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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AMENDING CHAPTER 15.35 OF THE OAKLAND MUNICIPAL CODE, "GREEN BUILDING REQUIREMENTS FOR CITY BUILDING PROJECTS AND TRADITIONAL PUBLIC WORKS PROJECTS", TO ADD CIVIC BAY-FRIENDLY LANDSCAPING REQUIREMENTS FOR ALL CITY OF OAKLAND, REDEVELOPMENT AGENCY AND PUBLIC-PRIVATE PARTNERSHIP PROJECTS THAT INCLUDE LANDSCAPING

WHEREAS, in 2002 the City of Oakland adopted a seventy-five percent (75%) waste diversion goal by 2010, and in 2006 adopted a zero waste goal by 2020; and

WHEREAS, based on the Draft Alameda County Waste Characterization Study of 2008, 5.61% of the materials disposed of in Alameda County landfills is from plant debris, which is among the top ten most common materials disposed of; and

WHEREAS, the City must comply with Ordinance 2008-01, adopted by the Alameda County Waste Management Authority, which bans the disposal of plant debris in Alameda County landfills; and

WHEREAS, Bay-Friendly Landscaping is seen as a pivotal tool to support the implementation of Alameda County Ordinance 2008-01 by promoting alternatives to landfilling and encouraging waste prevention practices; and

WHEREAS, Bay-Friendly Landscaping principles and practices are consistent with and support the City's Integrated Pest Management plan (adopted by Resolution No. 73968 in 1997), Green Building Ordinance (Ordinance No. 12658, adopted in 2005), Environmentally Preferable Purchasing Policy (adopted by Resolution No. 80747 in 2007), and Sustainable Community Development Initiative (adopted by Resolution No. 74678 in 1998); and

WHEREAS, Bay-Friendly Landscaping design, construction and maintenance protects the integrity of the San Francisco Bay watershed by promoting healthy soils, using appropriate and/or native plants, conserving water and energy, enhancing wildlife habitat, reducing waste, and preventing pesticide-related pollution; and

WHEREAS, the Bay-Friendly Landscaping design, construction, operation and maintenance is consistent with and supports the policies of the Open Space, Conservation and Recreation (OSCAR) Element of the Oakland General Plan (adopted by Resolution No. 72723 on June 11, 1996); and

WHEREAS, the Oakland City Council adopted a Mitigated Negative Declaration in conjunction with the adoption of the OSCAR Element of the General Plan finding that the policies of the

OCSAR Element of the General Plan would result in a less than significant impact on the environment under the California Environmental Quality Act (CEQA) with the incorporation of certain mitigation measures; and

WHEREAS, the project is categorically exempt under CEQA Section 15307, “Actions by Regulatory Agencies for Protection of Natural Resources,” in that the ordinance is an action taken by a regulatory agency, as authorized by state or local ordinance, to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment; and

WHEREAS, the project is categorically exempt under CEQA Section 15308, “Actions by Regulatory Agencies for Protection of the Environment,” in that the ordinance is an action taken by a regulatory agency, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment; and

WHEREAS, the project is exempt under CEQA Section 15183, “Projects Consistent with a Community Plan, General Plan, or Zoning,” in that the ordinance is consistent with and implements the policies of the OCSAR Element of the Oakland General Plan for which a Mitigated Negative Declaration was previously adopted; now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1.

The Council of the City of Oakland finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this Ordinance.

Section 2.

Chapter 15.35.100, entitled “Civic Bay-Friendly Landscaping Requirements for All City of Oakland, Redevelopment Agency and Public-Private Partnership Projects That Include Landscaping”, is hereby added to the Oakland Municipal Code to read as follows:

Chapter 15.35.100

15.35.110 TITLE

The provisions of Section 15.35.110 through Section 15.35.150, inclusive, shall be known as the “Civic Bay-Friendly Landscaping Requirements for all City of Oakland, Redevelopment Agency and Public-Private Partnership Projects That Include Landscaping.”

