ADOPTED BY THE
MAYOR AND COUNCIL

October 14, 2008

ORDINANCE NO. 10597

RELATING TO BUILDINGS, ELECTRICITY, PLUMBING AND MECHANICAL CODE; AMENDING THE TUCSON CODE CHAPTER 6 BY ADDING A NEW ARTICLE VIII, RAINWATER COLLECTION AND DISTRIBUTION REQUIREMENTS, SECTIONS 6-181 THROUGH 6-188 REGULATING THE USE OF RAINWATER HARVESTING AND STORAGE SYSTEMS; REQUIRING A LANDSCAPE WATER BUDGET FOR ALL COMMERCIAL DEVELOPMENTS; PROVIDING THAT A MINIMUM 50% OF THE LANDSCAPE WATER BUDGET BE SUPPLIED BY HARVESTED RAINWATER; PROVIDING FOR EXCEPTIONS TO THE RAINWATER HARVESTING REQUIREMENT; REQUIRING AN ANNUAL RAINWATER HARVESTING REPORT; AMENDING TUCSON CODE CHAPTER 27, WATER, ARTICLE I, IN GENERAL, SECTION 27-15(A) TO INCLUDE A RAINWATER HARVESTING PROVISION AS AN ELEMENT OF WATER WASTAGE; SETTING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS the City of Tucson (the "City") has experienced substantial growth, continues to experience growth, and water resources sufficient to meet the growing needs of the community must be ensured and;

WHEREAS the City must secure additional water supplies over the long term; that such supplies will become more costly over time; and that the potential for drought in the Southwest is a real and continuing problem and;

WHEREAS the City and its citizens must acknowledge, and successfully manage and coexist with the resource limitations of the arid Sonoran Desert environment and;

WHEREAS water conservation constitutes a legitimate and critical public health, safety, welfare, economic, and sanitation concern and;

WHEREAS the City should maintain its leadership role among desert cities as an innovator in water resource management, water use efficiency, technology, policy, and regulation; and continue to create sound, sustainable policies for new developments that are cost-effective and responsible and;

WHEREAS, Tucson Water estimates that 45% of all water usage in its service area is dedicated to outdoor purposes;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Tucson Code Chapter 6 is hereby amended by adding a new Article VIII Sections 6 -181 through 6-188, to read as follows:

ARTICLE VIII. RAINWATER COLLECTION AND DISTRIBUTION REQUIREMENTS

Sec. 6-181. Definitions.

As used in this article, the following terms are defined as follows:

Commercial development means any new non-residential development that is intended to be used primarily for commercial activities, and is subject to the requirements of the International Building Code.

Rainwater means water that has fallen as rain and contains little dissolved mineral matter, or any other form of precipitation.

Sec. 6-182. Rainwater Harvesting Plan.

A. All commercial development and site plans submitted after June 1, 2010 shall include a rainwater harvesting plan. The rainwater harvesting plan shall include a landscape water budget and an implementation plan.

1. The landscape water budget shall calculate the estimated volume of water required yearly for all site landscaping detailed in the development and/or landscape plan.
2. The implementation plan shall show how any combination of capture, conveyance, storage, and distribution will be utilized on-site to harvest rainwater. Implementation plans shall comply with applicable Development Standards for water harvesting applications.

3. The implementation plan shall also provide for water metering of all on-site landscape water through either:

(a) A separate water meter connected to the main water supply; or,

(b) An irrigation sub-meter.

B. The rainwater harvesting plan shall be submitted concurrently with the site plan and landscape plan.

C. The Director of the Development Services Department may authorize alternative compliance with Development Standards when conditions of topography, site soils or ratio of landscape area to total site area would make strict adherence to standard provisions unreasonable and the alternative compliance advances the spirit of this Article.

Sec. 6-183. Construction of rainwater harvesting system; Minimum landscape budget requirements; Request for Rainwater Harvesting Plan Revision.

