TOWN OF PARADISE

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October 20, 2009

Mr. Simon Eching
California Department of Water Resources
Water Use and Efficiency Branch
Post Office Box 942836
Sacramento, CA 94236-0001

Dear Mr. Eching,

This letter is being sent in response to written communication received by the Town of Paradise on October 13, 2009 regarding the adoption by the California Department of Water Resources (DWR) of an updated Model Water Efficient Landscape Ordinance (MWELO) that became effective on Septembet 10, 2009. It is town staff's understanding that local agencies such as the Town of Paradise must either a) notify DWR that the MWELO has been adopted locally, or b) submit to DWR a copy of an alternative ordinance along with findings as evidence that the local ordinance is at least as water efficient as the recently adopted MWELO.

It is the desire of the Town of Paradise to pursue and secure DWR approval of the water efficient landscape ordinance currently in effect within the jurisdictional boundaries of the Town of Paradise (Paradise Municipal Code Chapter 15.36 - *Landscape Materials*). A copy of our local ordinance is enclosed for your review and use.

Incorporated in 1979, the jurisdictional boundaries of the Town of Paradise occupy a land area of approximately 18.6 square miles in the Sierra-Cascade foothills of eastern Butte County. Vegetation within town and on surrounding lands is primarily characterized by mature stands of native ponderosa pine and black oak trees.

The current population of the town is approximately 26,000 people. Due to the existence of significant topographical and environmental constraints to development on all sides of the community (including deep canyons and vast areas of lava cap), the town's growth has been extremely slow for many years and ranges from 0% to 1.5% annually. In addition, Paradise is an unsewered community entirely dependent upon on-site wastewater disposal, which even limits infill development, let alone growth within areas along the periphery of town that are so severely constrained.

While you and your staff are in the process of determining whether or not the town's current water efficient landscape is acceptable to DWR, please consider the following findings of fact as evidence that, in the context of the characteristics of the Town of Paradise and its environmental setting, our existing local ordinance is at least as effective at conserving water as the State adopted MWELO:

1. Existing landscape regulations for the Town of Paradise impose statutory requirements developed and adopted for the purpose of insuring the installation of water efficient landscaping. These requirements include, but are not limited to the following requirements:

   a) Plants with similar water needs must be grouped into distinct hyrozones,
   b) Small landscaped areas must only be irrigated with drip/trickle/bubble or micro-sprinklers,
   c) All landscaped areas must be covered with a 2" deep top dressing to conserve soil moisture,
   d) Re-circulating water must be used in water features, and
   e) All irrigation systems must be designed to prevent runoff, overspray or watering of unplanted surfaces.

2. Existing landscape regulations for the Town of Paradise also allow limited or temporary irrigation systems, discourage irrigating during periods of high wind or temperature, contains a listing of suggested drought tolerant landscape plants, and encourages contacting the local water purveyor for suggested or mandated watering periods.

3. The average rainfall in the Town of Paradise is 51.86 inches annually (1925 through 2009), measured at 1,708 feet elevation. The northern portion of the community normally receives even more annual precipitation due to its higher elevation (+/-2,300 feet). This ample amount of precipitation substantially reduces the annual amount of irrigation that must be applied locally. Pursuant to our existing local landscape ordinance, rain sensing devices are required for landscape areas larger than 400 square feet to prevent any irrigation during periods of wet weather.

4. The potential for future growth of the Paradise community is extremely limited, due to the limits imposed by significant topographical, environmental and infrastructural constraints. The lack of a community sewer further limits growth by acting as the most significant constraint to the limited opportunities for any infill or peripheral development. Therefore, it is not anticipated that a significant amount of new landscaped area will be established within the town in the foreseeable future.

5. Most properties within the community are characterized by existing, drought tolerant native vegetation, including ponderosa pine, California black oak, interior live oak, canyon live oak, toyon and Manzanita. Areas characterized by native vegetation require limited or no artificial irrigation. Statutory design criteria within our existing landscape ordinance encourages the retention and installation of native plant species and allows the total removal of temporary irrigation systems once drought tolerant or native plants have become established.

