

CITY OF
LA PALMA

DOMINIC LAZZARETTO
CITY MANAGER

Office of the City Manager

April 13, 2010

Mr. Simon Eching
California Department of Water Resource
Water Use and Efficiency Branch
Post Office Box 942836
Sacramento, California 94236-0001

Dear Mr. Eching:

I am writing you as follow-up to my letter dated January 28, 2010, regarding the status of the City of La Palma Water Efficient Landscape Ordinance. On April 6, 2010, the La Palma City Council adopted a Water Efficient Landscape Ordinance based on the Orange County Model. A copy of the Ordinance and its findings is attached to this letter.

If you have any questions or comments please feel free to contact me. I can be reached at (714) 690-3336.

Sincerely,



Scott A. Hutter
Associate Planner

Enclosure: Water Efficient Landscape Ordinance

ORDINANCE NO. 2010-___

**WATER EFFICIENT LANDSCAPE ORDINANCE TO
ADD CHAPTER 26A (WATER EFFICIENT
LANDSCAPE CODE) TO THE LA PALMA CITY
CODE TO COMPLY WITH STATE ASSEMBLY BILL
1881 (AB 1881).**

WHEREAS, the City Council of the City of La Palma wishes to protect and preserve the quality of the residential and commercial areas of the City, as well as the quality of life throughout the City, through effective land use and planning; and

WHEREAS, on September 28, 2008, Governor Schwarzenegger signed into law Assembly Bill No. 1881 (AB 1881) which added Section 1353.8 to the Civil Code, repealed and added Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code, added Section 25401.9 to the Public Resources Code, and added Article 4.5 (commencing with Section 535) to Chapter 8 of Division 1 of the Water Code, relating to water conservation; and

WHEREAS, AB 1881 required local agencies to adopt the State Model Ordinance or a local ordinance that is "at least as effective as" the State Model Ordinance; and

WHEREAS, the City has chosen to adopt the Orange County Model Water Efficient Landscape Ordinance and findings to meet the "at least as effective as" requirement of AB 1881; and

WHEREAS, the City has initiated consideration of an Ordinance, adding a new Chapter 26A of the La Palma City Code to comply with AB 1881; and

WHEREAS, on March 2, 2010, the Planning Commission of the City of La Palma conducted a duly noticed Public Hearing on said Ordinance, and considered testimony and evidence at the Public Hearing held with respect thereto, and thereafter transmitted its recommendation to the City Council; and

WHEREAS, on March 16, 2010, the City Council of the City of La Palma conducted a first reading at a duly noticed Public Hearing on said Ordinance, and considered testimony and evidence at the Public Hearing held with respect thereto; and

WHEREAS, on April 6, 2010, the City Council of the City of La Palma conducted a second reading on said Ordinance, and considered testimony and evidence at the Public Hearing held with respect thereto; and

WHEREAS, the City Council has determined that Ordinance No. 2010-___ is categorically exempt from the requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the City Council finds and determines that the amendments to the Municipal Code affected by the proposed Ordinance are consistent with the General Plan of the City of La Palma.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA PALMA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.), because pursuant to State CEQA Regulation 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources in the City, and will not result in cumulative adverse environment impacts. It is therefore exempt from the provisions of CEQA. The City Council hereby directs the City Manager or designee to prepare and file a Notice of Exemption as soon as possible following adoption of this Ordinance.

SECTION 2: The La Palma City Code is hereby amended to add new Chapter 26A to read, in its entirety, as follows:

"Sec. 26A-1 Title.

Chapter 26A of the La Palma Municipal Code shall be known and cited as the City of La Palma Water Efficient Landscape Code.

Sec. 26A-2 Purpose of the Water Efficient Landscape Code.

(a) The State Legislature has found that:

(1) the waters of the State are of limited supply and are subject to ever increasing demands;

(2) the continuation of California's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

(3) it is the policy of the State to promote the conservation and efficient use of water and to prevent the waste of this valuable resource;

(4) landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

(5) landscape design, installation, maintenance, and management can and should be water efficient;

(6) Article X, Section 2 of the California Constitution specifies that the right to use water is limited to the amount reasonably required for the beneficial use to be served, and the right does not and shall not extend to waste or unreasonable method of use of water.

