

ORDINANCE NO. 16-1

AN ORDINANCE AMENDING THE CONCORD MUNICIPAL CODE, TITLE 18, DEVELOPMENT CODE, CHAPTER 18.170 (WATER EFFICIENT LANDSCAPING)

WHEREAS, California Government Code section 65800 et seq. provides for the amendment of any and all adopted City of Concord (“City”) zoning laws, ordinances, rules and regulations; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65100 *et seq.*), and the City’s applicable ordinances and resolutions with respect to approval of amendments to Title 18 of the Concord Municipal Code (“Development Code”); and

WHEREAS, the City of Concord has, from time to time, made amendments to the Development Code to address changes in State law; and

WHEREAS, pursuant to Assembly Bill 1881, the California Department of Water Resources adopted the State Model Water Efficient Landscape Ordinance on September 10, 2010. All local agencies in the State of California were required to adopt the Model Ordinance, or a local water-efficient landscape ordinance that was at least as effective in conserving water as the State’s Model Ordinance by January 1, 2010; and

WHEREAS, on July 10, 2012, the City Council adopted Ordinance No. 12-4, which updated the landscaping regulations of Title 18 of the Concord Municipal Code (“Development Code”); and

WHEREAS, on January 17, 2015, Governor Edmund G. Brown of the State of California declared a State of Emergency throughout the State due to an ongoing drought and the depletion of water resources; and

WHEREAS, on April 1, 2015, Governor Brown issued Executive Order B-29-15 that directed the State Department of Water Resources to update the State Model Water Efficient Landscape Ordinance to further increase water efficiency standards for new and retrofitted landscapes through more efficient irrigation systems, greywater usage, onsite stormwater capture, and by limiting the portion of landscapes that can be covered in grass turf. The California Water Commission approved the updated Model Ordinance on July 15, 2015; and

1 **WHEREAS**, the State of California’s Model Water Efficient Landscaping Ordinance (“Model
2 Ordinance”) is codified in Title 23, Division 2, Chapter 2.7 of the California Code of Regulations,
3 incorporated herein by reference; and

4 **WHEREAS**, the City of Concord is required to adopt the updated Model Ordinance, or its
5 own water efficient landscape ordinance that is at least as effective in conserving water as the Model
6 Ordinance by December 1, 2015. If the City takes no action by that date, it automatically adopts the
7 State’s Model Ordinance; and

8 **WHEREAS**, the City Council of the City of Concord seeks to amend and restate Concord
9 Municipal Code Chapter 18.170, in order to adopt the Model Ordinance, Title 23, Division 2, Chapter
10 2.7 of the California Code of Regulations, by reference, in compliance with the State’s mandate; and

11 **WHEREAS**, the Ordinance complements the City of Concord’s water conservation efforts
12 because it increases water efficiency standards for new and existing landscapes through more efficient
13 irrigation systems, greywater usage, onsite storm water capture, and by limiting the portion of
14 landscapes that can be covered in turf; and

15 **WHEREAS**, the Ordinance reflects and supports principals and policies identified within the
16 City of Concord’s General Plan by facilitating water conservation and implementing water-conserving
17 practices by encouraging the use of drought-tolerant planting and low-water use landscaping; and

18 **WHEREAS**, the text amendment is in the form of the proposed Development Code
19 Amendment PL15000453-MC (“Amendment”) attached to the January 5, 2016 City Council staff
20 report as Exhibit A (attached hereto and incorporated by reference), in compliance with State law; and

21 **WHEREAS**, the City of Concord’s Design Review Board reviewed and discussed the
22 proposed Amendment at their regular meeting held on October 8, 2015, and recommended adoption of
23 the draft Ordinance by consensus; and

24 **WHEREAS**, the Planning Commission, after giving all public notices required by State Law
25 and the Concord Municipal Code, held a duly noticed public hearing on November 18, 2015, on the
26 proposed Amendment; and

27 **WHEREAS**, at such public hearing, the Planning Commission considered all oral and written
28 information, testimony, and comments received during the public review process, including

1 information received at the public hearing, the oral report from City staff, the written report from City
2 staff dated November 18, 2015, materials, exhibits presented, and all other information that constitutes
3 the record of proceedings on which the Planning Commission has based its decision are maintained at
4 the offices of the City of Concord Planning Division (collectively, “PC Amendment Information”);
5 and

6 **WHEREAS**, on November 18, 2015, the Planning Commission, after consideration of all
7 pertinent plans, documents, and testimony, adopted Resolution No. 15-14PC did recommend City
8 Council approval of the Amendment by a 4-0 vote; and

9 **WHEREAS**, on January 5, 2016, the City Council considered the proposed Amendment to the
10 Development Code; and

11 **WHEREAS**, said Development Code Amendment is not subject to the California
12 Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2), 15060(c)(3), and
13 15061(b)(3), in that 1) the Amendment will not result in a direct or reasonably foreseeable indirect
14 physical change in the environment, 2) the proposal is a requirement of the State of California and not
15 a project as defined in Section 15378, 3) landscaping is typically a ministerial action associated with a
16 building permit and deemed exempt from CEQA as defined in Section 15268, and 4) the proposed
17 Amendment to is covered by the general rule that CEQA only applies to projects which have the
18 potential for causing a significant effect on the environment. Amending the Development Code to
19 adopt MWELO primarily clarifies existing landscape and irrigation regulations for projects that,
20 where applicable, receive individualized CEQA review. The proposed Amendment is mandated by
21 State law and will take full effect and force regardless of the City’s adoption of the Amendment.
22 Furthermore, any future development that has the potential to cause a significant effect on the
23 environment will be evaluated through a separate environmental review process in accordance with
24 CEQA. As such, it can be seen with certainty that there is no possibility that this ordinance may have
25 a significant adverse effect on the environment, and that therefore the adoption of this ordinance is
26 exempt from CEQA; and

1 **WHEREAS**, the City Council, after giving all public notices required by State Law and the
2 Concord Municipal Code, held a duly noticed public hearing on February 23, 2016, on the
3 Amendment; and

4 **WHEREAS**, at such public hearing, the City Council considered all oral and written
5 information, testimony, and comments received during the public review process, including the PC
6 Amendment Information, information received at the public hearing, the oral report from City staff,
7 the written report from City staff dated February 23, 2016, materials, exhibits presented, and all other
8 information that constitutes the record of proceedings on which the City Council has based its
9 decision are maintained at the offices of the City of Concord City Clerk.

