewater for the purpose of exterior building cleaning.

As a result, staff recommends four revisions to the Stage D policy that will bring the Code's instructions for water conservation into further alignment with State guidelines as well as allow for the washdown of building exteriors, sidewalks and outdoor dining areas to occur when the best management practices in the building services (i.e. building cleaning) industry are applied.

The first recommendation, as previously noted, is to change the requirement to use reclaimed wastewater to a requirement to use a Reclaimed Water System. The proposed definition of Reclaimed Water System provides the context for responsible vendors to conduct power-washing operations.

Building services companies' best management practices that take water conservation into consideration often include the use of a Reclaimed Water System. The purpose of a Reclaimed Water System is to conserve water during power-washing by capturing the water runoff (usually by vacuum and berm), filtering the captured water and reusing it multiple times. This is also known in the building services industry as a “closed loop system.” The number of times any single amount of water can be reused depends on a number of factors, including the amount of sediment/dirt picked up during the recapture process and the type of filtration system employed. The recirculated use rate varies depending on the vendor – vendors are quoted as being able to recycle a single tank of water from as few as three times to as many as 10 times. Recycled on an average of six times, based on a recapture rate of 85%, a 250-gallon tank used in this way will equate to approximately 1,100 gallons of water worth of cleaning, enough water to clean as much as 100,000 square feet of building exterior or sidewalk area.

In this way the City would be providing a practical and achievable standard that would result in a significant reduction in the amount of water used to clean exteriors without eliminating all power-washing.

In addition, staff's review of building cleaning industry practices reveals that the capture and reuse of water (run-off) used to clean building exteriors comprised of glass and windows is difficult to accomplish or quantify. To address the need for washing down building exteriors comprised of glass and windows, it is recommended that the Code

language provide that the use of commercial glass and window cleaners (such as Windex) shall be allowed. The proper use of which will result in no run-off reaching the storm drain system.

It is also recommended that frequency restrictions be placed upon building exterior washings in accordance with building type if using a Reclaimed Water System. For instance, retail building exterior washing would be limited to no more than once per month; office and other commercial buildings would be limited to twice per year and food service uses would be limited to no more often than is necessary for public health and safety.

Lastly, it is recommended that language should be added to the Municipal Code to allow sidewalks and outdoor dining areas to be washed when a Reclaimed Water System is employed, but no more often than is necessary for public health and reasons.

Prior to the implementation of Stage D, these areas were regularly power-washed by the City's Public Works Services Crews and private restaurant owners. Public Works Services is in the process of increasing their supply of Reclaimed Water Systems, replacing standard power-washing equipment. However, Stage D does not currently allow power-washing even if the water is recaptured and reused.

As a result, modifications to the Stage D language would also include the following changes:

- 1.) Exterior washdown of buildings shall be prohibited unless: (i) using a Reclaimed Water System and such washing is done: (a) no more than once per month for retail building frontage; and (b) no more than twice a year for office and commercial buildings; and (c) no more often than is necessary to comply with health laws and regulations for the building frontage of food service uses; or  
  
(ii) using a commercial glass and window cleaner.
- 2.) Exterior washdown of sidewalks and the pavement of outdoor dining areas shall be prohibited unless using a Reclaimed Water System and such washing is done no more often than is necessary to comply with health laws and regulations.

It is recommended that these modified policies should be enforced through public right-of-way use permits, which has been the standard practice for business washing building exteriors from the public sidewalk, and by the Community Development Department code enforcement staff.

### **FISCAL IMPACT**

The cost estimate for code enforcement for the car wash requirements of this ordinance is expected to cost approximately \$25,000 per year. In addition, Public Works Services is planning to purchase three pressure washing systems equipped with a reclaimed water system. The estimated cost to procure this type of equipment is around \$17,000 per unit.

  
George Chavez  
Approved By

  
David Lightner  
Approved By

# **Attachment 1**

ORDINANCE 15-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE BEVERLY HILLS MUNICIPAL CODE  
REGARDING STAGE D WATER CONSERVATION  
REQUIREMENTS FOR EXTERIOR WASHDOWN OF  
BUILDINGS, VEHICLES, SIDEWALKS AND OUTDOOR  
DINING AREAS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY  
ORDAIN AS FOLLOWS:

Section 1. The city council hereby amends and restates paragraph D.2.g. of Section 9-4-304 (“REQUIREMENTS FOR WATER CONSERVATION STAGES”) of Article 3 (“Emergency Water Conservation Plan”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“9-4-304: REQUIREMENTS FOR WATER CONSERVATION STAGES:

D. Stage D Requirements:

2. Stage D compliance elements shall include the following mandatory elements:

g. Exterior washdown of vehicles shall be prohibited unless:

(i) using a Reclaimed Water System;

(ii) performed in accordance with an alternative plan that promotes water conservation and is approved in writing by the Director of Public Works or his/her designee; or

(iii) required to meet laws or governmental regulations to protect health and safety, such as the cleaning of garbage trucks and vehicles to transport food.”

Section 2. The city council hereby adds subsection (j) to paragraph D.2. of Section 9-4-304 (“REQUIREMENTS FOR WATER CONSERVATION STAGES”) of Article 3 (“Emergency Water Conservation Plan”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“9-4-304: REQUIREMENTS FOR WATER CONSERVATION STAGES:

D. Stage D Requirements:

2. Stage D compliance elements shall include the following mandatory elements:

j. Exterior washdown of buildings shall be prohibited unless:

- (i) using a Reclaimed Water System and such washing is done: (a) no more than once per month for retail building frontage; (b) no more than twice per year for office and commercial buildings; or (c) no more often than is necessary to comply with health laws and regulations for the building frontage of food service uses; or
- (ii) using a commercial glass and window cleaner.”

Section 3. The city council hereby adds subsection (k) to paragraph D.2. of Section 9-4-304 (“REQUIREMENTS FOR WATER CONSERVATION STAGES”) of Article 3 (“Emergency Water Conservation Plan”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“9-4-304: REQUIREMENTS FOR WATER CONSERVATION STAGES:

D. Stage D Requirements:

2. Stage D compliance elements shall include the following mandatory elements:

- k. Exterior washdown of sidewalks and the pavement of outdoor dining areas shall be prohibited unless using a Reclaimed Water System and such washing is done no more often than is necessary to comply with health laws and regulations.”

Section 4. The city council hereby adds paragraph D.4. to Section 9-4-304 (“REQUIREMENTS FOR WATER CONSERVATION STAGES”) of Article 3 (“Emergency Water Conservation Plan”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“9-4-304: REQUIREMENTS FOR WATER CONSERVATION STAGES:

D. Stage D Requirements:

4. For purposes of this Article, “Reclaimed Water System” shall mean a system that initially uses potable water and then collects the runoff, treats the runoff, and uses the runoff for non-potable uses for multiple cycles.”

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the city Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

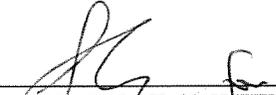
Adopted:  
Effective:

\_\_\_\_\_  
JULIAN A. GOLD, M.D.  
Mayor of the City of Beverly Hills,  
California

ATTEST:

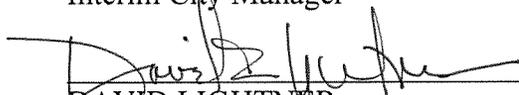
\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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MAHDI ALUZRI  
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DAVID LIGHTNER  
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GEORGE CHAVEZ  
Director of Public Works Services