6. Pursuant to our local landscape ordinance, the minimum percentage of landscaping required is only ten percent of the developed area of a project (five percent for industrial projects). Due to constraints presented by on-site wastewater disposal systems (landscaping is discouraged over leach field areas), developers frequently encounter difficulty in meeting the ten percent

standard. In addition, total landscape areas rarely exceed 2,500 square feet in total area. Turf area is limited by the ordinance to a maximum of 35% of the total landscape area.

It is our hope that, in the context of a) the climatology of the Paradise area, b) topographical, environmental and infrastructural constraints that will significantly limit local growth in the foreseeable future, c) the dominance of native, drought tolerant plant species, and c) the statutory elements of our existing local landscape ordinance regulations requiring the installation and maintenance of water efficient irrigation systems and drought tolerant plantings, DWR will find that the existing water efficient landscape ordinance currently adopted by the Town of Paradise is functionally equivalent and at least as effective at conserving water as DWR's MWELO.

Please feel free to contact either the undersigned or Community Development Director Al McGreehan if you have any questions regarding the request contained herein, the findings enumerated within this letter, or the content of the enclosed landscape ordinance regulations. The staff of the Town of Paradise sincerely appreciate your thoughtful consideration of our request and we look forward to your response.

Sincerely,

Craig Baker
Assistant Community Development Director
Town of Paradise

Encl.

cc: Neil Essila, Assistant Engineer, Paradise Irrigation District (w/o encl.)
Town of Paradise Landscape Committee (w/o encl.)
Town Manager (w/o encl.)

PARADISE MUNICIPAL CODE EXCERPT

Chapter 15.36 LANDSCAPE MATERIALS
Sections:
15.36.010 Purpose.
15.36.020 Scope.
15.36.025 Exemptions.
15.36.030 Definitions.
15.36.040 Regulations.
15.36.045 Design criteria.
15.36.050 Suggested plants.
15.36.055 Invasive plants.
15.36.060 Required percentage of landscaping.
15.36.070 Maintenance.
15.36.080 Violation--Penalty.

15.36.010 Purpose. The purpose of this chapter is to provide for the placement and installation of water-efficient, fire-resistant landscaping for specified development projects within the town and to maintain the rural, wooded atmosphere of the community. (Ord. 222 §3(part), 1993)

15.36.020 Scope. This chapter applies to all development projects proposed to be established within the town requiring formal review and approval by the planning commission or the planning director and new or expanded commercial, professional, multifamily, public, quasi-public, industrial and mobile home park developments which may not require formal review and approval by the planning commission or the planning director. (Ord. 222 §3(part), 1993)

15.36.025 Exemptions. The provisions of this chapter shall not apply to the following development project applications: home occupation permits; temporary use permits; day care permits; administrative permits for sign structures, livestock animals, reverse vending machines, small collection recycling facilities, and/or other similar land uses as determined by the planning director; zoning variances; certificates of compliance; parcel mergers; boundary line modifications; reversions to acreage; commercial agricultural land uses and single-family residential land divisions. (Ord. 332 §1, 1999: Ord. 222 §3(part), 1993)

15.36.030 Definitions. The following words or phrases have the meanings ascribed to them in this section:
"Developed area" means the area within a parcel of land which is altered from its natural state to accommodate a development and the appurtenant uses, including, but not limited to, structures, parking lots, lawns and landscaping.
"Development" means the placement or erection of any solid material or structure on land or in water; change in the density or intensity of use of land; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public, or municipal utility; including grading, dredging, mining, or other significant earthwork.
"Development project" means any project undertaken for the purpose of development, including a project involving the issuance of a permit for construction or reconstruction.

