



April 13, 2010

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

Mayor
Peter Herzog

Mayor Pro Tem
Richard Dixon

Council Members
Kathryn McCullough
Marcia Rudolph
Mark Tetteimer

City Manager
Robert C. Dunek

RE: The City of Lake Forest Water Efficient Landscape Ordinance

Dear Mr. Simon:

The City of Lake Forest adopted a Water Efficient Landscape Ordinance on December 15, 2009, in accordance with the requirements of Assembly Bill 1881. AB 1881 requires that local agencies inform the Department of Water Resources of their decision. Therefore, please find enclosed the following:

- City of Lake Forest Water Efficient Landscape Ordinance
- Findings (contained within the Ordinance)
- Evidence that the ordinance is at least as effective as the DWR model ordinance.

Please feel free to contact me at (949) 461-3466 or ctai@lakeforestca.gov if you have any questions.

Sincerely,
CITY OF LAKE FOREST

Carrie Tai, AICP
Senior Planner

ORDINANCE NO. 207

AN ORDINANCE OF THE CITY COUNCIL, OF LAKE FOREST, CALIFORNIA, AMENDING CHAPTERS 9.144, 9.146, 13.08, AND 14.05 OF THE LAKE FOREST MUNICIPAL CODE, PERTAINING TO THE WATER EFFICIENT LANDSCAPE ORDINANCE AND GUIDELINES (ZC 2009-05)

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, California Assembly Bill 1881 ("AB 1881"), enacted into law on September 28, 2008, modifies and strengthens the existing "Water Conservation in Landscaping Act" (California Government Code section 65591 et seq.) (the "Act"). The Act's goal is to improve state water conservation efforts by establishing a model water efficient landscape ordinance for local agencies to adopt and use for the purpose of reducing water waste associated with irrigation of outdoor landscaping; and

WHEREAS, AB 1881 requires the State Department of Water Resources ("Department") to update the existing model water efficient landscape ordinance which provides guidelines for cities and counties to adopt local landscape irrigation ordinances as required by the law; and

WHEREAS, all cities and counties are required to either adopt the updated model water efficient landscape ordinance (the "Model Ordinance") or, by January 1, 2010, adopt their own water efficient landscape ordinance that is as effective in conserving water as the Model Ordinance; and

WHEREAS, a model water efficient landscape ordinance has been developed for local agencies in Orange County (the "Orange County Model Ordinance") and the City has determined to adopt its own local water efficient landscape ordinance, based on the Orange County Model Ordinance, that is as effective in conserving water as the Model Ordinance; and

WHEREAS, this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 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, and will not result in cumulative adverse environment impacts or any other potentially significant impact described in State CEQA Guidelines section 15300.2. It is therefore exempt from the provisions of CEQA.

THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES
ORDAIN AS FOLLOWS:

SECTION 1. Findings.

The City Council hereby finds and determines that the forgoing recitals are true and correct and are incorporated herein.

- a) Orange County has an established, large reclaimed water infrastructure system;
- b) Allocation-based and tiered water rate structures allow public agencies to document water use in landscapes;
- c) Incentive-based water use efficiency programs have been actively implemented within Orange County since before 1991;
- d) current local design practices in new landscapes typically achieve the State Model Water Efficient Landscape Ordinance water use goals;

- e) All water services within the City are metered;
- f) 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;
- g) All new irrigation controllers sold after 2012 within Orange County will be smart controllers;
- h) Landscape plan submittal and review has been an established practice in the City of Lake forest; and
- i) The average rainfall in Orange County is approximately 12 inches per year.
- j) Local water purveyors are implementing budget- based tiered-rate billing and/or enforcement of water waste prohibitions for all existing metered landscaped areas throughout its service area, which includes the City of Lake Forest.
- k) Consistent with these findings, the purpose of the City's Water Efficient Landscape Ordinance 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 budget-based tiered-rate structure.

SECTION 2. Amendments to Chapter 9.144 – General Regulations.

Section 9.144.060.2 of the Municipal Code is hereby amended to read as follows:

9.144.060.2 – Landscaping.

