

ORDINANCE NO. 6557

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM ADDING CHAPTER 10.13 (STORMWATER CREDIT PROGRAM) OF TITLE 10 (PUBLIC SERVICES AND UTILITIES) TO THE ANAHEIM MUNICIPAL CODE ESTABLISHING A STORMWATER CREDIT PROGRAM AND BASED UPON THE FINDING AND DETERMINATION THAT SAID ORDINANCE IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTIONS 15060(C)(2) AND 15060(C)(3) OF THE STATE CEQA GUIDELINES.

WHEREAS, the City of Anaheim ("City") is regulated by the Santa Ana Regional Water Quality Control Board through a National Pollutant Discharge Elimination System and Municipal Separate Storm Sewer System Permit that requires the City to reduce the discharge of pollutants in urban stormwater runoff to receiving waters to the maximum extent practicable; and

WHEREAS, as a condition of the permit, the City requires certain development projects to manage a required amount of stormwater onsite to the extent feasible; and

WHEREAS, if the development project meets specified conditions, the project may consider an alternative compliance program established by the City and approved by the Santa Ana Regional Water Quality Control Board; and

WHEREAS, the City has developed an alternative compliance program approved by the Santa Ana Regional Water Quality Control Board where the City has constructed, and intends to construct, regional storm water capture facilities that will capture, treat, infiltrate, and/or beneficially use stormwater from their tributary area; and

WHEREAS, the Credit Program will allow the City to generate Credits to be purchased by an eligible development project as an alternative to the development project's management of stormwater onsite; and

WHEREAS, the program would allow development projects the voluntary option to purchase Credits generated by the stormwater capture facilities for use within the same watershed to satisfy onsite stormwater management requirements and offset pollutant discharges; and

WHEREAS, as part of the alternative compliance program, the City has further developed a Credit accounting system to monitor and track Credits generated by stormwater capture facilities and sold to eligible development projects; and

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council of the City of Anaheim ("City Council") has the authority to enact and enforce ordinances and regulations for the public peace, morals and welfare of the City and its residents; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; herein referred to as "CEQA") and the State of California Guidelines for Implementation of the California Environmental Quality Act (commencing with Section 15000 of Title 14 of the California Code of Regulations; herein referred to as the "State CEQA Guidelines"), the City is the "lead agency" for the preparation and consideration of environmental documents for this ordinance; and

WHEREAS, the City Council finds and determines that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a project as defined in Section 15378 of the CEQA Guidelines; and

WHEREAS, the City Council determines that this ordinance is in accord with the public purposes and provisions of applicable State and local laws and requirements.

NOW, THEREFORE, THE CITY OF COUNCIL OF THE CITY OF ANAHEIM DOES ORDAIN AS FOLLOWS:

SECTION 1.

That a new Chapter 10.13 (Stormwater Credit Program) is hereby added to Title 10 (Public Service and Utilities) of the Anaheim Municipal Code to read in full as follows:

“Chapter 10.13 STORMWATER CREDIT PROGRAM

Sections:

10.13.010 Establishment of a Stormwater Credit Program.

10.13.020 Definitions.

10.13.020 Purpose of Stormwater Credit Program.

10.13.040 Stormwater Credit Program Implementation.

10.13.050 City Reservations.

10.13.010 ESTABLISHMENT OF A STORMWATER CREDIT PROGRAM

A Stormwater Credit Program is hereby established in the City of Anaheim. The Stormwater Credit Program and its associated documents, as such documents may be amended from time to time, are on file in the Department of Public Works and Office of the City Clerk.

10.13.020 DEFINITIONS

Any words, terms, or phrases used herein shall have the meaning set forth in Anaheim Municipal Code Chapter 10.09 (National Pollution Discharge Elimination System)(NPDES)) or the Stormwater Credit Program.

10.13.030 PURPOSE OF STORMWATER CREDIT PROGRAM

.010 The Stormwater Credit Program is designed to achieve the following purposes:

.0101 Incentivize regional stormwater treatment and supply projects (e.g., capture, treatment, infiltration, beneficial use projects) through the generation and sale of Credits;

.0102 Accelerate water quality, watershed improvement, and improved hydrologic function;

.0103 Improve effectiveness and efficiency of stormwater capture by replacing on-site privately managed stormwater management systems with publicly managed regional stormwater retention that provides better pollutant removal, more rigorous and closely monitored structural treatment control, reduces the number of structural treatment controls requiring compliance oversight including design review, inspection, and maintenance confirmation, and provides more cost-effective maintenance;

.0104 Promotes capture of stormwater as a resource through regional stormwater capture and groundwater recharge or beneficial use, reduces local hydrologic and flood risks, and leverages multi-source funding for implementation of multi-benefit projects;

.0105 Complies with current stormwater regulations including, the NPDES Permit and Orange County's Model Water Quality Management Plan, and aligns with state and county integrated water management approaches; and

.0106 Helps implement the City's NPDES program and achieves a net environmental benefit by reducing overall pollutant load by watershed.

