

CITY COUNCIL
CITY OF ROLLING HILLS ESTATES
LOS ANGELES COUNTY, CALIFORNIA
ORDINANCE NO. 658

AGENDA JUL 13 2010 ITEM NO. <u>881</u>
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AN ORDINANCE OF THE CITY OF ROLLING HILLS ESTATES, CALIFORNIA AMENDING CHAPTER 17.59 (LANDSCAPING AND IRRIGATION) OF THE MUNICIPAL CODE

WHEREAS, in 2006, the State Legislature adopted AB 1881, the Water Conservation in Landscaping Act, related to water use, waste, conservation and efficiency; and

WHEREAS, pursuant to AB 1881, the California Department of Water Resources has developed a Model Water Efficient Landscape Ordinance. The City is required to adopt the State Model Ordinance or its own water efficient landscape ordinance that is "at least as effective in conserving water as" the State Model Ordinance. If the City takes no action, it automatically adopts the State Model Ordinance; and

WHEREAS, the City intends to amend Chapter 17.59 of the Rolling Hills Estates Municipal Code to establish water efficient landscape regulations that are "at least as effective in conserving water as" the State Model Water Efficient Landscape Ordinance as required by AB 1881; and

WHEREAS, the local water purveyor implements budget-based tiered-rate billing and enforce water waste prohibitions for all existing metered landscaped areas throughout their service areas, which includes the entire City of Rolling Hills Estates; and

WHEREAS, the Environmental Advisory Committee reviewed the Draft Water Efficient Landscape Ordinance at their meeting on the 29th day of March, 2010 and recommended approval of the ordinance to the City Council; and

WHEREAS, upon giving the required notice the Planning Commission conducted a Public Hearing for the subject project (Planning Application No. 05-10) on the 19th day of April, 2010 and the 17th day of May, 2010, all interested parties were given full opportunity to be heard and to present evidence; and

WHEREAS, on the 17th day of May, 2010, the Planning Commission adopted Resolution No. PA-05-10 recommending approval of the Water Efficient Landscape Ordinance to the City Council; and

WHEREAS, upon giving the required notice the City Council conducted a Public Hearing for the subject project (Planning Application No. 05-10) on the 22nd day of June, 2010 and the 13th day of July, 2010, all interested parties were given full opportunity to be heard and to present evidence; and

WHEREAS, 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; and

NOW, THEREFORE, the City Council of the City of Rolling Hills Estates does hereby ordain as follows:

SECTION 1. That the City Council of The City of Rolling Hills Estates, hereby amends existing Chapter 17.59 (Landscaping and Irrigation) of the Municipal Code to read in full as follows:

"CHAPTER 17.59

WATER EFFICIENT LANDSCAPES

- 17.59.010. Purpose.
- 17.59.020. Definitions.
- 17.59.030. Applicability
- 17.59.040. Exemptions.
- 17.59.050. Implementation Procedures.
- 17.59.060. Landscape Water Use Standards.
- 17.59.070. Water Waste Prevention
- 17.59.080. Existing Landscapes
- 17.59.090. Public Education

17.59.010 Purpose.

The purpose of this chapter is to establish water efficient landscape regulations that are "at least as effective in conserving water as" the State Model Water Efficient Landscape Ordinance in the context of conditions in the City in order to ensure that landscapes are planned, designed, installed, maintained, and managed in a manner that uses water efficiently, encourages water conservation, and prevents water waste.

17.59.020 Definitions.

For the purposes of this chapter and the Guidelines for the implementation of this chapter, the following terms are defined:

Applicant means the person submitting a landscape documentation package. Applicants can be the property owner or his or her designee.

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

Budget-based tiered-rate structure means tiered or block rates for irrigation accounts charged by the local water purveyor(s) in which the block definition for each customer is derived from lot size or irrigated area and the evapotranspiration requirements of landscaping.

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

Estimated Applied Water Use or *EAWU* 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.

Evapotranspiration adjustment factor or *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 landscaped area shall not exceed 1.0.

Guidelines refers to the Guidelines for Implementation of the Water Efficient Landscape Ordinance, as approved by the City, which describes procedures, calculations, and requirements for landscape projects subject to this chapter.

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 are not considered hardscapes.

Homeowner-installed means any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired and paid directly 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.

Hydrozone means 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.

Irrigation Efficiency or *IE* means the measurement of the amount of water beneficially used divided by the amount of water applied to the landscaped area. 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.

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

Landscape professional means a licensed landscape architect, licensed landscape contractor, 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 means total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 17.59.030 of this chapter.

Landscape rehabilitation means any re-landscaping project that meets the applicability criteria of Section 17.59.030(A) of this chapter, where the modified landscape area is greater than 2,500 square feet or where the cumulative modified area is greater than 2,500 square feet if the modifications are planned to occur incrementally within one year.

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).

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

Maximum Applied Water Allowance or *MAWA* means the upper limit of annual applied water for the 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 MAWA.

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.

New landscape 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.

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.

Person means any individual, firm, joint venture, joint stock company, partnership, public or private association, 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 local water purveyor, or the manager, agent, officer, or employee thereof, or any other entity which is recognized by law as the subject of rights or duties.

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

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."

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.

Reference evapotranspiration or ETo means a standard measurement of environmental parameters which affect the water use of plants. ETo is 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 4" to 7" tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

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.

Special landscape area or SLA 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 where turf provides a playing surface, such as parks, sports fields, and golf courses.

