



RESOLUTION NO. 10-03

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
IMPLEMENTING AN INTERIM WATER EFFICIENT LANDSCAPE
ORDINANCE PURSUANT TO THE WATER CONSERVATION IN
LANDSCAPING ACT OF 2006**

WHEREAS, in 2006, the State of California enacted the "Water Conservation in Landscaping Act" (the Act), codified in § 65591 et seq. of the Government Code, which requires every city and county in the state to either adopt by January 1, 2010 its own water efficient landscape ordinance or become subject to a model water efficient landscape ordinance (Model Ordinance) to be promulgated by the California Department of Water Resources (DWR); and

WHEREAS, the Act required the DWR to adopt and distribute the Model Ordinance by January 31, 2009, to enable local agencies sufficient time to, among other things, review the Model Ordinance and determine whether to be governed by it or to adopt their own water efficient landscape ordinances; and

WHEREAS, despite this legal mandate, the DWR did not distribute its Model Ordinance until September 10, 2009, nearly seven months after it was required to do so, and the State of California has not granted local agencies a commensurate extension of the date by which they must either adopt their own water-efficient landscape ordinances or become subject to the Model Ordinance; and

WHEREAS, in any event, this Board has reviewed the Model Ordinance and finds that, while its purpose - ensuring the efficient use of water for irrigated landscapes - is laudable, many of the Model Ordinance's provisions are inappropriate for, and unworkable in, the arid climate and high-elevation topography that predominates in Mono County; and

WHEREAS, in addition to containing various substantive requirements that are inappropriate and unworkable in Mono County, this Board finds the Model Ordinance to be poorly organized and in-artfully drafted, and, moreover, that it imposes unduly cumbersome and costly requirements on property owners, professional landscapers, as well as the County and its staff; and

1 **WHEREAS**, for these reasons this Board is disinclined to adopt the Model
2 Ordinance and wishes instead to adopt a water efficient landscape ordinance that is
3 workable, effective, and appropriate for Mono County and its residents while also
4 being as effective in conserving water as the Model Ordinance; and

5 **WHEREAS**, because it will take a significant amount of time for County staff to
6 draft, seek public input on, and return a water efficient landscape ordinance to this
7 Board for its consideration and possible adoption, which tasks cannot be
8 accomplished before the State's January 1, 2010 deadline for doing so, this Board
9 wishes to adopt an interim water efficient landscape ordinance both to guide staff
10 in processing development applications involving significant landscaping during
11 that time period and to ensure that the Model Ordinance does not take effect in
12 Mono County.

13 **NOW, THEREFORE, BE IT RESOLVED** as follows:

14 1. Until repealed by this Board or superseded by a later-enacted water efficient
15 landscape ordinance, this resolution shall constitute Mono County's "water efficient
16 landscape ordinance," as that term is defined in Government Code § 65592(c) and
17 as required by and described in Government Code § 65595(c)(1); Mono County
18 does not adopt the updated model water efficient landscape ordinance described in
19 Government Code § 65595(a).

20 2. Commencing January 1, 2010, the Community Development Department, the
21 Public Works Department, and all such other County departments as may be
22 involved, shall review, process, and make recommendations with respect to,
23 applications for landscape projects described in § 490.1 of the Model Water Efficient
24 Landscape Ordinance (Model Ordinance; 23 CCR § 490 et seq.) in strict accordance
25 with all goals, policies, and development standards of the Mono County General
26 Plan and the Mono County Code that encourage or require the efficient use of
27 water in the irrigation of landscapes.

28 3. In the course of reviewing, processing, and making recommendations with
respect to the applications described in paragraph 1 above, the County departments
described in that paragraph shall also consult and, to the degree practicable in the
determination of the Director of Community Development in consultation with the
County Counsel, utilize, the procedures, requirements, and standards of the Model
Ordinance.

