



City of Anaheim
PUBLIC UTILITIES DEPARTMENT

January 28, 2010

Mr. Simon Eching
California Department of Water Resources
Water Use and Efficiency Branch
Statewide Integrated Management
P.O. Box 942836
Sacramento, California 94236-0001

Re: Submittal of the City of Anaheim's adopted Landscape Water Efficiency Ordinance in compliance with Assembly Bill 1881

Dear Mr. Eching:

On December 8, 2009, by Ordinance No. 6160, the City Council of the City of Anaheim (City) adopted the Landscape Water Efficiency Ordinance which amended Chapter 10.19 of the Anaheim Municipal Code to comply with the Water Conservation in Landscaping Act of 2006 (AB 1881).

As required by AB 1881 and to serve as notice that the City has adopted a locally-approved alternative ordinance that is "at least as effective" as the State Model Water Efficient Landscape Ordinance prepared by the Department of Water Resources, enclosed is a certified copy of the City of Anaheim's Landscape Water Efficiency Ordinance No. 6160.

Please contact Rick Shintaku, Water Resources and Planning Manager, at (714) 765-4181 for any questions regarding the City of Anaheim's compliance with AB 1881 or the attached document.

Sincerely,

Donald C. Calkins
Assistant General Manager – Water Services

Enclosure

c: Marcie L. Edwards, Assistant City Manager
Sheri Vander Dussen, Deputy City Manager

ORDINANCE NO. 6160

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM AMENDING CHAPTER 10.19 OF TITLE 10 OF THE ANAHEIM MUNICIPAL CODE IN ITS ENTIRETY RELATING TO LANDSCAPE WATER EFFICIENCY.

WHEREAS, the City of Anaheim (also referred to herein as "Anaheim" or "City") has actively implemented incentive-based water use efficiency programs within Anaheim since the early 1990s; and

WHEREAS, Anaheim has had an aggressive water conservation program since the early 1990s and as a reflection of Anaheim's success, its water demand has only increased by seven percent (7%) despite a population increase of thirty-six percent (36%) over the past 20 years; and

WHEREAS, in 1992, the State of California enacted the Water Conservation in Landscaping Act (Assembly Bill 325), requiring the adoption of a water efficient landscape ordinance by cities and counties throughout the state; and

WHEREAS, in response to Assembly Bill 325, Anaheim added Chapter 10.19 to Title 10 of the Anaheim Municipal Code relating to landscape water efficiency on January 12, 1993; and

WHEREAS, in 2004, the legislature passed Assembly Bill 2717 establishing a stakeholder-based Landscape Taskforce charged with formulating recommendations to improve irrigation efficiency in new and existing landscapes. The report, "Water Smart Landscapes for California: AB 2717 Landscape Task Force Findings, Recommendations, & Actions," contained forty-three recommendations to achieve greater landscape water use efficiency; and

WHEREAS, the State Legislature has found that the continuation of California's economic prosperity is dependent on the availability of adequate supplies of water for future uses and 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; and

WHEREAS, in 2006, Governor Schwarzenegger signed Assembly Bill 1881 (Laird) amending the Water Conservation in Landscaping Act (the "Act"). The Act, as amended by AB 1881, requires that (i) the Department of Water Resources ("DWR") update the 1993 original Model Water Efficient Landscape Ordinance, and (ii) cities and counties update local Landscape Ordinances by January 1, 2010 so that they are "at least as effective as" DWR's updated Model Ordinance in conserving water; and

WHEREAS, meeting the requirements of Assembly Bill 1881 will result in changes to the landscape ordinances of cities and counties throughout California; and

WHEREAS, in response to the new landscape water efficiency requirements, a stakeholder group was formed under the leadership of the Municipal Water District of Orange County and the Orange County Division of the League of California Cities to develop a locally-crafted Orange County Model Water Efficient Landscape Ordinance (“OC Model”); and

WHEREAS, Anaheim finds that landscape design, installation, maintenance, and management can and should be water efficient and has incorporated provisions of the OC Model to the meet the “at least as effective as” requirement of State law, minimize the complexity and cost of compliance, and provide consistency between local jurisdictions; and

WHEREAS, water conservation, water recycling, and public education continues to become critically important to Anaheim, California, and the region; and

WHEREAS, current water supply conditions require short and long-term strategies to sustain a reliable supply of water to meet current and future water demands.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES ORDAIN AS FOLLOWS:

SECTION 1:

That Chapter 10.19 of Title 10 of the Anaheim Municipal Code be, and the same is hereby, amended in its entirety to read as follows:

“Chapter 10.19 LANDSCAPE WATER EFFICIENCY

10.19.010 PURPOSE.

The purpose of this Chapter is to establish an alternative model acceptable under Assembly Bill 1881 (Laird) as being at least as effective as the State Model Landscape Water Efficiency Ordinance in the context of conditions in the City in order to:

.010 promote the benefits of consistent landscape ordinances with neighboring local and regional agencies;

.020 promote the values and benefits of landscapes while recognizing the need to invest in water and other resources as efficiently as possible;

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

.040 establish provisions for water management practices and water waste prevention for existing landscapes;

.050 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

.060 encourage the use of economic incentives that promote the efficient use of water, such as implementing conservation pricing.