"Drought tolerant plants" means any plant species which exhibit water-conserving characteristics and will survive and become established with the application of limited or temporary irrigation.
"Hydrozone" means a portion of the landscaped area having plants with similar water needs that are served by an irrigation valve or a set of valves with the same schedule.
"Invasive plants" means those plants with the ability to become established in the landscape and to displace and disrupt native plant communities.
"Landscape committee" means a committee composed of two members of the Paradise planning commission and a representative of the major local water purveyor appointed by its board of directors or comparable legislative body. The planning commission shall annually select its two representatives to serve upon the landscape committee, who may serve consecutive terms.
"Landscape materials" means any plant, rock, soil, lumber, lighting or irrigation device used for aesthetic enhancement of real property.
"Landscaped area" means the developed area of the parcel, as defined in this section, less the building footprint, driveways, nonirrigated areas of parking lots and nonporous areas such as decks and patios, but including existing vegetation to be retained as an integral part of the landscape plan.
"Native plant" means any indigenous tree, shrub or herb existing before european settlement.
"Planning director" means the director of the planning division of the community development department or a designee thereof.
"Structure" means that which is built or constructed, or an edifice or building of any kind, or any piece of work artificially built up or composed of having parts joined together in some definite manner.
"Top dressing" means any material such as leaves, bark, straw, or other materials left loose and applied to the soil surface to reduce evaporation and erosion.
"Turf" means a surface layer of earth containing mowed grass with its roots. (Ord. 222 §3(part), 1993)

15.36.040 Regulations. All development projects subject to the requirements of this chapter or conditioned to submit and receive approval of landscape plans shall comply with the regulations set forth in this section:
A. Two copies of landscape plans shall be submitted to the community development department.
B. Landscape plans shall include at a minimum:
1. Designated trees to be removed, including size, location on the lot and species of trees;
2. Existing landscaping, including but not limited to natural vegetation, rock outcroppings and water features to be retained as an integral part of the landscape plan;
3. Proposed landscaping with both common and botanical names, showing variety, size (gallons or box) and location of plants;
4. Irrigation plan showing size, location and types of valves (manual or automatic), types of spray heads and pipe type and size, if applicable;
5. Landscape lighting plan, if proposed, showing size, type and location of landscaping lighting;
6. Location, size, model and name of automatic controller, if proposed;
7. Location and proposed shielding of garbage containers, if any proposed;
8. A calculation of the total landscaped area in square feet;
9. Property lines, setback areas and street names;
10. Streets, driveways, walkways and other paved areas;

11. Existing and proposed structures, fences and retaining walls;
12. North arrow, scale and plan preparer's name;
13. Soil preparation details (fertilizers, tilling, etc.) and any other applicable planting and installation details.
C. A landscape plan shall be formally reviewed by the planning director within ten days of receipt of the required processing fee and a landscape plan application deemed complete for processing by the town.
D. The planning director, using the standards identified in this chapter, shall make a final determination regarding the landscape plan not later than twenty days from the date the landscape plan is deemed complete for processing.
E. No final building inspection shall be performed by the town building official or a designee thereof for any development project required to submit a landscape plan until the landscape plan has been formally approved by the planning director and the landscape materials have either been placed or constructed in accordance with the approved landscape plans or a bond guaranteeing the same action is appropriately posted with the town.
F. The planning director may deny a landscape plan if it is found that the landscaping proposed is inadequate to buffer the development from surrounding uses, that the proposed landscaping is aesthetically inappropriate for the development or that the proposed landscape plan does not comply with the provisions of this chapter.
G. Any decision of the planning director regarding approval, conditional approval or denial of a landscape plan may be appealed to the landscape committee within seven days of the date of the planning director's decision. All appeals shall be in written form, accompanied by the required appeal fee and submitted to the community development department. The landscape committee shall consider the appeal within thirty days of the filing of written appeal with the community development department. The decision of the landscape committee may be appealed to the town council within seven days of the date of the committee's decision by filing a written appeal and accompanying appeal fee with the office of the town clerk. The town council shall consider the appeal within forty days of the written appeal to the council. (Ord. 222 §3(part), 1993)