A. All new commercial development built pursuant to a development plan submitted after June 1, 2010 shall include a rainwater harvesting system constructed according to an approved rainwater harvesting plan.

B. No later than three years from the date of issuance of a final certificate of occupancy, and for every year thereafter, 50% of the estimated yearly landscape water budget shall be provided by rainwater harvested on-site by a rainwater harvesting system constructed pursuant to an approved rainwater harvesting plan. The 50% landscape budget provision shall not apply in any calendar year in which the annual precipitation has fallen below the amount determined in the applicable development standards.

C. Within three years from the date of issuance of a final certificate of occupancy, the applicant, or a successor in interest, may request to revise the rainwater harvesting plan. The request shall be submitted to the Director of Development Services. The request shall be granted only if one of the following is true:

1. A mathematical or engineering error was made in the calculation of water required for on-site landscaping.
2. A variance related to landscape requirements, and which impacts the landscape water budget, is obtained subsequent to the approval of a submitted rainwater harvesting plan.

3. Additional data on site conditions or performance relevant to the subject site has been obtained, and results indicated a needed change in water budget calculations in the rainwater harvesting plan.

Sec. 6-184. Restrictions on installation of rainwater harvesting system invalid.

A. Any covenant, restriction or condition contained in any deed, contract, security agreement or other instrument affecting the transfer or sale of, or any interest in, real property which effectively prohibits the installation or use of a rainwater harvesting system is void and unenforceable.

B. A deed, contract, security agreement or other instrument affecting the transfer or sale of, or any interest in, real property entered into before June 1, 2010 shall not be subject to the provisions of this section.

Sec. 6-185. Exceptions.

A. That portion of a development which includes the following land uses shall be excepted from the 50% rainwater harvesting requirements:

1. Public parks and botanical gardens;
2. Outdoor recreation facilities, whether under public or private ownership, for public use, schools, and day care centers;
3. The playing areas of golf courses;
4. Cemeteries;
5. Natural open space;
6. Crop production.

Sec. 6-186. Annual Report.

A. A rainwater harvesting landscape water-use budget report shall be submitted annually by the owner or owner's agent to Tucson Water. The report shall include location and ownership information for the property, monthly rainfall totals collected from an on-site gauge or the SAHRA rain gauge closest to the site, monthly site water use data, and monthly relevant sub-meter or service meter data.

Sec. 6-187. Violation.

A. Failure to meet the 50% rainwater harvesting requirement for landscape irrigation shall constitute water wastage, and notwithstanding any other

provision of this section shall constitute a violation of Section 27-15 of this code.

B. The Director of Development Services or the Director of Tucson Water may require that any development not meeting the landscape budget requirements conduct and submit a landscape irrigation audit and report the results with the audit and reporting performed by a third party auditor and paid for by the property owner.

C. The imposition of civil liability shall not preclude the city from taking any other enforcement actions permitted under the code.

Sec. 6-188. Applicability.

The provisions of this Article shall apply to construction built pursuant to permits issued after June 1, 2010.

SECTION 2. The Tucson Code Chapter 27, Section 27-15 (a) is hereby amended by adding a new subsection (7) to read as follows:

> 7) Failure to meet the 50% rainwater harvesting requirement for landscape irrigation set forth in Chapter 6, Article VIII of the Tucson Code.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance, including, but not limited to, providing an instructional pamphlet setting forth in plain language the requirements of this ordinance.

SECTION 4. If any of the provisions of this ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications of this ordinance which may give effect without

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the invalid provision or circumstance, and to the end the provisions of this ordinance are severable.

SECTION 5. WHEREAS it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED BY the Mayor and Council of Tucson, Arizona, October 14, 2008.

MAYOR

ATTEST:

CITY CLERK

APPROVED TO FORM:

CITY ATTORNEY

REVIEWED BY:

CITY MANAGER

LK/kr
10/8/2008 11:53 AM