Landscaping, consisting of trees, shrubs, vines, ground cover, turf, or any combination thereof, shall be installed and maintained subject to the following general standards:

- A. Boundary landscaping is required for a minimum depth equal to the required setback distance or ten (10) feet (whichever is less) along all property lines abutting streets except for the required street openings.
- B. Landscaping along all streets and boundaries shall be in compliance with Section 9.144.080, “Fences and walls.”
- C. Any landscaped area shall be separated from an adjacent parking or vehicular area by a wall or curb at least six (6) inches higher than the adjacent parking or vehicular area.
- D. Permanent irrigation facilities shall be provided for all landscaped areas.
- E. Required landscaping shall be maintained in a neat, clean, and healthy condition. This shall include, but not be limited to, proper pruning, mowing of lawns, weeding, removal of litter, fertilizing and watering as needed, and the replacement of plants when necessary.
- F. In addition to other projects that may be subject to Section 9.144.060, the following projects shall be subject to these regulations regardless of the district, planned community or specific plan in which they are located: (1) multifamily projects of five (5) or more units; (1) residential planned developments (common areas only); and (3) commercial/office/industrial projects involving landscaping of more than one (1) cumulative acre.

G. All planting, irrigation, and landscape-related improvements for the following landscape projects shall be subject to the water efficient landscape regulations set forth in Section 9.146.110:

1. new construction projects by public agencies or private developers of non-residential projects which have a proposed landscaped area equal to or greater than 2,500 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or
- b. a ministerial permit for a landscape or water feature;

2. new construction projects by private developers, associations, or property managers of residential projects which have a proposed landscaped area equal to or greater than 2,500 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or
- b. a ministerial permit for a landscape or water feature;

3. landscape rehabilitation projects by public agencies, private developers, associations, or property managers of residential or non-residential projects which:

a. have a proposed landscaped area equal to or greater than 2,500 square feet,

b. propose to rehabilitate fifty percent (50%) or more of the existing landscaped area, and

c. are otherwise subject to:

- i. a discretionary approval of a landscape plan, or
- ii. a ministerial permit for a landscape or water

feature;

4. homeowner installed landscape for new construction of single-family or multiple-family residential property, which have a proposed landscaped area equal to or greater than 5,000 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or
- b. a ministerial permit for a landscape or water feature;

5. homeowner installed landscape rehabilitation projects for single-family or multiple-family residential property, which:

a. have a proposed landscaped area equal to or greater than 5,000 square feet,

b. propose to rehabilitate fifty percent (50%) or more of the existing landscaped area, and

c. are otherwise subject to:

- (i). a discretionary approval of a landscape plan, or
- (ii) a ministerial permit for a landscape or water feature.

SECTION 3. Amendments to Chapter 9.146 – Special Regulations.

The table of contents for Chapter 9.146 – Special Regulations is amended to read, and Sections 9.146.110 through 9.146.110.9 are hereby added to Chapter 9.146 the Municipal Code to read in their entirety, as follows:

- 9.146.010 – GENERAL.
- 9.146.020 – ANIMAL HOSPITALS AND CLINICS.
- 9.146.030 – PETS AND ANIMALS.
- 9.146.040 – WASTE MANAGEMENT AND HAZARDOUS MATERIALS.
- 9.146.050 – ACCESSORY LIVING QUARTERS/SECOND UNIT HOUSING.
- 9.146.060 – HOME OCCUPATION STANDARDS.
- 9.146.070 – RESIDENTIAL, MULTIPLE-FAMILY STANDARDS.
- 9.146.080 – SPECIFIED RESOURCE PROTECTION.
- 9.146.090 – HELIPORTS AND HELISTOPS.
- 9.146.110 – WATER EFFICIENT LANDSCAPE REGULATIONS.

9.146.110 – Water efficient landscape regulations.

All references to this Section shall include Sections 9.146.110.1 through 9.146.110.9, as appropriate. The following special regulations and minimum requirements shall apply to landscape projects.

9.146.110.1 – Definitions.

Except where the context of such words or phrases clearly indicates a different meaning or construction, the following words, terms, and phrases, when used in Section 9.146.110, shall have the meanings ascribed to them in this section.

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

Association. A nonprofit corporation or unincorporated association created

for the purpose of managing a common interest development.

Budget-based tiered-rate structure. The 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.

Certificate of Completion. The certificate required to be completed and submitted to the City certifying that the landscape project has complied with the provisions of the water efficient landscape regulations contained in Section 9.146.110 and the Guidelines.

Common interest development. A community apartment project, condominium project, planned development, and stock cooperative pursuant to California Civil Code Section 1351.

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

Enforcement officer. Any employee or agent of the City authorized to enforce the provisions of the Municipal Code as designated in writing by the City.

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 landscaped area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

ET adjustment factor or ETAF. The factor that 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 16.12 and the Guidelines, except that the ETAF for a special landscaped area shall not exceed 1.0.