10.19.020 APPLICABILITY.

.010 Beginning January 1, 2010, all planting, irrigation, and landscape-related improvements required by this Chapter shall apply to the following landscape projects:

.0101 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;

.0102 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;

.0103 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;

.0104 Section 10.19.050.010 of the Landscape Water Use Standards of this Chapter shall apply to all landscaped areas installed after January 1, 2010 to which Section 10.19.020.010 is applicable.

.020 This Chapter does not apply to:

.0201 Registered local, state, or federal historical sites;

.0202 Ecological restoration projects that do not require a permanent irrigation system;

.0203 Mined-land reclamation projects that do not require a permanent irrigation system;

.0204 Plant collections, as part of botanical gardens and arboretums open to the public;
or

.0205 Cemeteries.

10.19.030 DEFINITIONS.

The terms in this Chapter shall have the meaning set forth below:

.010 "Applied Water" means the portion of water supplied by the irrigation system to the landscape.

.020 "Ecological Restoration Project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

.030 "Estimated Applied Water Use" means 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.

.040 "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.

.0401 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.

.050 "Guidelines" refers to the Landscape Water Efficiency Guidelines, as adopted by the City, which describe procedures, calculations, and requirements for landscape projects subject to this Chapter.

.060 "Hardscapes" means 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.

.070 "Homeowner Installed Landscape" means 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.

.080 "Irrigation Efficiency" means 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.

.090 "Landscaped Area" means 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).

.100 "Landscape Contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

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

.120 "Landscape Project" means total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 10.19.020 of this Chapter.

.130 "Local Agency" means 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.

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

.150 "Maximum Applied Water Allowance" or "MAWA" means the upper limit of annual applied water for the established landscaped area as specified in 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.

.160 "Mined-land Reclamation Projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

.170 "New Construction" means, 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.

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

.190 "Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

.200 "Permit" means an authorizing document issued by Local Agencies for new construction or rehabilitated landscape.

.210 "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."

.220 "Recycled Water" or "Reclaimed Water" means 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.

.230 "Reference Evapotranspiration" or "ETo" means 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 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.

.240 "Rehabilitated Landscape" means any re-landscaping project that meets the applicability criteria of Section 10.19.020.010, 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.

.250 "Smart Automatic Irrigation Controller" means 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.

.260 "Special Landscape Area" means 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.

.270 "Turf" means 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.

.280 "Valve" means a device used to control the flow of water in an irrigation system.

.290 "Water Feature" means 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.

10.19.040 IMPLEMENTATION PROCEDURES FOR LANDSCAPE DOCUMENTATION PACKAGES.

.010 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. 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.

.020 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 City, as the Local Water Purveyor, in accordance with the procedures of this Chapter and the Guidelines.

.030 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.

.040 The City, as the Local Water Purveyor, has adopted Water Reduction Provisions (Chapter 10.18) that allow for enforcement of water waste prohibitions for all existing metered landscaped areas within its jurisdiction.

10.19.050 LANDSCAPE WATER USE STANDARDS.

.010 For applicable landscape installation or rehabilitation projects subject to Section 10.19.020.010 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.

.020 Notwithstanding any provision of this Chapter 10.19, the irrigation of landscaped areas shall be conducted in a manner consistent with all applicable rules and requirements adopted by the City relating to the irrigation of landscaped areas, and shall be subject to all penalties and incentives for water conservation and water waste prevention established and implemented by the City.”

SECTION 2. CEQA CATEGORICAL EXEMPTION

The City Council of the City of Anaheim 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 Anaheim, and will not result in cumulative adverse environment impacts. It is therefore exempt from the provisions of CEQA.

SECTION 3. SAVINGS CLAUSE

Neither the adoption of this ordinance nor amendment of any other ordinance of the City of Anaheim shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any tax, license or penalty or of the penal provisions applicable to any violations thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City of Anaheim relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase, word, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Anaheim hereby declares that it would have adopted this ordinance and each remaining section, subsection, sentence, clause, phrase, word, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, words, or portions have been declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect thirty (30) days from and after its adoption by the City Council.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 17th day of November, 2009, and thereafter passed and adopted at a regular meeting of said City Council held on the 8th day of December, 2009, by the following roll call vote:

AYES: Mayor Pringle, Council Members Hernandez, Sidhu, Galloway, Kring

NOES: NONE

ABSENT: NONE

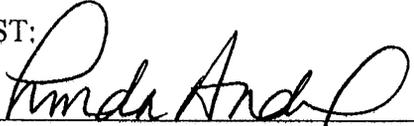
ABSTAIN: NONE

CITY OF ANAHEIM



MAYOR OF THE CITY OF ANAHEIM

ATTEST:



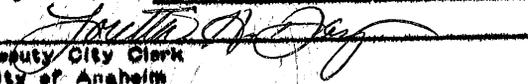
CITY CLERK OF THE CITY OF ANAHEIM

74558..v4

L. LORETTA H. DAY

Deputy City Clerk for the City of Anaheim, California, do hereby certify that this is a true and correct copy of the original

ORDINANCE NO. 6160 on file in the Office of the City Clerk, adopted by the Anaheim City Council on DECEMBER 8, 2009



Deputy City Clerk
City of Anaheim
Anaheim, CA