

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-020-2017 AMENDING AND RESTATING PORTIONS OF TITLE 9 (ZONING CODE) OF THE GARDEN GROVE MUNICIPAL CODE REGARDING LANDSCAPE WATER EFFICIENCY REQUIREMENTS

City Attorney Summary

This Ordinance amends the Garden Grove Zoning Code to revise landscape water efficiency requirements set forth in Chapters 9.08, 9.12, 9.16, and 9.18 consistent with the updated Orange County Model Water Efficient Landscape Ordinance to be at least as effective as the State Model Water Efficient Landscape Ordinance pursuant to State law.

WHEREAS, the City of Garden Grove proposes to amend portions of Chapters 9.08, 9.12, 9.16, and 9.18 Title 9 (Zoning Code) of the Garden Grove Municipal Code and to adopt amended Guidelines for Implementation of the City of Garden Grove Landscape Water Efficiency Provisions (Appendix 1 to Title 9) to revise landscape water efficiency requirements in compliance with State law and consistent with the Orange County Model Water Efficient Landscape Ordinance;

WHEREAS, in 1992, the State of California enacted the Water Conservation in Landscaping Act, (AB 325) requiring cities and counties throughout the State to adopt water efficient landscape ordinances;

WHEREAS, following the enactment of AB 325, the Department of Water Resources (DWR) developed a Model Water Efficient Landscape Ordinance (MWELo) to assist and guide cities in the enactment of their own water efficient landscape ordinances to establish water efficient landscape design standards for urban landscapes;

WHEREAS, in 2006, the State of California amended the Water Conservation in the Landscape Act (AB 1881) to direct DWR to update the original MWELo to achieve greater landscape water use efficiency and to require cities and counties to update their local water efficient landscape ordinances by 2010 so that they were "at least as effective as" the MWELo;

WHEREAS, in 2009, a stakeholder formed under the leadership of the Municipal Water District of Orange County and the Orange County Division of the League of California Cities, and including representatives from the County of Orange, cities, local water agencies, Building Industry Association, Orange County Fire Authority, irrigation consultants, landscape architects, and other green industry professionals, developed a locally-crafted Orange County Model Water Efficient Landscape Ordinance (Countywide Model Ordinance) and model implementing Guidelines that met the "at least as effective as" requirement of State law, while minimizing the complexity and cost of compliance and providing consistency between local jurisdictions;

WHEREAS, in compliance with AB 1881, the City of Garden Grove adopted Ordinance No. 2769 in 2010 to amend Title 9 (Zoning Code) of the Garden Grove Municipal Code to incorporate updated landscape water efficiency provisions consistent with the Countywide Model Ordinance and Resolution No. 8943-10 to adopt Guidelines for Implementation of those provisions;

WHEREAS, Governor Brown issued Executive Order (EO B-29-15) on April 1, 2015, directing DWR to update the MWELO by July 15, 2015, to increase water efficiency standards for new and existing landscapes through more efficient irrigation systems, graywater usage, on-site storm water capture and limiting the portion of landscaping that can be covered in turf;

WHEREAS, the California Water Commission (CWC) thereafter adopted revisions to the California Code of Regulations Title 23, Division 2, Chapter 2.7 "Model Water Efficient Landscape Ordinance", which require cities and counties to adopt local or regional water efficient landscape ordinances that are "at least as effective as" the updated MWELO;

WHEREAS, the Association of California Cities – Orange County (ACC-OC), the Municipal Water District of Orange County (MWDOC) and Building Industry Association, Orange County (BIAOC) formed a stakeholder group that developed an updated regional Countywide Model Ordinance and Guidelines that are at least effective as the updated MWELO, and which reflect the climactic conditions of Orange County and utilize existing irrigation technologies;

WHEREAS, this Ordinance is consistent with the model regional ordinance developed under the guidance of the ACC-OC, MWDOC, and BIAOC;

WHEREAS, the State Legislature has found that:

- (a) The waters of the State are of limited supply and are subject to ever increasing demands;
- (b) The continuation of California's economic prosperity is dependent on the availability of adequate supplies of water for future uses;
- (c) 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;
- (d) 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;
- (e) Landscape design, installation, maintenance, and management can and should be water efficient; and

- (f) 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;

WHEREAS, the City Council hereby finds that:

- (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 strive to achieve the intent of the State MWELo water use goals;
- (e) Water services within the City are metered and billed based on volume of use;
- (f) Orange County is a leader in researching and promoting the use of smart irrigation controllers and promotion of sustainable landscape transformation with more than 30 million square feet of turf removal;
- (g) All new irrigation controllers sold after 2012 within Orange County were smart irrigation controllers;
- (h) Landscape plan submittal and review has been a long standing practice in the City; and
- (i) The average rainfall in Orange County is approximately 12 inches per year;

WHEREAS, the City, as the local water purveyor, is implementing tiered-rate billing and/or enforcement of water waste prohibitions for all existing metered landscaped areas throughout its service area;

WHEREAS, following a Public Hearing held on June 1, 2017, the Planning Commission adopted Resolution No. 5886-17 recommending approval of Amendment No. A-020-2017 and updated Guidelines for Implementation of the City of Garden Grove Landscape Water Efficiency Provisions;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on August 22, 2017, and

continued to September 12, 2017, and all interested persons were given an opportunity to be heard;

WHEREAS, on September 12, 2017, the City Council adopted Resolution No. ____ approving amended Guidelines for Implementation of the City of Garden Grove Landscape Water Efficiency Provisions, subject to the adoption and effectiveness of this Ordinance; and

WHEREAS, the City Council gave due and careful consideration to the matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The above recital are true and correct, and are incorporated herein by reference.

SECTION 2: Consistent with the above recitals, the City Council finds that the purpose of the amendments to the City's Landscape Water Efficiency Provisions pursuant to Amendment No. A-020-2017 is to establish an alternative model acceptable under Governor Brown's April 1, 2015, Drought Executive Order (EO-B-19-25) as being "at least as effective as" the State MWELo 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, providing rebate incentives and offering educational programs.

SECTION 3: The City Council finds that Amendment No. A-020-2017 is exempt from environmental review under the California Environmental Quality Act ("CEQA")

(California Public Resources Code Section 21000 et seq.), because pursuant to Section 15307 of the state's CEQA Guidelines (14 Cal. Code Regs., § 15307), Amendment No. A-020-2017 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 the 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 environmental impacts. It is therefore exempt from the provisions of CEQA.

SECTION 4: The City Council finds as follows:

A. Amendment No. A-020-2017 is internally consistent with the goals, objectives and elements of the City's General Plan.

B. Amendment No. A-020-2017 is deemed to promote the public interest, health, safety and welfare.

SECTION 5: Amendment No. A-020-2017 is hereby approved, and Title 9 of the Garden Grove Municipal Code, is hereby amended as provided in Exhibit "A", pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5886-17, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full. The Guidelines for Implementation of the City of Garden Grove Landscape Water Efficiency Provisions adopted pursuant to Planning Commission Resolution No. 5886-17, and as thereafter amended, shall be attached to Title 9 as Appendix 1.

SECTION 6: If any section, subsection, subdivision, 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 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, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 7: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.