

AGENDA STAFF REPORT

DATE: January 11, 2010
TO: Honorable Mayor and City Council
THRU: David Carmany, City Manager
FROM: Terrence Belanger, Interim Director of Public Works
SUBJECT: **ADOPTION OF ORDINANCE NO. 1588, AN
ORDINANCE OF THE CITY OF SEAL BEACH TO
AMEND THE SEAL BEACH MUNICIPAL CODE
BY ADDING THERETO CHAPTER 9.70
REGARDING WATER EFFICIENT LANDSCAPING**

SUMMARY OF REQUEST:

Waive further reading and Adopt Ordinance No. 1588, An Ordinance of the City of Seal Beach amending the Seal Beach Municipal Code by adding thereto Chapter 9.70 regarding Water Efficient Landscaping.

BACKGROUND:

The City Council considered this matter on December 14, 2009 and introduced the subject ordinance. It is now appropriate to adopt the subject ordinance.

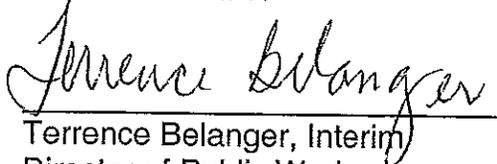
FISCAL IMPACT:

None

RECOMMENDATION:

Waive further reading and Adopt Ordinance No. 1588, An Ordinance of the City of Seal Beach amending the Seal Beach Municipal Code by adding thereto Chapter 9.70 regarding Water Efficient Landscaping

SUBMITTED BY:


Terrence Belanger, Interim
Director of Public Works

NOTED AND APPROVED:


David Carmany, City Manager

Attachment:

A. Ordinance No. 1588

ORDINANCE NUMBER 1588

AN ORDINANCE OF THE CITY OF SEAL BEACH AMENDING
THE SEAL BEACH MUNICIPAL CODE BY ADDING THERETO
CHAPTER 9.70 REGARDING WATER EFFICIENT
LANDSCAPING

THE SEAL BEACH CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. The Seal Beach Municipal Code is hereby amended by adding Chapter 9.70 thereto to read as follows:

“Chapter 9.70: Water Efficient Landscaping

9.70.005 Purpose

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; and
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 hereby finds that:

1. Orange County has an established, large *reclaimed water* infrastructure system;
2. Allocation-based and tiered water rate structures allow public agencies to document water use in landscapes;
3. Incentive-based water use efficiency programs have been actively implemented within Orange County since before 1991;
4. current local design practices in new landscapes typically achieve the State Model Water Efficient Landscape Ordinance water use goals;
5. all water services within the City are metered;
6. Orange County is a leader in researching and promoting the use of *smart automatic irrigation controllers* with more than 4,500 installations as of June 2009;

7. all new *irrigation controllers* sold after 2012 within Orange County will be *smart controllers*;

8. the average rainfall in Orange County is approximately 12 inches per year.

9. the City as the local water purveyor has implemented a tiered rate billing program and endorses water waste prohibitions for all existing metered landscaped areas throughout its service area, which includes a majority of the City of Seal Beach.

10. that this council has determined, based upon the written and oral testimony presented to it, that this Chapter is substantially equivalent to the model ordinance prepared by the State of California.

C. Consistent with these findings, the purpose of this Chapter 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, such as implementing a *tiered-rate structure*.

9.70.010 Applicability.

A. All planting, irrigation, and landscape-related improvements required by this Chapter 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*;

4. sections 2.2, 2.8 and 2.9 of the *Guidelines* shall apply to new landscape installations or landscape rehabilitation projects at cemeteries.

B. Section 3(b) of the *Landscape Water Use Standards* of this Chapter shall apply to:

1. all *landscaped areas* installed after January 1, 2010 to which Section 1.1(a) is applicable.

C. This Chapter 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. plant collections, as part of botanical gardens and arboretums open to the public.

9.70.015 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 Chapter. 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 Chapter 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, 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*.

9.70.020 Landscape Water Use Standards

A. For applicable landscape installation or rehabilitation projects subject to Section 1.1(a) of this Chapter, 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 City.

9.70.025 Third Party.

The City may enter into a contract with, a *local agency* or third party with lawful authority, to implement, administer, and/or enforce any of the provisions of the Chapter on behalf of the City.

9.70.030 Definitions.

The following definitions are applicable to this [chapter/division/title]:

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

2. Budget-based tiered-rate structure: tiered or block rates for irrigation accounts charged by the retail water agency in which the block definition for each customer is derived from lot size or irrigated area and the evapotranspiration requirements of landscaping.

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

4. 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.

5. ET adjustment factor or "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 site-wide 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 Chapter and the Guidelines, except that the ETAF for a special landscape area shall not exceed 1.0.

6. Guidelines: refers to the Guidelines for Implementation of the Water Efficient Landscape Ordinance, as adopted by the City, which describes procedures, calculations, and requirements for landscape projects subject to this Chapter. The Guidelines shall be adopted by resolution and may be amended from time to time.

7. 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 Chapter.

8. 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 Chapter, 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 Chapter to the requirements applicable to developer-installed residential landscape projects.

9. 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 Chapter is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

10. 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).

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

12. 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.

13. Landscape project: total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 1.1 of this Chapter.

14. 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 this Chapter on behalf of the City. The local agency may be responsible for the enforcement or delegation of enforcement of this Chapter including, but not limited to, design review, plan check, issuance of permits, and inspection of a landscape project.

15. "Local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

16. Maximum Applied Water Allowance or 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.

17. New construction: for the purposes of this Chapter, a new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

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

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

20. Permit: an authorizing document issued by local agencies for new construction or rehabilitated landscape.

21. Plant factor or plant water use factor: is a factor, when multiplied by ETo, that estimates the amount of water needed by plants. For

purposes of this Chapter, 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 Chapter are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

22. Recycled water or reclaimed water: treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

23. Reference evapotranspiration or ETo: a standard measurement of environmental parameters which affect the water use of plants. ETo is given 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.

24. Rehabilitated landscape: any re-landscaping project that meets the applicability criteria of Section 1.1(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.

25. 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.

26. 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.

27. 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.

28. Valve: a device used to control the flow of water in an irrigation system.

29. 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."

Section 2. Exemption from California Environmental Quality Act.

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 3. Severability.

The provisions of this Ordinance are severable, and the invalidity of any section, paragraph, phrase, clause, or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

Section 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Seal Beach at a regular meeting held on the 11th day of January, 2010.

David Wilson

Mayor

ATTEST:

Linda Devine
City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Linda Devine, City Clerk of the City of Seal Beach, do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting held on the 14th day of December, 2009 and was passed, approved and adopted by the City Council at a regular meeting held on the 11th day of January, 2010 by the following vote:

AYES: Council Members: Anta, Smith, Miller, Shanks, Sloan
NOES: Council Members: None
ABSENT: Council Members: None
ABSTAIN: Council Members: None

And do hereby further certify that Ordinance Number 1588 has been published pursuant to the Seal Beach City Charter and Resolution Number 2836.

Linda Devine
City Clerk