

Agenda Report

April 23, 2018

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: PROPOSED MUNICIPAL CODE AMENDMENTS FOR WATER EFFICIENT LANDSCAPE REGULATIONS

RECOMMENDATION:

It is recommended that the City Council:

1. Acknowledge that the proposed Municipal Code Amendment and Zoning Code Amendment are not a project subject to the California Environmental Quality Act (CEQA) per Sections 15307, Class 7, for Actions by Regulatory Agencies for Protection of Natural Resources and 15308, Class 8, for Actions by Regulatory Agencies for Protection of the Environment. The proposed Zoning Code Amendment is also exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) of the CEQA Guidelines, the general rule, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment;
2. Adopt the Findings of Consistency with the General Plan in Attachment A;
3. Direct the City Attorney to prepare an ordinance within 60 days repealing Chapter 13.22 (Water Efficient Landscape) as contained in this report; and
4. Direct the City Attorney to prepare an ordinance within 60 days amending Title 17 (Zoning) of the Pasadena Municipal Code as presented in this report.

EXECUTIVE SUMMARY:

The Model Water Efficient Landscape Ordinance (MWELO) is a statewide mandate established by the State Legislature to promote water efficiency for new and rehabilitated landscapes due to our region's climate and years of drought conditions. Approximately half of California's urban water use is attributed to landscape irrigation. The thinking behind the MWELO is that substantial water savings can be achieved through a thoughtful landscape design which incorporates low to medium water use plants, minimal use of turf and the installation and maintenance of irrigation systems that are water efficient.

The MWELO has undergone several iterations to increase the level of water savings and irrigation efficiency since its inception in 1990. Most recently, in 2015 following a prolonged drought, jurisdictions across the State were required to either adopt the State model MWELO or to adopt a local water-efficient landscape ordinance which is at least as restrictive as the MWELO.

Pasadena's existing Water Efficient Landscape Ordinance, Section 13.22 of the Pasadena Municipal Code, was adopted in 2009 and does not comply with the State's current MWELO. The Zoning Code, Chapter 17 of the Pasadena Municipal Code, also includes landscape and irrigation standards but they conflict both with the standards in Section 13.22 and with the State's MWELO. A repeal of Section 13.22 and an amendment to Chapter 17 is proposed to place the MWELO regulations within the purview of the Planning and Community Development Department, to ensure the standards are enforced consistently.

Specifically, the newly updated regulations would:

- Require all new construction projects with 500 square feet or more of landscape area, and which require a building permit, plan check or design review, to comply with the ordinance (under the previous MWELO, the threshold was 2,500 square feet for commercial and 5,000 square feet for residential).
- Require all rehabilitated landscapes of 2,500 square feet or more, and which require a building permit, plan check or design review, to comply with the ordinance (previously, the threshold was 5,000 square feet).
- New or rehabilitated landscape areas of 500 square feet to 2,499 square feet for residential and non-residential new construction projects requiring a building or landscape permit, plan check or design review may comply with the ordinance utilizing the Prescriptive Compliance Option in-lieu of the full Landscape Documentation Package submittal.
- New or rehabilitated landscape areas of 2,500 square feet or more for residential and non-residential new construction projects requiring a building or landscape permit, plan check or design review must utilize the Performance Compliance Option by submitting a complete Landscape Documentation Package.
- Require irrigation audits and inspections to be conducted by the City or by a licensed or certified third-party, as necessary.

At its meeting of March 28, 2018, the Planning Commission considered revised regulations for water efficient landscape in the City of Pasadena and approved draft regulations for City Council consideration. The Planning Commission recommended that staff include a communication plan for how the public will be informed about the new water efficient landscape regulations (refer to Attachment B for the draft communication plan).

BACKGROUND:

The Water Conservation in Landscaping Act (Assembly Bill 325) was signed into law on September 29, 1990 and directed the Department of Water Resources (DWR) to convene an advisory task force to develop and adopt a Model Ordinance for water efficient landscape design, installation and maintenance by January 1, 1992.

In 2004, Assembly Bill 2717 requested the California Urban Water Conservation Council (CUWCC) to convene a stakeholders Task Force, consisting of private and public agencies and landscape industry leaders, to evaluate and recommend proposals for improving California's Water Use Efficiency in new and existing urban irrigated landscapes. The Task Force presented a report with recommendations to the Governor and the Legislature resulting in the adoption of an updated Model Ordinance.

