

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE**

IN THE MATTER OF:

An Ordinance of the City Council )  
of Lafayette establishing a new chapter )  
titled "Water Efficient Landscaping" )  
to implement the State mandate )  
requiring local jurisdictions to implement )  
water efficient landscape design and irrigation )  
practices set forth in California code of )  
Regulations Title 23, Chapter 2.7. )  
\_\_\_\_\_ )

Ordinance No. 669

**WHEREAS**, on April 1, 2015, Governor Jerry Brown issued Executive Order (EO) -B-29-15 and proclaimed a State of Emergency to exist throughout the State of California due to ongoing drought conditions, ordering mandatory actions by the State Water Resources Control Board (Water Board) to reduce water usage by 25% statewide from 2013 levels, increase enforcement to prevent water waste, and streamline government review of and response to drought-related measures; and

**WHEREAS**, on September 19, 2016, California Approved Senate Bill No. 1383, Short-Lived Climate Pollutant Reduction Strategy, which requires the California Department of Water Resources (DWR) to establish Model Water Efficient Landscaping Ordinance (MWELO); and

**WHEREAS**, the Lafayette City Council identified the adoption of MWELO as an item for the Planning department's 2022-2023 work plan; and

**WHEREAS**, the City published legal notice of public hearing pursuant to California Government Code Section 6066 on August 19 and August 26, 2022; and

**WHEREAS**, on September 6, 2022, the Planning Commission conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report, at which time all persons wishing to testify in connection with ZT05-22 were heard and fully studied. After consideration and deliberation, the Commission adopted Resolution No. 2022-14 forwarding a recommendation of approval to the City Council; and

**WHEREAS**, the City published legal notice of the aforementioned public hearing pursuant to California Government Code Section 6066 on September 23 and 30, 2022; and

**WHEREAS**, the proposed amendments to Lafayette Municipal Code are exempt from the California Environmental Quality Act (CEQA) under the "common sense" exception (CEQA Guidelines Section 15061[b][3]) because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment; and

**WHEREAS**, on October 11, 2022, the City Council conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report, at which time all persons wishing to testify in connection with ZT05-22 were heard and fully studied; and

**WHEREAS**, on October 24, 2022, the City Council conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report, at which time all persons wishing to testify in connection with ZT05-22 were heard and fully studied; and

**WHEREAS**, all other legal prerequisites to the adoption of this Ordinance have occurred.

**THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:**

**Section 1. Summary.** This ordinance creates Chapter 6-24.5: Water Efficient Landscape of the Lafayette Municipal Code to implement the State mandate requiring local jurisdictions to implement water efficient landscape design and irrigation practices set forth in California code of Regulations Title 23, Chapter 2.7.

**Section 2. Findings.** The following changes and modifications to the Water Efficient Landscape Ordinance (Title 23, Chapter 2.7.) are determined to be more restrictive than the statewide landscape standards. The City Council hereby finds and determines that the following changes to Title 6 are consistent with the policies enumerated in the General Plan for the City of Lafayette.

**Section 3. Amendments.** Chapter 6-24.5 of the Lafayette Municipal Code, is hereby created and shall read as follows:

**“Chapter 6-24.5 – Water Efficient Landscape.**

**6-24.501 Purpose**

The purpose of this chapter is to ensure that the design, installation, and maintenance of landscapes within the City of Lafayette meet the requirements of the State of California Model Water Efficient Landscape Ordinance set forth in 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.

**6-24.502 Adoption of State of California Model Water Efficient Landscape Ordinance.**

The State of California Model Water Efficient Landscape Ordinance, set forth in Chapter 2.7 of Division 2 of Title 23 of the California Code of Regulations, and as amended from time to time by the State of California, is hereby adopted by reference in its entirety as if incorporated and set out in full in this Chapter as the Water Efficient Landscape Ordinance of the City of Lafayette. A copy of the State of California Model Water Efficient Landscape Ordinance has been filed with the City Clerk.

**6-24.503 Compliance with State of California Model Water Efficient Landscape Ordinance.**

(a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City of Lafayette, who are constructing a new (Single-Family, Multi-Family, public, Institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWEL0.

(b) If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWEL0 requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWEL0 in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

**6-24.504 Violations**

Violations of this Chapter shall be subject to the imposition of penalties pursuant to Chapter 1-9 of the Lafayette Municipal Code.

**Section 4. CEQA.** The City Council finds that the proposed ordinance is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), because adoption and implementation of the proposed Ordinance does not constitute a “project” as defined by CEQA since there is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

**Section 5. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

**Section 6. Publication.** The City Clerk shall either (a) have this ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

**Section 7. Recitals.** This ordinance received a reading from the Planning Commission on September 6, 2022, where the Commission adopted Resolution 2022-14 finding the project exempt from CEQA and recommending that the City Council adopt Ordinance No. 669. The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Lafayette on October 11, 2022 and continued to the City Council meeting of October 24, 2022 for a second hearing and adoption of the ordinance.

**Section 8. Effective Date.** This ordinance shall become effective thirty days after it is adopted by the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Lafayette on October 11, 2022 and was adopted at a regular meeting of the City Council on October 24, 2022, by the following vote:

AYES: **Gerringer, Anduri, Candell, Dawson and Kwok**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

APPROVED:

  
Teresa Gerringer, Mayor

ATTEST:

  
Joanne Robbins, City Clerk