Guidelines. The Guidelines for Implementation of the City of Lake Forest Water Efficient Landscape Regulations, which describe procedures, calculations, and requirements for landscape projects subject to Section 9.146.110.

Hardscape. Any durable material or feature (pervious and impervious) 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 hardscape for purposes of Section 9.146.110.

Homeowner installed. Any landscaping either installed by a private individual for a single-family residence or installed by a landscape professional hired by a homeowner. A homeowner, for purposes of this ordinance, is a person who occupies the dwelling he or she owns or rents. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under Section 9.146.110.3(A)(2) to the requirements applicable to developer-installed single-family and multi-family residential landscape projects.

Hydrozone. A portion of the landscaped area having plants with similar water needs and typically irrigated by one valve/controller station. A hydrozone may be irrigated or non-irrigated.

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

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 Section 9.146.110 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 impervious hardscape, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

Landscape Documentation Package. The package of documents that a

project applicant is required to submit to the City for review and approval of landscape projects, as described in the Guidelines.

Landscape professional. A licensed landscape architect, licensed landscape professional, or any other person authorized to design a landscape pursuant to Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the California Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the California Food and Agriculture Code.

Landscape project. The total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 9.146.110.3(A).

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 Section 9.146.110 on behalf of the City. The local agency may be responsible for the enforcement or delegation of enforcement of Section 9.146.110, 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 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.

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

Model ordinance. The Model Water Efficient Landscape Ordinance adopted by the California Department of Water Resources in accordance with California Government Code section 65591 *et seq.*

New construction. A new building with landscaping or a landscape-dominated project, such as a park, playground, playing field, or greenbelt or

other new landscape, which may or may not have an associated building or structure.

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.

Person. Any natural person, firm, joint venture, joint stock company, partnership, public or private association, club, company, corporation, business trust, organization, public or private agency, government agency or institution, school district, college, university, any other user of water provided by the city, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

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 Section 9.146.110, 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 Section 9.146.110 are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

Project applicant. The person submitting a Landscape Documentation Package pursuant to Section 2.1 of the Guidelines, to request a permit, plan check or design review from the City for the installation of landscape.

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, and which is not intended for human consumption.

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 B 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.

Rehabilitation project. A landscape project that results in the substantial

removal and replacement of, and/or modifications to, existing landscaping and meets the requirements under Section 9.146.110.3(A)(3) and (5).

Special landscaped area. An area of 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 areas where turf provides a playing surface.

State. The State of California.

Turf. A ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

Valve. A device used to control the flow of water in an irrigation system.

Water feature. A design element where water is artificially supplied and where open water performs an aesthetic or recreational function. Water features include artificial ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools. 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.

Watering window. The time of day irrigation is allowed pursuant to any applicable city, regional, state, or local water purveyor water conservation or drought response laws, rules, policies, or regulations.

9.146.110.2 – Purpose and Intent.

A. The purpose of Section 9.146.110 is to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

B. The intent of Section 9.146.110 is to establish alternative regulations that are at least as effective as the Model Ordinance.

9.146.110.3 – Applicability of water efficient landscape regulations.

A. The water efficient landscape regulations set forth in Section 9.146.110 shall apply to the following landscape projects:

1. new construction projects by public agencies or private developers of non-residential projects which have a proposed landscaped area equal to or greater than 2,500 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or
- b. a ministerial permit for a landscape or water feature;

2. new construction projects by private developers, associations, or property managers of residential projects which have a proposed landscaped area equal to or greater than 2,500 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or
- b. a ministerial permit for a landscape or water feature;

3. landscape rehabilitation projects by public agencies, private developers, associations, or property managers of residential or non-residential projects which:

a. have a proposed landscaped area equal to or greater than 2,500 square feet,

b. propose to rehabilitate fifty percent (50%) or more of the existing landscaped area, and

c. are otherwise subject to:

- i. a discretionary approval of a landscape plan, or
- ii. a ministerial permit for a landscape or water feature;

4. homeowner installed landscape for new construction of single-family or multiple-family residential property, which have a proposed landscaped area equal to or greater than 5,000 square feet, and are otherwise subject to:

- a. a discretionary approval of a landscape plan, or

b. a ministerial permit for a landscape or water feature;

5. homeowner installed landscape rehabilitation projects for single-family or multiple-family residential property, which:

a. have a proposed landscaped area equal to or greater than 5,000 square feet,

b. propose to rehabilitate fifty percent (50%) or more of the existing landscaped area, and

c. are otherwise subject to:

(i). a discretionary approval of a landscape plan, or

(ii) a ministerial permit for a landscape or water feature.