In 2006, Assembly Bill 1881 was approved and required DWR to update the Model Ordinance to include specific regulations for the efficient use of water in the irrigation of landscapes. The DWR released its final regulations of the Model Water Efficient Landscape Ordinance (MWELO) in 2009 and local agencies were required to either adopt the updated MWELO or to adopt a local landscape ordinance that is at least as effective in conserving water as the updated model ordinance by January 1, 2010. Pursuant to the requirements of AB 1881, the City of Pasadena adopted its own Water Efficient Landscape ordinance in 2010.

In response to prolonged drought conditions, Executive Order B-29-15, issued April 1, 2015 directed the DWR to once again amend the MWELO to further increase water efficiency standards for new and existing landscapes and to limit the use of turf. The California Water Commission approved the revised MWELO on July 15, 2015. Local agencies were given until December 1, 2015 to adopt the State's MWELO or to adopt their own local ordinance, which must be at least as effective in conserving water as the State's MWELO. The State's MWELO became effective by default if a local agency did not take action on a water efficient landscape ordinance by the specified date. Pasadena had regulations in different parts of the municipal code (with oversight from multiple departments) and as a result the regulations were not updated in compliance with the December 1, 2015 deadline. The proposed changes will update the existing regulations to comply with the State model MWELO and all regulations will be contained within the Zoning Code. Responsibility for enforcement and monitoring of the MWELO will be with the Planning and Community Development.

Pasadena's current Water Efficient Landscape Ordinance, contained in Section 13.22 of the Pasadena Municipal Code, was last updated in 2010 and portions of Section 17.44 were updated in 2006. Both sections contain several regulations which are inconsistent with the State MWELO, have less restrictive irrigation standards and also contradict other municipal code sections. As such, the City is required to enforce the 2015 State MWELO unless a local ordinance is adopted which is at least as restrictive as the State MWELO.

PROPOSED REGULATIONS FOR LANDSCAPE AND IRRIGATION:

The City's current water efficient landscape ordinance, in Section 13.22 of the Pasadena Municipal Code, will be repealed and a Zoning Code Amendment is proposed to update Pasadena's zoning regulations to include regulations for water efficient landscape which are at least as restrictive as the State's 2015 MWELO.

Applicability

The Zoning Code requires all projects to provide and maintain landscaping in compliance with Section 17.44, but makes no distinction in the level of water efficiency required for new versus existing construction. Currently per Section 13.22 of the Municipal Code, new commercial construction with at least 2,500 square feet of new landscape and which requires a building permit, plan check or design review is subject to compliance with the water efficient landscape requirements of that section. Residential new construction with 5,000 square feet of landscape area is also subject to compliance with the section.

The 2015 State MWELO lowered the applicability thresholds and therefore compliance is required for all new construction with 500 square feet or more of landscape area if the construction requires a building permit, plan check or design review approval. Rehabilitated landscapes of 2,500 square feet or greater which require a building permit, plan check or design review are also subject to compliance with the State MWELO.

Summary of New MWELO Applicability Requirements:

PROJECT THRESHOLDS <i>These are the minimum State requirements. The City can require more restrictive thresholds if so desired.</i>	ACCEPTABLE COMPLIANCE METHOD
New landscape areas for residential and non-residential projects less than 500 sf.	Exempt
Rehabilitated landscape areas for residential and non-residential projects less than 2,500 sf requiring a building or landscape permit, plan check or design review.	Exempt
Landscape areas located at registered local, state or federal historical sites, ecological restoration projects that do not require a permanent irrigation system, mined-land reclamation projects that do not require a permanent irrigation system, or existing plant collections as part of the botanical gardens and arboretums open to the public.	Exempt
New landscape areas between 500 and 2,499 sf for residential and non-residential new construction projects requiring a building or landscape permit, plan check or design review.	Performance OR Prescriptive (both methods are described on page 5 of this report)
New or rehabilitated landscape areas greater than 2,500 sf for residential and non-residential new construction projects requiring a building or landscape permit, plan check or design review.	Performance

Prescriptive and Performance Compliance Options

In addition to the lower threshold, the State MWELO also provides the option of a streamlined compliance process called the '*Prescriptive Compliance Option*' for new construction projects with 500 and 2,500 square feet of landscape area. The Prescriptive Compliance Option identifies the landscaping and irrigation that can be used which meets the ordinance's water efficiency standards. Applicants who elect to follow the Prescriptive Compliance option are exempt from providing the water budget calculations. The Performance Compliance Option requires a water budget analysis and the submittal of various documents prepared by licensed professionals, including a grading plan, a landscape and irrigation design plan, and a soil management plan.