10 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
11 **ORDAIN AS FOLLOWS:**

12 **Section 1.** The Development Code Amendment is not subject to the to the California
13 Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and
14 implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
15 (collectively, “CEQA”), pursuant to Sections §15060(c)(2), §15060(c)(3), and §15061(b)(3), in that 1)
16 the Amendment will not result in a direct or reasonably foreseeable indirect physical change in the
17 environment, 2) the proposal is a requirement of the State of California and not a project as defined in
18 Section §15378, 3) landscaping is typically a ministerial action associated with a building permit and
19 deemed exempt from CEQA as defined in Section §15268, and 4) the proposed Amendment is
20 covered by the general rule that CEQA only applies to projects which have the potential for causing a
21 significant effect on the environment. Amending the Development Code to adopt the Model
22 Ordinance primarily clarifies existing landscape and irrigation regulations for projects that, where
23 applicable, receive individualized CEQA review. The proposed Amendment is mandated by State law
24 and will take full effect and force regardless of the City’s adoption of the Amendment. Furthermore,
25 any future development that has the potential to cause a significant effect on the environment will be
26 evaluated through a separate environmental review process in accordance with CEQA. As such, it can
27 be seen with certainty that there is no possibility that this Ordinance may have a significant adverse
28 effect on the environment, and that therefore the adoption of this ordinance is exempt from CEQA.

1 The determination that these exemptions apply to the Amendment reflects the independent judgment
2 and analysis of the City as the lead agency.

3 **Section 2.** The City Council hereby finds that: (a) the recitals above are true and correct
4 and are incorporated herein by reference; (b) the Amendment is consistent with the goals, objectives,
5 and policies of the Concord General Plan in that it encourages water conservation and provides for the
6 continued safe and reliable water supply as identified in the Goals, Principals and Policies of the City
7 of Concord’s 2030 General Plan Public Facilities and Parks, Open Space, and Conservation
8 Elements.; (c) The Amendment is necessary in order to comply with the Governor’s Executive Order
9 B-29-15 issued on April 1, 2015.; and (d) the Amendment will not be detrimental to the public
10 interest, health, safety, convenience, or welfare of the City in that the conservation measures are
11 necessary for the continued availability of a safe and reliable supply of water for the community.

12 **Section 3.** The City Council does hereby pass and adopt this Ordinance No. 16-1.
13 Concord Municipal Code Title 18 (Development Code), Chapter 18.170, Water Efficient
14 Landscaping, is hereby amended as identified on Exhibit A, attached hereto and incorporated herein
15 by this reference.

16 **Section 4.** This Ordinance No. 16-1 shall become effective thirty (30) days following its
17 passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire
18 Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City
19 Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption,
20 including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney’s
21 Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and
22 once within fifteen (15) days after its passage and adoption, including the vote of the
23 Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of
24 Concord.

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28 Laura M. Hoffmeister
Mayor

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ATTEST:

Joelle Fockler, MMC
City Clerk

(Seal)

Ordinance No. 16-1 was duly and regularly introduced at a regular meeting of the City Council of the City of Concord held on February 23, 2016, and was thereafter duly and regularly passed and adopted at a regular meeting of the City Council of the City of Concord on March 22, 2016, by the following vote:

- AYES:** Councilmembers -
- NOES:** Councilmembers -
- ABSTAIN:** Councilmembers -
- ABSENT:** Councilmembers -

I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

Joelle Fockler, MMC
City Clerk

Exhibit A: CHAPTER 18.170, WATER EFFICIENT LANDSCAPING

Chapter 18.170

WATER EFFICIENT LANDSCAPING

Sections:

- 18.170.010 Purpose.
- 18.170.020 State Model Water Efficient Landscaping Ordinance Adopted by Reference.
- 18.170.030 Stormwater Management.

18.170.010 Purpose.

The purpose of this chapter is to meet the requirements of Title 23, Division 2, Chapter 2.7 of the California Code of Regulations and Section 65595 of the California Government Code, in accord with Governor's Executive Order Number B-29-15 adopted on April 1, 2015. This chapter encourages water conservation through the use of water efficient landscaping design and irrigation practices consistent with the requirements of the State of California.

18.170.020 State Model Water Efficient Landscaping Ordinance adopted by reference.

The Model Water Efficient Landscape Ordinance of the State of California, as contained in the California Code of Regulations Title 23. Waters, Division 2. Department of Water Resources, Chapter 2.7. Model Water Efficient Landscape Ordinance, and as amended from time to time by the State of California, is hereby adopted by reference as the water efficient landscaping ordinance of the City of Concord. A copy of the California State Model Water Efficient Landscaping Ordinance has been filed with the City Clerk and the ordinance is adopted by reference as if incorporated and set out in full in this chapter.

18.170.030 Stormwater management.

Proposed landscape and irrigation plans shall comply with all requirements of the stormwater control plan (C.3) and the National Pollutant Discharge Elimination System (NPDES) intended to implement stormwater best management practices into the planting, irrigation, and grading plans to minimize runoff and to increase on-site retention and infiltration.