(b) The City has found that:

(1) Incentive-based water use efficiency programs have been actively implemented within Orange County since before 1991;

(2) current local design practices in new landscapes typically achieve the State Model Water Efficient Landscape Ordinance water use goals;

(3) all water services within the City are metered;

(4) all new irrigation controllers sold after 2012 within Orange County will be smart controllers;

(5) landscape plan submittal and review has been a long standing practice in the City of La Palma;

(6) the average rainfall in Orange County is approximately 12 inches per year;

(7) the City, as the local water purveyor, is implementing enforcement of water waste prohibitions for all existing metered landscaped areas within its jurisdiction.

(c) Consistent with these findings, the purpose of the City's Water Efficient Landscape Code is to establish an alternative model acceptable under AB 1881 as being at least as effective as the State Model Water Efficient Landscape Ordinance in the context of conditions in the City in order to:

(1) promote the benefits of consistent landscape ordinances with neighboring local and regional agencies;

(2) promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;

(3) establish a structure for planning, designing, installing, and maintaining and managing water efficient landscapes in new construction and rehabilitated projects;

(4) establish provisions for water management practices and water waste prevention for existing landscapes;

(5) use water efficiently without waste by setting a Maximum Applied Water Allowance as an upper limit for water use and reduce water use to the lowest practical amount; and

(6) encourage the use of economic incentives that promote the efficient use of water.

[Note: Authority cited: Section 65593, Government Code. Reference: Sections 65591, 65593, 65596, Government Code.]

Sec. 26A-3 Definitions.

The purpose of this section is to provide clear and easily understood definitions for the terms specifically used in The City of La Palma Water Efficient Landscape Code (Chapter 26A).

For the purposes of this code, the following definitions apply:

Applied water. The portion of water supplied by the irrigation system to the landscape.

Ecological restoration project. A project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

Estimated Applied Water Use. The average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the Guidelines. It is based on the reference evapotranspiration rate, the size of the landscape area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

Evapotranspiration (ET). A term used to describe the sum of evaporation and plant transpiration from the Earth's land surface to atmosphere.

ET adjustment factor (ETAF). Is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Guidelines. The ETAF is calculated in the context of local reference evapotranspiration, using

site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area. A combined plant mix with a sitewide average plant factor of 0.5 (indicating a moderate water need) and average irrigation efficiency of 0.71 produces an ET adjustment factor of $(0.7) = (0.5/0.71)$, which is the standard of water use efficiency generally required by this Water Efficient Landscape Code and the Guidelines, except that the ETAF for a special landscape area shall not exceed 1.0.

Guidelines. Refers to the Guidelines for Implementation of the Water Efficient Landscape Code, which describes procedures, calculations, and requirements for landscape projects subject to this Water Efficient Landscape Code.

Hardscapes. Any durable material or feature (pervious and non-pervious) installed in or around a landscaped area, such as pavements or walls. Pools and other water features are considered part of the landscaped area and not considered hardscapes for purposes of this Water Efficient Landscape Code.

Homeowner installed landscape. Any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of this Code, is a person who occupies the dwelling he or she owns. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under this Code to the requirements applicable to developer-installed residential landscape projects.

Irrigation efficiency. The measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this Water Efficient Landscape Code is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

Landscaped area. All the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance and Estimated Applied Water Use calculations. The landscaped area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

Landscape contractor. A person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

Landscape Documentation Package. The documents required to be provided to the City for review and approval of landscape design projects, as described in the Guidelines.

Landscape project. The total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 26A-4 of this Water Efficient Landscape Code.

Local agency. A city or county, including a charter city or charter county, that is authorized by the City to implement, administer, and/or enforce any of the provisions of the Water Efficient Landscape Code on behalf of the City. The local agency may be responsible for the enforcement or delegation of enforcement of this Water Efficient Landscape Code including, but not limited to, design review, plan check, issuance of permits, and inspection of a landscape project.

Local water purveyor. Any entity, including a public agency, city, county, or private water company that provides retail water service.

Maximum Applied Water Allowance (MAWA). The upper limit of annual applied water for the established landscaped area as specified in Section 2.2 of the Guidelines. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscaped area. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

Mined-land reclamation projects. Any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

New construction. A new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

Non-pervious. Any surface or natural material that does not allow for the passage of water through the material and into the underlying soil.

Pervious. Any surface or material that allows the passage of water through the material and into the underlying soil.

Permit. An authorizing document issued by local agencies for new construction or rehabilitated landscape.

Plant factor or plant water use factor. A factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of this Water Efficient Landscape Code, the plant factor range for low water use plants is 0 to 0.3; the plant factor range for moderate water use plants is 0.4 to 0.6; and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this

Water Efficient Landscape Code are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

Reference evapotranspiration (ET_o). A standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per day, month, or year as represented in Appendix A of the Guidelines, and is an estimate of the evapotranspiration of a large field of four-to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

Rehabilitated landscape. Any re-landscaping project that meets the applicability criteria of Section 26A-4(a), where the modified landscape area is greater than 2,500 square feet, is 50% of the total landscape area, and the modifications are planned to occur within one year.