Landscape Documentation Package for the Performance Compliance Option

Submittal of a 'Landscape Documentation Package' is currently identified in the Zoning Code, however, the requirements for what is to be included in the package has changed. The Landscape Documentation Package requires submittal of three elements: a landscape design plan, an irrigation design plan and a grading design plan. Under the State MWELO, a Landscape Documentation Package consists of six elements: (1) The project information sheet; (2) the Water Efficient Landscape Worksheet for calculation of the water budget; (3) a soil management report; (4) a landscape design plan; (5) an irrigation design plan; and, (6) a grading design plan.

The State MWELO also includes an expanded list of new standards applicable to each of the six elements of the Landscape Documentation Package submittal. Standards that do not currently exist within the Zoning Code but are included in the proposed ordinance are:

- A landscape design plan shall not include turf on slopes greater than 25%
- Consider strategic plant placement to maximize summer shade and winter solar gain, in addition to hydrozoning for irrigation efficiency.
- A requirement to identify the maximum annual amount of water, in gallons, that any landscape project is allowed to use, otherwise referred to as the 'Maximum Applied Water Allowance' (MAWA). The MAWA utilizes a mathematical formula based on the size of the landscaped area, regional climate, and other variables and is calculated on the required *Water Efficient Landscape Worksheet*.
- A requirement to calculate the Estimated Total Water Use (ETWU) utilizing variables such as the plant types, the amount of landscaped area, climatic factors, the amount of water required for each plant, irrigation efficiency, etc. The ETWU shall not exceed the MAWA.
- Water meters are required for non-residential landscapes of 1,000 - 5,000 square feet and for residential irrigated landscapes greater than 5,000 square feet.
- Irrigation efficiency standards have changed to require higher efficiency levels.
- Submittal of a soils management report is now required.
- The various elements of the Landscape Documentation Package must be prepared by licensed or certified professionals.

Certificate of Completion

The State MWELO requires the applicant to submit a Certificate of Completion to the City upon completion of the landscape and irrigation installation. Certification of Completion signifies that the landscape project has been installed per the approved Landscape Documentation Package and the certificate shall be submitted along with a landscape and irrigation maintenance schedule and an irrigation audit report. The City shall approve or deny the Certificate of Completion and keep a record of the determination.

Chapter 13.22 currently requires submittal of the Certificate of Completion along with the irrigation maintenance schedule and irrigation audit report, but this requirement is absent in the Zoning Code.

Auditing Required

Auditing is required by the State MWELO for every new construction project that utilizes the Performance Compliance Option and also for existing landscapes to ensure efficient water use and to reduce water waste. The irrigation audit shall be submitted with the Certificate of Completion for local agency approval or denial. Auditing is not currently required in the Zoning Code. Chapter 13.22 requires audits only for existing landscape projects of one acre or larger.

The State MWELO does not apply to registered local, state or federal historical sites, botanical gardens and arboretums, ecological restoration projects and mined-land reclamation projects that do not require a permanent irrigation system.

ENVIRONMENTAL REVIEW:

The action proposed herein is exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15307, Class 7, for Actions by Regulatory Agencies for Protection of Natural Resources and 15308, Class 8, for Actions by Regulatory Agencies for Protection of the Environment. The proposed Zoning Code Amendment and repeal of Section 13.22 involves general policy and procedure making intended for the protection of water resources and for the preservation of our landscapes that are essential to the quality of life in California. The proposed Zoning Code Amendment is also exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) of the CEQA Guidelines, the general rule, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

FISCAL IMPACT:

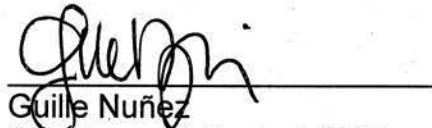
There is not a direct fiscal impact associated with the adoption of the proposed Zoning Code Amendment and repeal of Section 13.22. As part of the plan check process, qualified professionals will be needed to complete the detailed review of the applicant's Landscape Documentation Package or prescriptive compliance option submittal, and conduct audits and site inspections, as necessary.

Respectfully submitted,



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Attachments: (2)

Attachment A - Findings of Consistency
Attachment B - Communication Plan