

ORDINANCE NO. 885

**AN ORDINANCE OF THE ROSEMEAD CITY COUNCIL,
AMENDING CHAPTER 13.08 OF THE ROSEMEAD MUNICIPAL
CODE TO ESTABLISH WATER EFFICIENT LANDSCAPE
REGULATIONS**

THE ROSEMEAD CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION ONE: The City Council of the City of Rosemead does hereby find, determine and declare that:

- A. The State Legislature made findings in AB 1881, chaptered in 2006, related to water use, waste, conservation and efficiency.
- B. Pursuant to AB 1881, the California Department of Water Resources has developed a Model Water Efficient Landscape Ordinance.
- C. The City Council intends to amend Chapter 13.08 of the Rosemead Municipal Code so that it is "at least as effective as" the State Model Water Efficient Landscape Ordinance, which is required by AB 1881.
- D. All water services within the City are metered.
- E. Pursuant to State legislation, all new irrigation controllers sold in the City after 2012 will be smart automatic irrigation controllers.
- F. The local water purveyors for the City of Rosemead are implementing budget-based tiered-rate billing and/or enforcement of water waste prohibitions for all existing metered landscaped areas throughout their service area, which combined includes the entire City of Rosemead. In addition, the City of Rosemead continues to enforce Chapter 13.04 of the Rosemead Municipal Code pertaining to Water Conservation. Pursuant to Rosemead Municipal Code Section 13.04.030, no water user shall waste water from any source nor shall any person sanction such waste.

SECTION TWO: Chapter 13.08 is repealed in its entirety and replaced with the following:

WATER EFFICEINT LANDSCAPES

§ 13.08.010 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. The provisions of this chapter shall be deemed to be controlling over the subject matter herein in the event of any conflict between this Chapter and any other provision in the Municipal Code.

§ 13.08.020 DEFINITIONS

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

City means the City of Rosemead.

City Manager means the City Manager of the City of Rosemead or his or her designee.

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 13.08.030 of this chapter.

Landscape rehabilitation means any re-landscaping project that meets the applicability criteria of Section 13.08.030(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 Agency means a city or county, including a charter city or charter county, or local water purveyor 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.

Local Water Purveyor means any entity, including a city, county, public agency, or private water company that provides retail water service. Local water purveyor shall also mean any entity that provides wholesale water service, for the purpose of Section 13.08.050(b)(1) and Section 13.08.070.

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.

Permit means an authorizing document issued by a local agency for new construction or rehabilitated landscape.

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 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.

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.

13.08.030. APPLICABILITY.

A. Beginning January 1, 2010, this chapter applies to the following landscape projects:

1. New landscape installations or landscape rehabilitation projects by public agencies or private non-residential developers, except for cemeteries, with a landscaped area, including water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature.

2. New landscape installations or landscape rehabilitation projects by developers or property managers of single-family and multi-family residential projects or complexes with a landscaped area, including water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature.

3. New landscape 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, 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.

B. Section 13.08.060(b) of this chapter regarding water waste applies to all landscaped areas installed prior to or after January 1, 2010.

C. Section 13.08.060(c) of this chapter regarding water efficiency programs applies to all existing landscapes installed before January 1, 2010 that are greater than one acre in size and are served by a dedicated landscape water meter.

13.08.040. 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 arboreturns open to the public.

B. The requirements of this chapter may be partially or wholly waived, at the discretion of the City Manager or his/her designee, 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 local water purveyor(s)' regulations or programs.

13.08.050. IMPLEMENTATION PROCEDURES.

A. A Landscape Documentation Package is required to be submitted to the City for review and approval prior to the issuance of permits and prior to the start of construction. Any Landscape Documentation Package submitted to the City must comply with provisions of this chapter and the Guidelines.

B. The Landscape Documentation Package must 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 must be submitted to the City for review and approval with appropriate water use calculations. Water use calculations must be consistent with calculations contained in the Guidelines.

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

13.08.060. LANDSCAPE WATER USE STANDARDS.

A. For applicable new landscape or landscape rehabilitation projects subject to Section 13.08.030(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.

B. Irrigation of all landscaped areas must be conducted in a manner conforming to the rules and requirements, and is subject to penalties and incentives for water conservation and water waste prevention as determined and implemented by the local water purveyor(s) or as mutually agreed by local water purveyor(s) and the City.

C. For all existing landscapes installed before January 1, 2010 that are greater than one acre in size and are served by a dedicated landscape water meter, the City and/or local water purveyor(s) must administer programs to achieve landscape water use efficiency community-wide.

13.08.070. DELEGATION.

The City may delegate to, or enter into an agreement with, one or more local agencies to implement, administer, and/or enforce any of the provisions of this chapter on behalf of the City.

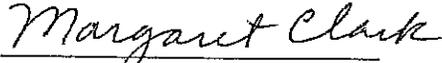
SECTION THREE: The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 *et seq.*), because pursuant to State CEQA Regulation 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this ordinance will result in the enhancement and protection of water resources in the City, and will not result in cumulative adverse environment impacts. It is therefore exempt from the provisions of CEQA. The City Council hereby directs the City Manager or designee to prepare and file a Notice of Exemption as soon as possible following adoption of this Ordinance.

SECTION FOUR: This Ordinance shall take effect and be in full force and operation thirty (30) days after adoption.

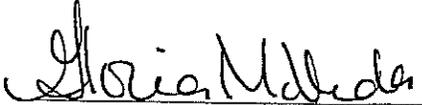
SECTION FIVE: If any section, subsection, subdivision, sentence, clause, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. 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 SIX: The city clerk shall certify to the adoption of this ordinance and shall cause the same to be published in accordance with law.

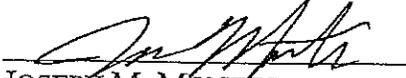
PASSED, APPROVED, AND ADOPTED this 8th day of December, 2009.


MARGARET CLARK
MAYOR

ATTEST:


GLORIA MOLLEDA
CITY CLERK

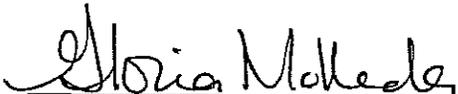
APPROVED AS TO FORM:


JOSEPH M. MONTES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF ROSEMEAD)

I, Gloria Molleda, City Clerk of the City of Rosemead, California, do hereby certify that the foregoing **Ordinance No. 885** was regularly introduced and placed upon its first reading at a regularly meeting of the City Council on the 17th of November, 2009. That after said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 8th of December, 2009 by the following vote to wit:

Yes: Armenta, Clark, Low, Ly, Taylor
No: None
Absent: None
Abstain: None



Gloria Molleda
City Clerk

