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March 25, 2008

Department of Water Resources
Office of Water Use Efficiency and Transfers
Attention: Judy Colvin
P.O. Box 942836
Sacramento, CA 94236-0001

RE: Comments form the California Council of the American Society of Landscape Architects (CC/ASLA) on the Draft Model Water Efficient Landscape Ordinance update.

Dear Ms. Colvin,
We are grateful for the opportunity to provide comments on the Draft Model Water Efficient Landscape Ordinance. The CC/ASLA Executive Committee has worked with its members to bring forth the following questions, comments, and suggestions for consideration, and we look forward to your response.

General Recommendations

CCASLA strongly endorses water conservation in the landscape and supports the intent of the Model Ordinance, AB2717, and AB1881. Our members work with municipalities' everyday submitting plans and acquiring approval for new development and the renovation of existing projects. We are the profession that will be most effected by the manner in which this ordinance is implemented. We are committed to assisting the Department of Water Resources in any way we can. We offer the following comments for consideration:

Overly cumbersome and over prescriptive
The Model Ordinance Document is so cumbersome and prescriptive that it will be virtually unenforceable. The depth of applicability and the overly complicated methods of implementation which includes so many forms, certifications and documents would create an unnecessary burden on applicants and agencies trying to manage and implement these requirements. Doubling or tripling the time and effort required to submit documents is not going to promote water conservation. The Model Ordinance must be simplified so that it can be implemented successfully.

The Model Ordinance attempts to reach beyond Statutory Authority
The Ordinance tries to be all things to all interests. The creation of design standards to implement water conservation is appropriate and is clearly within the statutory authority of the municipalities that this document applies to. The problem is that the document tries to reach into the water purveyance world which is frequently a different public or public/private entity which this document has no authority over. Some cities control their water purveyance entity but many do not. Many don't even communicate or even have a constructive relationship with their water purveyance entity. Trying to impose requirements on the water purveyance entities for enforcement through this document is inappropriate and impractical. It also leads to inconsistent enforcement. Enforcement of the Ordinance should be through code compliance. The Model Ordinance must focus on design standards. Enforcement, beyond what is allowed through code compliance, should be a separate regulatory action targeting the water purveyance entities.

Support for ongoing research
The Ordinance requires the design professional to design to an overall water budget of .7 ETAF and for that professional to certify compliance. Currently there has been adequate research to document water consumption characteristics of conventional turf grasses. Unfortunately, there has been very little research to document the water consumption characteristics of trees and shrubs that are utilized in our landscapes. The reality is that water consumption characteristics of trees and shrubs is based on the WUCOLS III documents which is only anecdotal with NO SUPPORTING SCIENTIFIC RESEARCH. The need for further research on water consumption characteristics of trees and shrubs is critical to our ongoing desire to reduce water consumption in the landscape and to comply with the standards set forth in the Model Ordinance.

Meet State law in plan preparation and certification of compliance
The Ordinance allows certain tasks to be accomplished by professionals that are not in compliance with state law. Licensed Landscape Architects under 5615 of the Business and Professions Code may prepare construction drawings and specifications as well as responsible construction observation. This pertains to constructed elements, planting, irrigation, and grading. Under the Landscape Architects Practice Act Article 3, section 5641 identifies exemptions and exceptions. Within this section it clarifies the responsibilities and capabilities of Property Owners, Nurserymen, Architects, Professional Engineers, Land Surveyors, Landscape Contractors, Golf Course Architects, and Irrigation Consultants. The Model Ordinance should be revised to reflect the responsibilities of these professionals. For example, the Model Ordinance allows Landscape Contractors to submit designs and certify completion. However, under state law they are only allowed to complete design services if they are also performing or directly supervising the installation. This should be clarified. In addition, Landscape Irrigation Auditors are listed in the certification section but have no authority to design or provide certification of compliance. Irrigation Auditors are only certified by a two day training course to evaluate irrigation systems for certain performance measures; they should have no authority to certify installations. Revise the Model Ordinance to reflect the appropriate responsibilities of professionals under state law.

Notice of Proposed Rulemaking Document

On page 4 under Disclosures regarding the proposed action the document states that there will be no cost impact on private persons or directly affecting businesses. It states that "The initial cost to developers designing and installing water efficient landscapes would be the same."

The Model Ordinance will in fact add considerable cost to new landscapes. There are many ways in which this will increase costs. One example is the requirement to use Weather Based Irrigation Controllers which are more expensive than standard controllers. Another example is in the makeup of the plant materials on site. One of the reasons why turfgrass is so popular is that it can be hyrdoseeded or sodded at a lower square foot cost than the same area designed with shrubs and groundcovers. The ordinance will reduce the amount of turfgrass on site and therefore increase installation costs. Another cost issue is the requirement for water audits. Each water audit will cost between $500 to $1,000. They are required for occupancy and on a regular basis after installation.