B. Section 9.146.110 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;

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

5. cemeteries; and

6. any other new landscape installation project and landscape rehabilitation project not listed in 9.146.110.3(A).

C. Notwithstanding the provisions of Section 9.146.110.3(B), Sections 2.8 and 2.9 of the Guidelines shall apply to cemeteries.

D. A landscape design plan for projects in fire-prone areas and fuel modification zones shall comply with requirements of the Orange County Fire Authority, where applicable. When conflicts between the provisions of

Section 9.146.110 and fire safety design elements exist, the fire safety requirements shall have priority.

9.146.110.4 – Implementation procedures.

A. Prior to the issuance of any permits, a Landscape Documentation Package shall be submitted to the City for review and approval of all landscape projects subject to the provisions of 9.146.110. 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 landscape professional appropriately licensed in the State stating that the landscape design and water use calculations have been prepared by or under the supervision of such licensed landscape professional and are certified to be in compliance with the provisions of Section 9.146.110 and the Guidelines.

C. Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations as set forth in the Guidelines.

D. Water use calculations shall be consistent with calculations contained in the Guidelines.

E. Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certificate of Completion as provided in the Guidelines, and where applicable, in conjunction with a certificate of use and occupancy or permit final process.

9.146.110.5 – Landscape Water Use Standards.

A. For new landscape installation or rehabilitated landscape projects subject to Section 9.146.110.3(A), 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, regulations, and requirements, including any

established watering windows, and shall be subject to the penalties and incentives for water conservation and water waste prevention as determined and implemented by the applicable local water purveyors or as mutually agreed by the local water purveyors and the City.

9.146.110.6 – Enforcement and administration.

A. The City Manager is authorized to administer and enforce the provisions of Section 9.146.110 and the Guidelines. Any City authorized personnel or enforcement officers may exercise any enforcement powers as set forth in the Municipal Code.

B. The City may delegate to, or enter into a contract with, a local agency or other person to implement and administer any of the provisions of this Section 9.146.110 on behalf of the City.

9.146.110.7 – Guidelines for Implementation of the Water Efficient Landscape Regulations.

The City shall adopt Guidelines for the implementation of Section 9.146.110. Such Guidelines may be amended from time to time by resolution of the City Council. Notwithstanding the forgoing, the City Manager may establish any forms or other related documents to administer compliance with the Guidelines as he or she deems appropriate and in furtherance of Section 9.146.110.

9.146.110.8 – Recovery of costs.

A. The City Manager or his or her designee shall serve an invoice for costs upon the person or responsible person who is subject to a notice of violation, a cease and desist order, or an administrative compliance order. An invoice for costs shall be immediately due and payable to the City. If any person or responsible person fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this Section 9.146.110, then the City may institute collection proceedings. The invoice for costs may include reasonable attorneys' fees.

B. The City shall impose any other penalties or regulatory fees, as fixed from time to time by resolution of the City Council, for a violation or enforcement of Section 9.146.110.

C. In addition to the costs which may be recovered pursuant to the Municipal Code, and in order to recover the costs of the water efficient landscape regulatory program set forth in Section 9,146.110, the City Council may, from time to time, fix and impose by resolution fees and charges. The fees and charges may include, but are not limited to, fees and charges for:

1. any visits of an enforcement officer, or other city staff or authorized representative of the city for time incurred for inspections of property;
2. any monitoring, inspection, and surveillance procedures pertaining to enforcement of Section 9.146.110;
3. enforcing compliance with any term or provision of Section 9.146.110;
4. any other necessary and appropriate fees and charges to recover the cost of providing the city's water efficient landscape regulatory program.

9.146.110.9 – Conflicting provisions.

If provisions of Section 9.146.110 are in conflict with each other, other provisions of the Municipal Code, the City's general plan, any City adopted specific plan or master plan, any resolution or ordinance of the City, or any State law or regulation, the more restrictive provisions shall apply.

SECTION 4: Amendments to Chapter 13.08 – Installation of Improvements to Parks and Recreational Facilities.

The table of contents for Chapter 13.08 – Installation of Improvements to Parks and Recreational Facilities is amended to read, and Section 13.08.130 is hereby added to Chapter 13.08 of the Municipal Code to read in their entirety, as follows:

13.08.010 – DEFINITIONS.