15.36.045 Design criteria.
A. Landscaping.
1. Plants having similar water use shall be grouped together in distinct hydrozones.
2. A top dressing of at least two inches in vertical depth shall be applied to and maintained in all planting areas except turf and areas immediately surrounding plant species that are intolerant to mulch. Areas to which a top dressing will be applied should be properly edged and scarified to retain top dressing.
3. For drought tolerant or native plantings only, temporary irrigation systems may be utilized and removed once plantings have become well-established (eighteen to twenty-four months after planting).
4. Turf areas shall be limited to thirty-five percent of the total landscaped area. This provision shall not apply to athletic fields and other recreational playing fields, community gardens, cemeteries and other land uses deemed to be similar by the planning director. The planning director may authorize a not-to-exceed turf area of one thousand square feet per unit as landscape materials within multiple residential land use developments.
5. All planting islands within parking areas shall be planted with drought-tolerant plant species.
6. Native plant species shall be protected and preserved to the maximum extent feasible.

7. Landscaped areas shall be designed and maintained in a manner that prevents the accumulation of dry grass, dead trees, cut limbs or branches that when dry constitute a fire hazard.

B. Irrigation.

1. All irrigation systems, with the exception of temporary irrigation systems, shall be controlled automatically with cycling capacity and shall be designed to avoid irrigation of unplanted surfaces.

2. All planting areas where drought-tolerant plants are used or where any one dimension is five feet or less shall utilize drip/trickle/bubble or microsprinklers.

3. Irrigation systems serving landscaped areas exceeding four hundred square feet in size (total size of all irrigated areas as shown on the landscape plan submitted for approval) shall utilize a rain-sensing device to avoid overwatering during periods of wet weather.

4. Recirculating water shall be used for decorative water features.

5. All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways or structures.

6. Whenever possible, landscape irrigation shall be scheduled to avoid irrigating during times of high wind or temperature (contact the local water purveyor for suggested or mandated watering periods). (Ord. 222 §3(part), 1993)

15.36.050 Suggested plants.

A. The following plants are representative of the vegetation the planning director will consider in the evaluation of landscape plans:

1. Turf. Hybridized fescues, bluegrasses, lippia grass and bent grasses.

2. Groundcovers. Dwarf periwinkle (*Vinca minor*), Aaron's beard (*Hypericum calycinum*), rock rose (*Cistus*), California lilac (*Ceanothus horizontalis*), sun rose (*Helianthemum nummularium*), bush morning glory (*Convulvulus cneorum*) trailing rosemary (*Rosemarinus officinalis prostratus*) and low-spreading junipers (*Juniperus*).

3. Shrubs. California lilac (*Ceanothus horizontalis*), Italian buckthorn (*Rhamnus alaternus*), Texas privit (*Lingustrum texanum*), oleander (*Nerium*), juniper (*Juniperus*), wheelers dwarf mock orange (*Pittosporum tobira*), purple hopseed (*Dodonaea viscosa*), English laurel (*Prunus lauocerasus*), hawthorn (*Ralphiolepis indica*), Oregon grape (*Mahionia aquifolium*), Italian cypress (*Cupressus semperviriens*) and Arizona cypress (*Cupressus arizonica*).

4. Trees. Indigenous conifers, red maple (*Acer rubum*), Norway maple (*Acer platanoides*), sugar maple (*Acer saccharum*), liquidambar, valley oak (*Quercus lobata*), red oak (*Quercus rubra maxima, Quercus borealis*), black oak (*Quercus kelloggi*), almond, mimosa, albizia, dogwood (*Cornus Florida, Cornus nuttallii*), chinese pistachio (*Pistachia chinensis*), raywood ash (*Fraxinus oxycarpa*), Colorado blue spruce (*Picea pungens*), smoke tree (*Cotinus coggygria*), giant sequoia (*Sequoiadendron gigantum*), and western redbud (*Cercis occidentalis*).