1 **BE IT FURTHER RESOLVED** that this Board finds that the interim water efficient
2 landscape ordinance adopted via this resolution is and will be at least as effective in
3 conserving water as the Model Ordinance. The evidence in the record that supports
4 this finding is as follows:

5 1. Staff from the Community Development Department and the County
6 Counsel's Office have advised this Board that the purpose and practical effect of the
7 Model Ordinance is to require that new development involving significant
8 landscaping be designed and constructed so as to use landscape-irrigation water in
9 the most efficient manner feasible; summarized, this is accomplished by:

10 a) Requiring developers/landowners to prepare and submit to the city or county
11 with jurisdiction various reports, plans, and certifications concerning the proposed
12 landscaping in conjunction with the underlying development application in order
13 to prompt the developer/landowner to design and construct the landscaping - the
14 type of plants, irrigation methods, and topographic configuration - in the most
15 water-efficient manner feasible; and

16 b) Requiring the development of a water budget for the proposed landscaping in
17 order to quantify to maximum amount of water that should be used to irrigate that
18 landscaping.

19 2. Staff has also informed this Board that, by continuing to follow and
20 implement all water-conservation-related goals, policies, procedures, and
21 development standards of the County General Plan and County Code in processing
22 development applications consisting of or including the landscape projects
23 described in § 490.1 of the Model Ordinance, and by utilizing the provisions of the
24 Model Ordinance to the degree practical in reviewing and processing those
25 applications, the County will ensure that those projects are designed and
26 constructed in the most water-efficient manner feasible. In other words, current
27 County practices will prompt developers and landowners to take steps functionally
28 equivalent to the above-described requirements of the Model Ordinance, only in a
much less cumbersome, time-consuming, and costly fashion.

3. In addition, this Board is aware and has been informed by Community
Development staff that, due to the challenging climate of the area, developers and
property owners in Mono County generally choose not to include significant
amounts of landscaping in their project plans; and that, when significant
landscaping is proposed, it is typically already designed by the developer to be as
water-efficient as possible. In other words, the climate and topography of Mono
County are and will be as effective as the Model Ordinance in ensuring that
landscape projects are designed and constructed in a manner that makes the most
efficient use of water.

1 **BE IT FURTHER RESOLVED** that the Director of the Community Development
2 Department is directed to submit this resolution as Mono County's water efficient
3 landscape ordinance to the California Department of Water Resources by January
4 31, 2010, in accordance with Government Code § 65597.

5 **BE IT FURTHER RESOLVED** that the Community Development Department,
6 with the assistance of the County Counsel's office, is directed to continue to draft
7 and seek public comment on a permanent water efficient landscape ordinance and
8 to return to this Board with a proposed ordinance for this Board's consideration
9 later in 2010.

10 **BE IT FURTHER RESOLVED** that this Board finds its consideration and adoption
11 of this resolution to be exempt from further review under the California
12 Environmental Quality Act (CEQA) as it is an action taken to protect natural
13 resources and the environment and therefore qualifies as both a Class 7 and a Class
14 8 categorical exemption, and directs the Director of the Community Development
15 Department to post a notice of that determination in accordance with CEQA.

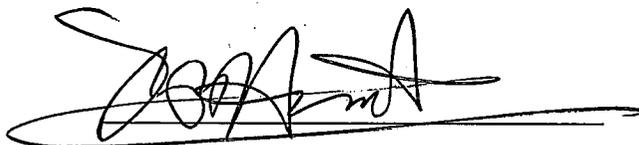
16 Passed and adopted this 5th day of January, 2010, by the following vote of the
17 Mono County Board of Supervisors:

18 **AYES:** Supervisors Bauer, Farnetti, Hazard, and Hunt

19 **NOES:** None

20 **ABSTAIN:** None

21 **ABSENT:** None



22 M.B. HUNT, Chair
23 Mono County Board of Supervisors

24 **ATTEST:**



25 Lynda Roberts, Clerk of the Board

26 **APPROVED AS TO FORM:**

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Marshall Rudolph

Marshall Rudolph, County Counsel