13.08.020 – PERMIT REQUIRED.

13.08.030 – NEW CONSTRUCTION–PARKS AND RECREATION COMMISSION APPROVAL REQUIRED.

13.08.040 – ROUTINE MAINTENANCE AND REPAIR—DIRECTOR OF PUBLIC WORKS/CITY ENGINEER APPROVAL.

13.08.050 – ANNUAL MASTER ENCROACHMENT PERMIT FOR CONSTRUCTION OF IMPROVEMENTS.

13.08.060 – ANNUAL MASTER ENCROACHMENT PERMIT—APPLICATION FORM.

13.08.070 – ANNUAL MASTER ENCROACHMENT PERMIT—APPROVAL.

13.08.080 – ANNUAL MASTER ENCROACHMENT PERMIT—VALIDITY.

13.08.090 – ANNUAL MASTER ENCROACHMENT PERMIT AND PERMIT RIDERS – SUSPENSION AND REVOCATION.

13.08.100 – PERMIT RIDERS—INDIVIDUAL PROJECTS.

13.08.110 – INSPECTION AND ACCEPTANCE OF WORK PERFORMED.

13.08.120 – FEES.

13.08.130 – LANDSCAPE IMPROVEMENTS

13.08.130 – Landscape improvements.

All planting, irrigation, and landscape-related improvements to new landscape installation projects or landscape rehabilitation projects by public agencies or private developers of public parks with a landscaped area meeting the criteria set forth in Section 9.146.110.3(A), shall comply with the provisions of Section 9.146.110.

SECTION 5: Amendments to Chapter 14.05 – Standard Specifications – Public Works.

The table of contents for Chapter 14.05 – Standard Specifications – Public Works is amended to read, and Section 14.05.016 is hereby added to Chapter 14.05 of the Municipal Code to read in their entirety, as follows:

14.05.010 – ADOPTION OF PLANS AND SPECIFICATIONS.

14.05.015 – ADOPTION OF SUBSEQUENT EDITIONS OF PLANS AND SPECIFICATIONS.

14.05.016. – LANDSCAPE IMPROVEMENTS

14.05.016. Landscape improvements.

All planting, irrigation, and landscape-related improvements to new landscape installation projects or landscape rehabilitation projects by public agencies or private developers of public rights-of-way, medians, and other landscaping related to streets and sidewalks, with a landscaped area meeting the criteria set forth in Section 9.146.110.3(A), shall comply with the provisions of Section 9.146.110.

SECTION 6: Adoption of Guidelines for Implementation.

The City Council hereby approves and adopts the Guidelines for Implementation of the City of Lake Forest Water Efficient Landscape Ordinance (the "Guidelines"), attached hereto as Exhibit "A" to this Ordinance and by this reference incorporated herein, for implementation of this Ordinance and Section 9.146.110 of the Municipal Code. The Guidelines describe the procedures, calculations, design requirements, and verification process for landscape projects subject to Section 9.146.110. Any amendments, modifications or any other type of change to the Guidelines may be adopted and effectuated by Resolution of the City Council. Notwithstanding the forgoing, the City Manager is hereby authorized to establish any forms or other related documents to administer compliance with the Guidelines as he or she deems appropriate and in furtherance of Section 9.146.110.

SECTION 7: 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.). Pursuant to State CEQA Guidelines section 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, and will not result in cumulative adverse environment impacts or any other potentially significant impact described in State CEQA Guidelines section 15300.2. It is therefore exempt from the provisions of CEQA. The City Council hereby directs the City Manager or his designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

SECTION 8: 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 9: Conflicting Provisions.

If provisions of Sections 9.146.110 through 9.146.110.9 are in conflict with each other, other provisions of the Code, the City's general plan, any City adopted specific plan or master plan, any other resolution or ordinance of the City, or any State law or regulation, requirements of the Orange County Fire Authority pertaining to fire-prone areas and fuel modification zones, the more restrictive provisions shall apply.

SECTION 10: Effective Date.

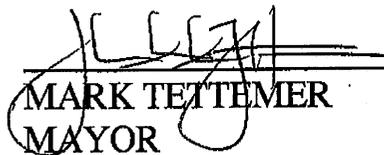
This Ordinance shall become effective thirty (30) days after its adoption in accordance with the provisions of California law.

SECTION 11: City Clerk Certification.

A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Lake Forest, California, on the 1st day, December 2009, and thereafter adopted at a regular meeting of the City Council held on the 15th day of December, 2009.