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.

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

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.

17.59.030. Applicability.

A. This chapter applies to the following landscape projects:

1. New landscape installations or landscape rehabilitation projects by public agencies or private non-residential developers with a landscaped area, including water features but excluding hardscape, equal to or greater than 2,500 square feet.

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 water features but excluding hardscape, equal to or greater than 2,500 square feet.

3. New landscape installations that are homeowner-installed, including homeowner-hired, in single-family or multi-family residential lots with a total project landscaped area equal to or greater than 5,000 square feet.

B. Section 17.59.070 applies to all landscapes.

C. Section 17.59.080 applies to existing landscapes that are over one acre in size and were installed prior to the effective date of this ordinance.

17.59.040. Exemptions.

A. 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. Mined-land reclamation projects that do not require a permanent irrigation system; or
4. Plant collections, as part of botanical gardens and arboretums open to the public.

B. See the Landscape Guidelines for specific provisions that apply to new landscape installations or landscape rehabilitation projects for cemeteries.

C. The requirements of this chapter may be partially or wholly waived at the discretion of the City Manager for landscape rehabilitation projects that are limited to replacement of plantings with equal or lower water needs and where any modifications to the irrigation system do not require ministerial permits and the irrigation system is found to be designed, operable, and programmed consistent with minimizing water waste in accordance with City and, to the extent applicable, local water purveyor regulations.

17.59.050. Implementation Procedures.

A. Prior to the start of construction or issuance of a permit for any project that meets the applicability criteria in Section 17.59.030, a Landscape Documentation Package is required to be submitted to the City for review and approval. Any Landscape Documentation Package submitted to the City shall comply with provisions of this chapter and the Guidelines for the Implementation of the City of Rolling Hills Estates' Water Efficient Landscape Ordinance.

B. The Landscape Documentation Package shall include a certification by a landscape professional stating that the landscape design plan, soil management report, irrigation design plan, and water calculations have been prepared by or under the supervision of the landscape professional and are certified to be in compliance with the provisions of this chapter.

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. Landscape Plans prepared pursuant to Sections 17.59.030(A)(1) and 17.59.030(A)(2) of the Chapter shall require review and approval of the Park and Activities Commission.

2. A Certification of Completion is required to verify compliance with the approved plans and shall be obtained in conjunction with a Certificate of Use and Occupancy or a Permit Final, to the extent applicable, as provided in the Guidelines.

C. Prior to the issuance of a Certificate of Completion, all projects that meet the applicability criteria in Section 17.59.030 shall obtain a landscape zone clearance and landscape final inspection, inclusive of plan review and inspection by a City Landscape Consultant at the applicant's cost.

17.59.060. Landscape Water Use Standards.

A. For applicable new landscape or landscape rehabilitation projects subject to Section 17.59.030(A) of this chapter, the Estimated Applied Water Use allowed for the landscaped area may not exceed the MAWA calculated using an ET adjustment factor of 0.7, except for the portion of the MAWA applicable to any special landscaped areas within the landscape project, which may be calculated using an ETAF of 1.0. Where the design of the landscaped area can be otherwise shown to be equivalently water efficient, the applicant may submit alternative or abbreviated information supporting the demonstration that the annual EAWU is less than the MAWA, at the discretion of and review and approval of the City.

17.59.070. Water Waste Prevention

A. Water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, overspray or other similar conditions where water flows into adjacent property, non-irrigated areas, walks, roadways, parking lots, structures, or other non-pervious surfaces is prohibited

B. Failure to comply with subsection A can result in the assessment of civil or administrative fines. Willful or repeat violations of subsection A can result in revocation of approval provided pursuant to this chapter.

17.59.080. Existing Landscapes

A. For existing landscapes that were installed prior to the effective date of this ordinance, are over one acre in size and have a water meter, the City and/or the local water purveyor shall administer programs that may include, but are not limited to, irrigation water use analysis, irrigation surveys, and/or irrigation audits, tiered water rate structures, water budgeting by parcel, or other approaches to achieve landscape water use efficiency to a level equivalent to or less than what would be achieved by applying a MAWA calculated with an ETAF of 0.8.

B. For existing landscapes that were installed prior to the effective date of this ordinance and do not have a water meter, the City and/or local water purveyor shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary to prevent water waste.

C. For landscape projects that meet the criteria of Section 17.59.030, the City and/or the local water purveyor shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the MAWA.

D. The architectural guidelines of a common interest development, including apartments, condominiums, planned developments, and stock cooperatives, may not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.

17.59.090. Public Education

A. Education is critical to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management, and maintenance that save water are encouraged in the community.

B. The City shall work with the local water purveyor to provide information to owners of single-family residential homes regarding the design, installation, management and maintenance of water efficient landscapes.

C. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this ordinance and the Guidelines. Signs shall be used to identify the model as an example of a water efficient landscape, featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient landscape theme. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.”

SECTION 2. If any section, subsection, subdivision, sentence, clause, 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 the ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause the same to be published in accordance with law.

ADOPTED this 13th day of July, 2010.

JOHN C. ADDLEMAN, MAYOR

ATTEST:

DOUGLAS R. PRICHARD, CITY CLERK

I HEREBY CERTIFY that the foregoing Ordinance No. 658 was adopted by the City Council of the City of Rolling Hills Estates at a regular meeting held thereof on the 13th day of July, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DOUGLAS R. PRICHARD, CITY CLERK