10.13.040 STORMWATER CREDIT PROGRAM IMPLEMENTATION

.010 Authority. The Director of Public Works is hereby granted the authority to implement the Stormwater Credit Program consistent with NPDES Permit and Anaheim Municipal Code, including, but not limited to, the development and execution of necessary contracts and other documents in furtherance of the Program. The Director of Public Works is authorized to make modifications to the Program as necessary and in accordance with all applicable federal, state, local laws and MS4 Permit requirements.

.020 Credit Accounting System. The City will establish an accounting system to monitor and implement the Stormwater Credit Program. Such accounting system will include, but not be limited to, a Credit account to receive, hold, and disperse funds from the sale of Credits, and a data management system to track Credits generated and sold, Credit adjustments, Credit Price, and

other Credit-related information of the Credit Program. The City shall provide relevant credit system information to the Santa Ana Regional Water Quality Control Board and conduct an audit of the Credit accounting system on a periodic basis.

.030 Credit Generators. The City has constructed, and intends to construct, regional City-owned facilities designed to capture and retain stormwater for the Stormwater Credit Program. Upon the construction and verification of a Credit Generator by the City, the Credit Generator will generate Credits for purchase by eligible Credit Users. The City will operate and maintain the Credit Generator(s) in accordance with the Stormwater Credit Program.

.040 Credit Price. The City will establish a Credit Price by watershed, which will be adjusted periodically. The Credit Price will be based on: 1) the design, construction, operation, monitoring, and maintenance costs of existing and future Credit Generators; 2) costs to administer the Credit Program; and 3) such other reasonable costs that affect the operation of the Credit Program.

.050 Credit Users. Upon the establishment of the Credit Program, an eligible Credit User may purchase and use available Credits, on a voluntary basis, to satisfy some or all of the onsite stormwater management requirements of the NPDES Permit. A Credit User shall comply with all terms and conditions of the Stormwater Credit Program and conditions imposed by the Director, including execution of an agreement and other documents with the City.

10.13.050 CITY RESERVATIONS

The City reserves the right to: 1) determine the availability of Credits; 2) determine the need for future Credit Generators; or, 3) temporarily discontinue or terminate the Program at any time for future Credit Users.”

SECTION 2. SEVERABILITY.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 3. CERTIFICATION

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the Anaheim Bulletin, a newspaper of general circulation, published and circulated in the City of Anaheim.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 13 day of June 2023, and thereafter passed and adopted at a regular meeting of said City Council held on the 27 day of June, 2023, by the following roll call vote:

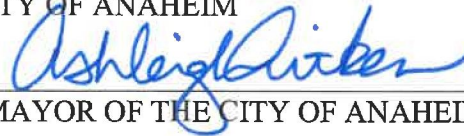
AYES: Mayor Aitken and Council Members Rubalcava, Diaz, Leon, Kurtz, Faessel and Meeks

NOES: None

ABSENT: None

ABSTAIN: None

CITY OF ANAHEIM



MAYOR OF THE CITY OF ANAHEIM

ATTEST


CITY CLERK OF THE CITY OF ANAHEIM

148346/bmorley

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, THERESA BASS, City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original Ordinance No. 6557 introduced at a regular meeting of the City Council of the City of Anaheim, held on the 13th day of June, 2023, and that the same was duly passed and adopted at a regular meeting of said City Council held on the 27th day of June, 2023, by the following vote of the members thereof:

AYES: Mayor Aitken and Council Members Rubalcava, Diaz, Leon, Kurtz,
 Faessel and Meeks

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand this 28th of June, 2023.



CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)

The Orange County Register

1920 Main St., Suite 225
Irvine, Ca 92614
714-796-7000

5190168

ANAHEIM, CITY OF/CLERKS OFF
200 S ANAHEIM BLVD STE 217
ANAHEIM, CA 92805-3820

FILE NO. ORD 6557

AFFIDAVIT OF PUBLICATION

STATE OF CALIFORNIA, }
County of Orange } **SS.**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of The Orange County Register, a newspaper of general circulation, published in the city of Santa Ana, County of Orange, and which newspaper has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, under the date of November 19, 1905, Case No. A-21046, that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

07/06/2023

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed at Anaheim, Orange County, California, on
Date: July 06, 2023.



Signature

PROOF OF PUBLICATION

Legal No. **0011611998**

SUMMARY PUBLICATION
CITY OF ANAHEIM
ORDINANCE NO. 6557

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM ADDING CHAPTER 10.13 (STORMWATER CREDIT PROGRAM) OF TITLE 10 (PUBLIC SERVICES AND UTILITIES) TO THE ANAHEIM MUNICIPAL CODE ESTABLISHING A STORMWATER CREDIT PROGRAM

The proposed ordinance has been prepared to add Chapter 10.13 of Title 10 of the Anaheim Municipal Code relating to the establishment of a Stormwater Credit Program, which will provide public and private projects the opportunity to purchase stormwater credits to allow for offsite treatment, rather than treating stormwater on site. Participating in the Program is voluntary. The Credit user may purchase Credits or construct a stormwater capture and treatment system on the parcel(s) they are developing or redeveloping, or simply capture and treat stormwater onsite as is currently required and not purchase Credits. The Credit Price is established by City Council Resolution.

I, Theresa Bass, City Clerk of the City of Anaheim, do hereby certify that the foregoing is a summary of Ordinance No. 6557, which ordinance was introduced at a regular meeting of the City Council of the City of Anaheim on the 13th day of June, 2023 and was duly passed and adopted at a regular meeting of said Council on the 27th day of June, 2023 by the following roll call vote of the members thereof:

AYES: Mayor Aitken and Council Members Rubalcava, Diaz, Leon, Kurtz, Faessel and Meeks
NOES: None
ABSENT: None
ABSTAIN: None

The above summary is a brief description of the subject matter contained in the text of Ordinance No. 6557 which has been prepared pursuant to Section 512 of the Charter of the City of Anaheim. This summary does not include or describe every provision of the ordinance and should not be relied on as a substitute for the full text of the ordinance.

To obtain a copy of the full text of the ordinance, please contact the Office of the City Clerk, (714) 765-5166, between 8:00 AM and 5:00 PM, Monday through Friday. There is no charge for the copy.

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, THERESA BASS, City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original Ordinance No. 6557 and was published in the Orange County Register on the 6th day of July, 2023, pursuant to Section 512 of the City Charter of the City of Anaheim.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)

Anaheim Bulletin
1920 Main St. Suite 225
Irvine , California 92614
(714) 796-2209

200 S. Anaheim Blvd., Suite 217
Anaheim, California 92805

AFFIDAVIT OF PUBLICATION
STATE OF CALIFORNIA

County of Orange County

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the Anaheim Bulletin, a newspaper that has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange County, State of California, on December 28, 1951, Case No. A-21021 in and for the City of Irvine , County of Orange County, State of California; that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

07/13/2023

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed at Anaheim, Orange County, California, on
Date: Jul 13, 2023.



Signature

SUMMARY PUBLICATION
CITY OF ANAHEIM
ORDINANCE NO. 6557

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM
ADDING CHAPTER 10.13 (STORMWATER CREDIT PROGRAM) OF TITLE 10
(PUBLIC SERVICES AND UTILITIES) TO THE ANAHEIM MUNICIPAL CODE
ESTABLISHING A STORMWATER CREDIT PROGRAM

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I, Theresa Bass, City Clerk of the City of Anaheim, do hereby certify that the foregoing is a summary of Ordinance No. 6557, which ordinance was introduced at a regular meeting of the City Council of the City of Anaheim on the 13th day of June, 2023 and was duly passed and adopted at a regular meeting of said Council on the 27th day of June, 2023 by the following roll call vote of the members thereof:

AYES: Mayor Atken and Council Members Rubalcava, Diaz, Leon, Kurtz,
Faessel and Meeks

NOES: None

ABSENT: None

ABSTAIN: None

The above summary is a brief description of the subject matter contained in the text of Ordinance No. 6557 which has been prepared pursuant to Section 512 of the Charter of the City of Anaheim. This summary does not include or describe every provision of the ordinance and should not be relied on as a substitute for the full text of the ordinance.

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Anaheim Bulletin
Published: 7/13/23

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

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CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)