Smart automatic irrigation controller. An automatic timing device used to remotely control valves that operate an irrigation system and which schedules irrigation events using either evapotranspiration (weather-based) or soil moisture data.

Special landscape area. An area of the landscape dedicated solely to edible plants such as orchards and vegetable gardens, areas irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

Turf. A ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

Water feature. A design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

[Note: Authority Cited: Section 65595, Government Code. Reference: Sections 65592, 65596, Government Code.]

Sec. 26A-4. Applicability.

(a) Beginning May 7, 2010, all planting, irrigation, and landscape-related improvements required by this Water Efficient Landscape Code shall apply to the following landscape projects:

(1) new landscape installations or landscape rehabilitation projects by public agencies or private non-residential developers, except for cemeteries, with a landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature;

(2) new landscape installations or landscape rehabilitation projects by developers or property managers of single-family and multi-family residential projects or complexes with a landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature;

(3) new landscape installation projects by individual homeowners on single-family or multi-family residential lots with a total project landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 5,000 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature;

(b) The Landscape Water Use Standards found in Section 26A-6(b) of this Water Efficient Landscape Code shall apply to:

(1) all landscaped areas, whether installed prior to or after May 7, 2010; and

(2) all landscaped areas installed after May 7, 2010, to which Section 26A-4(a) is applicable.

(c) This Water Efficient Landscape Code does not apply to:

(1) registered local, state, or federal historical sites;

(2) ecological restoration projects that do not require a permanent irrigation system;

(3) mined-land reclamation projects that do not require a permanent irrigation system; or

(4) plant collections, as part of botanical gardens and arboretums open to the public.

[Note: Authority Cited: Section 65595, Government Code. Reference: Section 65596, Government Code.]

Sec. 26A-5. Implementation Procedures.

(a) Prior to installation, a Landscape Documentation Package shall be submitted to the City for review and approval of all landscape projects subject to the provisions of this Water Efficient Landscape Code. Any Landscape Documentation Package submitted to the City shall comply with the provisions of the Guidelines.

(b) The Landscape Documentation Package shall include a certification by a professional, appropriately licensed in the State of California, stating that the landscape design and water use calculations have been prepared by or under the supervision of the licensed professional and are certified to be in compliance with the provisions of this Water Efficient Landscape Code and the Guidelines.

(1) Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations. Water use calculations shall be consistent with calculations contained in the Guidelines and shall be provided to the local water purveyor, as appropriate, under procedures determined by the City.

(2) Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certification of Completion in conjunction with a Certificate of Use and Occupancy or Permit Final process, as provided in the Guidelines.

[Note: Authority Cited: Section 65595, Government Code. Reference: Section 65596, Government Code.]

Sec. 26A-6 Landscape Water Use Standards.

(a) For applicable landscape installation or rehabilitation projects subject to Section 26A-4(a) of this Water Efficient Landscape Code, the Estimated Applied Water Use allowed for the landscaped area shall not exceed the MAWA calculated using an ET adjustment factor of 0.7, except for special landscaped areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water-efficient in a manner acceptable to the City; as provided in the Guidelines.

(b) Irrigation of all landscaped areas shall be conducted in a manner conforming to the rules and requirements, and shall be subject to penalties and incentives for water conservation and water waste prevention as determined and implemented by the local water purveyor or as mutually agreed by local water purveyor and the local agency. For applicability of this paragraph refer to Section 26A-4(b).

Sec. 26A-7. Delegation.

The City may delegate to, or enter a contract with, a local agency to implement, administer, and/or enforce any of the provisions of the Water Efficient Landscape Code on behalf of the City.”

SECTION 3: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subdivision, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that one or more sections, subdivisions, sentences, clauses, phrases, or portions of this Ordinance be declared invalid.

SECTION 4: All required proceedings and consideration precedent to the adoption of this Ordinance have been regularly taken in accordance with applicable law.

SECTION 5: The City Clerk is authorized and directed to publish this Ordinance or a summary thereof in the manner provided by law and in accordance with procedures normally taken.

PASSED, APPROVED, and ADOPTED by the City Council of the City of La Palma at a regular meeting held on the _____ day of April, 2010.

Steve Shanahan, Mayor

ATTEST:

Laurie A. Murray, City Clerk