5. Perennials. Yarrow (*Achillia*), *Coreopsis grandiflora,* blanket flower (*Gaillardia grandiflora*), redhot poker (*Kniphofia uvaria*), *Lobelia laxiflora, Penstemon,* dusty miller (*Senecio cineraria*), sage (*Salvia*), and California fuchsia (*Zauschneria*).

B. Notwithstanding the requirements of subsection A of this section, the planning director may consider other plant species which exhibit water-conserving characteristics in the evaluation of

landscape plans. Examples of additional plant species which may be considered include but are not limited to rye grass, twin peaks (*Baccharis pilularis*), boxwood (*Buxux microphylla japonica*), English holly (*Iiex aquifolium*), *Photinia fraseri* or *serrulata,* candy tuft (*Iberis*), English lavender (*Lavandula-Officinalis*), pineapple guava (*Feijoa selloviana), Pyracantha* and heavenly bamboo (*Nandenia domestica*). (Ord. 222 §3(part), 1993)

15.36.055 Invasive plants. The following plants are extremely invasive and should not be planted in areas where they may compete with more desirable native and introduced vegetation:
A. Tree of heaven (*Ailanthus altissima*);
B. Giant reed (*Arundo donax*);
C. Scotch broom (*Cytisus scoparius*);
D. French broom (*Cytisus monspessulanus*);
E. Easter broom (*Cytisus spachianus*);
F. Spanish broom (*Spartium junceum*). (Ord. 222 §3(part), 1993)

15.36.060 Required percentage of landscaping.
A. The following types of land use developments, which are required to submit landscape plans to the planning director shall have the minimum percentage of landscaping area listed in items 1 through 5 of this subsection within the developed area of the approved development project:
1. Mobile home parks: ten percent;
2. Multiple-family developments: ten percent;
3. Commercial/professional office: ten percent;
4. Public/quasi-public developments: ten percent;
5. Industrial developments: five percent.

B. The planning director, the landscape committee or the town council may vary the percentage of landscaping area required per the regulatory provisions of Section 15.36.040 if the subject property contains topographical, access, soil or land use features which would create undue hardship if the requirements of this section are strictly applied. (Ord. 222 §3(part), 1993)

15.36.070 Maintenance.
A. Each development project which receives approval for its landscape plan, as provided in this chapter, shall have its landscape materials maintained by the property owner(s) in good condition and shall abide by the approved landscape plan. The property owner(s) shall replace any landscape material of the same or similar type or function when the material is not functioning (in the case of irrigation equipment) or dead, dying or diseased (in the case of plant material).
B. If in the judgment of the planning director, the landscape materials are not maintained to such level as is consistent with the approved landscape plan, then the planning director shall notify the property owner as shown on the latest equalized assessment roll (or to a subsequent property owner if the name and address are known by the director) that the landscape materials must be maintained to the level shown on the approved landscape plan. The planning director shall provide a maximum period of sixty days to the property owner during which to comply with the provisions of the approved landscape plan. This compliance period may be extended if, in the determination of the planning director, extenuating circumstances linked to inclement weather temporarily prevent compliance with the approved landscape plan within the sixty-day period. (Ord. 222 §3(part), 1993)

15.36.080 Violation--Penalty. Whenever any act is prohibited by this chapter, or is made or declared to be unlawful, or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, the violation shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment; provided, nevertheless, that any such aforesaid violation or offense may be deemed an infraction as defined by Section 19(c) of the California Penal Code and charged as such in the discretion and at the election of the town prosecuting attorney, in which event the punishment therefor shall not be imprisonment but a fine not to exceed the amounts specified by Government Code Section 36900 as then in effect. Every day any violation of any provision of this chapter continues constitutes a separate offense. (Ord. 222 §3(part), 1993)