On page 4 under Disclosures regarding the proposed action the document states that there will be "no cost impact on local agencies or school districts' because they can levy service charges to pay for the cost associated with adopting the model ordinance". It states that "The initial cost to developers designing and installing water efficient landscapes would be the same."

The Model Ordinance will require a huge effort by local agencies to include the review of many more projects than they are currently reviewing. This will require them to hire qualified college education professionals for plan review. If service charges for this effort is passed on to the applicants then the cost to develops will be significantly higher, further making the statement above inappropriate. If the charges can not be passed on then there will be a significant cost to the agencies.

Model Ordinance

490. Purpose
Item d – "Landscapes are essential to the quality of life in California by providing areas for active **and passive** recreation and an enhancement of the environment……." This statement supports the need to treat both active and passive recreation the same in regards to regulations under this document. Later the document singles out active recreation as a higher priority to passive recreation by providing a different ETAF for those areas.

490.3 Applicability
Any landscape over 2,500 square feet must comply for new construction or renovation if a permit, plan check, or design review is required. Special considerations are given for cemeteries.

The regulation goes well beyond what is fair and reasonable regarding applicability. For example, requiring a single family homeowner with 2,500 square feet of landscape to produce the complicated plans, soil analysis, and water use calculations required to comply with this document is simply not realistic. However, any commercial application should

comply because they are already being designed and installed by professionals. We recommend that all commercial, industrial, and multi-family projects comply with the regulations with no limitation on size. However, small lot single family homeowners should not have to comply. Only single family projects with a landscape area of over 5,000 square feet should have to comply. This will include the most wasteful large single family homeowner landscapes that typically are installed and designed by professionals.

Cemeteries
Cemeteries are not required to comply except to provide a worksheet on water use, maintain their project, conduct water audits, and provide education. This does not seem fair and is confusing. For example, the education section 492.18 doesn't apply to cemeteries at all. Another example is that Cemeteries are required to provide a worksheet for water use but are not required to comply with the .7 ETAF. How do they fill out the worksheet? It has the .7 ETAF factor in it. Cemeteries should be required to comply with the entire document. If they are considered as important as public parks then they should also be given the 1.0 ETAF requirement.

491 Definitions

27. Landscape Area

We strongly disagree with this definition and believe that pervious non-irrigated areas should be allowed as part of the landscape area. Only 10% of non-irrigated allowable area unnecessarily limits the designer's creativity for compliance. This is a narrow-minded definition and is based on old and outdated design methodology. If two projects each have 10,000 square feet of pervious landscape area then they both should be given the same water budget. The way the document is written if one designer uses no pervious non-irrigated surfaces then they are allowed to use more water on their site than another designer that includes a wood deck, succulent garden or decorative dry stream bed. In fact, this will increase water use in projects because it provides a disincentive to using succulent gardens and other non-irrigated landscape solutions. This is also simply not fair and unnecessarily constraint design creativity. The definition of landscape area should include pervious surfaces WITHOUT limitation.

48. Recreation Area

This definition reads in part "where turf provides a playing surface or serves other high use recreational purposes." As noted in Section 490 (Purpose) passive recreation areas are of equal important to active recreation. The important of passive recreation has been well documented with studies by Dr. Roger Urich and others that have correlated exposure to outdoor environments and nature with human well being and health. The definition of Recreation Area must be expanded to include PASSIVE recreational uses as well as active.

492.1 Compliance with Landscape Document Package.

The number of Documents that is required by an applicant is far more than what is required to comply with this Ordinance. This process must be simplified. Furthermore, the applicant shouldn't have to submit their Water Efficient Landscape Worksheet to the local retail water purveyor. As previously noted, this exceeds the jurisdictional responsibility of many municipalities.

492.2 Compliance with the Certificate of Completion

Comments:
1. The local agency should not have to (b) "conduct a final field inspection of the project". This should be self certified by the landscape architect of record.
2. The project applicant:
(a) Under what authority does a Certified Irrigation Auditor have to observe an irrigation system? They do not have the training or capabilities to observe or inspect irrigation systems and should be removed from this section.
(c) Requiring every project to conduct an irrigation audit is unnecessary. If the project has been documented and self certified by the design professional of record then it is in substantial compliance of the plans and specifications. The audit serves no purpose and should be eliminated.
(f) As previously noted, submitting to the local water purveyor is not necessary.

492.5 Landscape Documentation Package

Comments:
This Package has 16 different plans and worksheets required! This section must be simplified. All that is required is:

- ONE worksheet demonstrating the MAWA has been accomplished. This would include square footages of hydrozones, MAWA, and whether effective precipitation is utilized.
- A Landscape Design (Planting) Plan
- An Irrigation Design Plan.
- A Grading Design Plan (for reference only). This plan is typically created and certified by the Civil Engineer for the project and not part of the typical landscape submittal package. It is appropriate to provide it as reference only.
- A soil analysis report. This is not a Soil Plan requiring a whole separate submittal. The more appropriate requirement would be to include the results of soils report which documents the need for and specification for soil amendments.