SECTION 12: The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of Lake Forest, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Lake Forest on 15th day, December 2009.


MARK TETTEMER
MAYOR

ATTEST:

Stephanie D. Smith

STEPHANIE D. SMITH, CMC
CITY CLERK

APPROVE AS TO FORM:

Scott C. Smith

SCOTT C. SMITH
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Stephanie Smith, City Clerk for the City of Lake Forest, do hereby certify that the foregoing Ordinance No. 207 was duly adopted at a regular meeting of the Lake Forest City Council on the 15th day of December 2009, and carried by the following roll call vote, to wit:

AYES: COUNCILMEMBERS: DIXON, HERZOG, MCCULLOUGH,
RUDOLPH, TETTEMER
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE
ABSTAIN: COUNCILMEMBERS: NONE

Stephanie D. Smith

STEPHANIE D. SMITH, CMC
CITY CLERK

Issues and Justifications for the differences between the City Ordinance and the State Model

AB 1881 requires local agencies to include information in the record for any approval that designates the locally-approved alternative to the States Model as “equally effective” in conserving landscaping irrigation water. The appropriate action is suggested to utilize findings to establish the City’s position in the record. In preparing the County Model Ordinance, no essential element of the State’s Model Ordinance has been dropped, only re-organized to function more efficiently. The City Ordinance was based fully on the County Model Ordinance, with minor revisions throughout for clarification.

The following represents the findings and provides justification for how the City Ordinance is “at least as effective” as the State’s Model.

Issue 1: Maximum Applied Water Allowance Calculation

Calculation is simplified while still achieving “at least as effective” criteria. The State Model requires MAWA and Estimated Applied Water Use (EAWU) calculations for each valve installed in a landscape area. This requirement causes a significant amount of paperwork and labor and does not increase water efficiency in the landscape. By requiring MAWA and EAWU calculations for each meter rather than each valve, the calculations process is simplified while maintaining the “at least as effective” criteria of AB-1881.

Issue 2: Self Certification

(2.4 Landscape Design Plan Section 13; 2.5 Irrigation Design Plan Section 7; 2.6 Grading Design Plan Section 3)

Self certification is performed by a licensed professional that is authorized to perform the tasks required in the Landscape Documentation Package. The licensed professionals certifying the project have professional expertise necessary to ensure the project is “at least as effective” as the State Model. Self certification provides a cost effective method for cities to review plans without increasing the need for in-house technical expertise.

Issue 3: Separation of Ordinance and Guidelines

Implementing a new ordinance or updating an old one is an involved process. During the drafting of the County Model Ordinance, stakeholders stressed the importance of a streamlined and succinct ordinance that is “at least as effective” as

the State Model. In response to these requests, the County Model Ordinance was formatted into a document that describes the essential components of AB 1881, while placing the more process-oriented elements, equations, and technology-related components in a Guidelines section. The City Ordinance reflects this format, as the Ordinance text can more easily be incorporated into the existing Municipal Code and updating the Guidelines in the future can be accomplished through a City Council resolution.

Issue 4: 492.10 (from the State Model Ordinance) from the Irrigation Scheduling

Prescriptive elements for parameters used to set the automatic controller are removed in order to defer to irrigation controller manufacturer specifications.

Issue 5: 492.11 (from the State Model Ordinance) Landscape and Irrigation Maintenance Schedule

Prescriptive elements incorporated by reference to existing code in order to defer to local agency code.

Issue 6: Removal of 492.14 (from the State Model Ordinance) Recycled Water

Section incorporated by reference to defer to existing recycled water and health code.

Issue 7: Removal of 492.15 (from the State Model Ordinance) Stormwater Management

Section incorporated by reference to defer to existing National Pollutant Discharge Elimination System (NPDES) permits and local stormwater management code.

Issue 8: Removal of 493.2 (from the State Model Ordinance) Water Waste Prevention

Section incorporated by reference to defer to existing agency code on water waste prevention.

Issue 9: Removal of 494 (from the State Model Ordinance) Effective Precipitation

This section was considered optional in the State Model and was removed because annual effective precipitation of 12" in Orange County is not considered adequate for MAWA adjustment.

Issue 10: 2.1 Section 5 Certification of Completion (Now in Guidelines)

Enrollment in one of the local or regional water budgeting programs fulfills the irrigation system audit report criteria. The water budgeting programs are an in-depth and ongoing irrigation monitoring process that is "at least as effective" as a one time irrigation system audit report.