15.35.120 PURPOSE AND INTENT

Bay-Friendly Landscaping is a systematic approach to the design, construction and maintenance of landscaping that protects and enhances the health of the San Francisco Bay watershed and reduces waste. Bay-Friendly Landscaping shall apply to City of Oakland, Redevelopment Agency and Public-Private Partnership landscaping projects to the extent defined in this Chapter.

The City Administrator or his/her designee is authorized to develop rules and regulations to implement the requirements of this Chapter, which may be amended from time to time.

15.35.130 DEFINITIONS

- A. “Bay-Friendly Landscaping Scorecard” means the most recent version of the Bay-Friendly Landscaping points system originally developed by StopWaste.Org.
- B. “Covered Project” means any City of Oakland, Redevelopment Agency or Public-Private Partnership Landscaping Project with a cost of \$100,000 or more (based on 2009 dollars and adjusted annually to the Building Cost Index published in the Engineering News-Record Magazine) and a size of 10,000 square feet or more.
- C. “Initiated” means City of Oakland and Redevelopment Agency projects that are officially identified and substantially funded; and, in the case of Public-Private Partnerships, that have Council-approved agreements for development.
- D. “Landscaping” means planted areas and associated hardscapes, exclusive of public streets and sidewalks.
- E. “Landscaping Project” means any new construction of, or renovation to, Landscaping that is: (1) on land or right-of-way owned by or leased to the City or Redevelopment Agency; or (2) built by the City, Redevelopment Agency or Public-Private Partnership; or (3) built as mitigation for a City, Redevelopment Agency or Public-Private Partnership project.
- F. “Public-Private Partnership” means any formal agreement between the City or Redevelopment Agency and a third party for the purpose of jointly conducting a Landscaping Project.
- G. “Renovation” means any change, addition or modification to an existing landscaping.

15.35.140 COMPLIANCE

- A. All Covered Projects initiated on or after the effective date of this Ordinance shall meet the Bay-Friendly Landscaping Scorecard requirements.
- B. For the purposes of reducing operating and maintenance costs, all City, Redevelopment Agency and Public-Private Partnership Landscaping Projects that do not meet the definition of a Covered Project but are greater than 2,500 square feet are required to achieve as many Bay-Friendly Landscaping Scorecard points as practicable. The Bay-Friendly Landscaping Compliance Official shall make pertinent information regarding such projects available to StopWaste.Org.
- C. The City Administrator shall designate a Bay-Friendly Landscape Compliance Official, who shall have the responsibility to:
1. administer and monitor compliance with the provisions of this Chapter and with any rules or regulations promulgated hereunder;
 2. regularly review the project specifications used in bidding Covered Projects to ensure inclusion of applicable practices specified in the Bay-Friendly Landscaping Scorecard;
 3. facilitate the provision to StopWaste.Org of pertinent information regarding all Covered Projects and other Landscaping Projects greater than 2,500 square feet
 4. grant ministerial exemptions to the provisions of this Chapter, as specified herein; and

5. report to Council, at Council's request, on the implementation of the provisions of this Chapter

D. A ministerial exemption from compliance with the provisions of this Chapter shall be granted by the Bay Friendly Landscaping Compliance Official for (1) any renovation of Landscaping of historical significance, as designated by the City of Oakland Landmarks Board or the Local Register of Historical Resources; and (2) any installation of turf, both natural and artificial, for the purpose of constructing a sports field or multiple-use field. Notwithstanding these exemptions, Landscaping Projects that include the renovation of Landscaping of historical significance or the installation of turf shall achieve as many Bay-Friendly Landscaping Scorecard points as practicable.

E. Compliance with the any and all provisions of this Chapter may be waived in unusual circumstances where the City Administrator, at his or her sole discretion, has determined that the public interest would not be served by complying with such provisions.

Section 3. Applicability

A. Construction and Severability

Should any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

B. Authority

This ordinance is enacted by the Council of the City of Oakland pursuant to the police powers accorded to the City by and through section 106 of the Charter of the City of Oakland an Article XI of the Constitution of the State of California.

C. Effective Date

Upon final adoption by sufficient affirmative votes of the Council of the City of Oakland or by approval of a reconsideration by said Council, this ordinance shall be effective as provided in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____