Terminology:
The document often refers to Specifications in describing each plan and its requirements. This terminology is confusing. Specifications under the standards of all design professional refers to the written specifications only, not the design plan. This conflict should be resolved in the document.

The remainder of the worksheets and plans are unnecessary, wasteful and should be removed.

492.8 Landscape Design Plan

1. (b) Turf (4) 24" setback for spray irrigation (including turf). But this is the turf section, remove (including turf).
2. Specifications: This gets into more detail than is necessary for accomplishing water conservation. For example, requiring a Benchmark on this plan, requiring Topography on this plan (on grading plan instead), location of utilities, etc. Also requiring square

footage of each Hydrozone is repetitive, this will be documented in the water use worksheet.

492.9 Irrigation Design Plan

1.(b) (8) Limiting areas under 8 ft in width to low flow irrigation or drip seems excessive. Perhaps limit turf areas in narrow areas but shrub beds can be irrigated with traditional spray systems even if they are narrow.
(9) Irrigating with drip or subsurface irrigation within 24" of paving should only be required in turf areas. Shrub areas can be irrigated without excessive overspray in shrub areas.

3. Specifications: Same comments as above in terminology, no need for benchmarks, topography, utilities, etc on this plan.

492.10 Grading plans

For small sites or renovation of existing landscapes projects are often completed without grading plans. Grading plans area required under the municipal grading ordinance and these standards should not override those standards. Grading plans should be provided as required under the agency grading ordinance for reference.

A grading plan should be required for reference but not always required. 2,500 sf landscapes for, example, often don't require a grading plan.

492.11 Certification of Completion

2. (c) An audit should not be required for certification of completion. In addition, an audit report should not be required.

492.12 Irrigation Scheduling

Again, simplification is required. If a Weather Based Irrigation Controller is required why does every project require a full schedule for plant establishment, after establishment and temporary irrigated areas? Furthermore, any scheduling would be fine tuned according to micro-conditions on site and any schedule should be general only. Remove the requirement to include irrigation scheduling in the documents.

492.14 Landscape Irrigation Audits and Audit Schedules

(3) (a) Again, we disagree why an audit is required for occupancy.
(b) What is an audit schedule and what determines audit frequencies? This is the legislation that should be focused on water purveyors.
(c) The requirement for audits and for implementing the recommendations of the audit report could mean that all existing irrigation system would have to be renovated depending on how this is interpreted. This is excessive and a huge impact on property owners.
(d) An audit report every 5 years should be addressed in enforcement legislation directed to water purveyors. If this is required in other legislation it should focus on highly wasteful sites.
4 (a) Furthermore, if a site does not have separate water meter how can agencies determine if the MAWA has been exceeded?

492.15 Irrigation Efficiency

This requires systems to meet or exceed .71 efficiency. But the MAWA can be accomplished without this efficiency. Does this mean that no systems can be designed less efficiently even if they comply with the .7 ETAF? The .71 efficiency should be a target but not a requirement. The ETAF should be the target which can be accomplished in a number of ways.

492.16 Recycled Water

Because recycled water is plentiful many believe that the requirements of the ordinance should not apply to recycled water systems. Furthermore recycled water is high in salinity and these systems may require leeching to reduce salinity levels. Should there be different standards for this resource?

493 Provisions for existing landscapes

Concerns regarding the requirements for audits and renovation of existing landscapes are the same as previously outlined.

494 Effective Precipitation

Why is an entire Effective Precipitation Disclosure Statement required for this? Why not just include that in the MAWA calculation?

Evapotranspiration Tables
These should be listed for reference only and should be clarified as to where the information comes from. Not all of this information is from the CIMIS reports. These tables should represent averages. In addition, as weather changes occur in the future this data should be adjusted.

Appendix B Worksheets

The amount of paperwork that is required with these documents is unreasonable and unnecessary. For example, what purpose for water conservation are forms that require questions to be answered like: "Did you review the ordinance to learn about the criteria and specifications for landscape design plans? Did you review the ordinance to learn about the criteria and specifications for irrigation design plans? Did you ask for assistance from the local agency/local retail water purveyor to calculate a project water budget? How will you assure the overall quality of the irrigation system?" Other unnecessary questions include: " If recycled water was available, did you design and install a dual distribution system?" First of all, a dual system is not required for an irrigation system, only that it be installed for recycled water. The Water Efficient Landscape Worksheet even asked for Latitude/Longitude Coordinates for the site. What is this going to be used for?

There are pages and pages of unnecessary questions and forms to fill out. Please eliminate these worksheets and combine them into one simple MAWA calculation worksheet.

Again, we thank you for this opportunity to respond.

Sincerely,

David Allan Taylor, Jr., *RLA, ASLA*
CC/ASLA President