



# County of San Diego

ERIC GIBSON  
DIRECTOR

## DEPARTMENT OF PLANNING AND LAND USE

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December 18, 2008

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

### RE: COMMENTS ON AMENDED MODEL WATER EFFICIENT LANDSCAPE ORDINANCE

Dear Mr. Eching:

The County of San Diego has received and reviewed the proposed amendments to the California Code of Regulations relating to the State's Model Water Efficient Landscape Ordinance dated November 26, 2008 and appreciates this opportunity to comment. The County of San Diego is a local agency that would be responsible for adopting and implementing an ordinance at least as effective as that proposed by the state.

The County commends the Department for considering and implementing many of the recommendations made during the last comment period. What we have found is that several changes allow more flexibility at the local level and address several of the County's concerns with the prior draft.

Comment 055.1  
However, the County continues to maintain the position that the requirements of this ordinance constitute an unfunded state mandate. Because this ordinance expands the scope to residential homes, preliminary estimates of the cost increase in County staff time to review and approve landscape projects under the draft model ordinance provisions range from 25 to 50 percent. If the County chooses to recover these costs by increasing applicant fees, that cost will ultimately be passed on to the homebuyer along with the additional costs for the many other required professional landscape services. The County believes that local governments should be provided greater flexibility to develop solutions that will meet the goals of AB 1881 while reducing costs to homeowners.

Comment 055.2  
The County understands that it has the option to adopt a local ordinance that is at least as effective as the state's model. This threshold determination will be made by the Department of Water Resources (DWR). However, the DWR has not provided any guidance as to what standards it will use or what findings must be made by the local

agency. In the final analysis, burdensome, costly regulations which are difficult to enforce will only discourage compliance.

Comments and concerns with the latest changes, as presented in the November 26 draft, are detailed below.

- Comment 055.3 1. The numerous submittal requirements for the Landscape Documentation Package and the Certificate of Compliance will substantially increase costs to the applicants. The County recommends that these requirements be changed to recommendations that would be implemented at the discretion of the local agency to ensure that the applicant's water budget will be met by the approved and completed landscape project. This will allow the agency to prevent redundancy and streamline the process. (See #4 and #8 below).
- Comment 055.4 2. The County is not a purveyor of water. The ordinance proposes to allow local agencies, like the County, to designate implementation and enforcement to other agencies, like local water districts, but it does not give the County the authority to require cooperation. The unincorporated county is served by 15 water districts which are members of the San Diego County Water Authority and another 13 that rely on groundwater. The County agrees that it should use its land use authority to further the goals and policies of landscape water conservation. However, monitoring and audits of water use should lie with water purveyors who have the authority to charge for water use and to craft effective rate structures.
- Comment 055.5 3. The ordinance does not exempt landscape projects that rely on groundwater. Groundwater projects do not require an enforcement mechanism, such as a water meter, to determine compliance with a Maximum Applied Water Allowance (MAWA). Without effective enforcement, groundwater projects should be exempt from the ordinance.
- Comment 055.6 4. The ordinance proposes that an applicant must have a landscape architect, certified irrigation designer, or licensed landscape contractor certify that the landscape project was installed as planned (final inspection, Section 492.9(a)(7)). Then a certified irrigation auditor must conduct an irrigation audit and complete an audit report (Section 492.9(a)(8)). This can be a costly process, especially for the home-owner who has self-installed the landscaping and irrigation. County staff recommends that only a certification or an audit be required for newly installed landscape projects.
- Comment 055.7 5. Sections 492.6(b)(13), 492.7(b)(7) and 492.8(a)(3) of the proposed Ordinance all authorize licensed landscape contractors to sign and certify plans. The C-27 classification for landscape contractors does not allow landscape contractors to sign plans. The Ordinance should be amendment to correct this inconsistency with the C-27 classification.
- Comment 055.8 6. Section 492.7(a)(1)(T) requires non-turf areas on slopes greater than 25% to be irrigated with drip irrigation or other low volume irrigation technology. The

Statewide General Construction Permit requires disturbed areas, including slopes, to contain at least 70% of established vegetative cover before a construction permit can be issued. Low volume irrigation techniques will not accomplish the necessary 70% coverage within a reasonable time. The County recommends that local agencies be given the authority to approve other types of irrigation on a temporary basis until the vegetation is sufficiently established to allow issuing a construction permit.

7. Section 492.9(c)(3) requires the project applicant to submit copies of the approved Certificate of Completion to the local water purveyor. The County recommends that the local agency that has approved the Certificate of Completion submit the Certificate to the appropriate water purveyor to ensure that the Certificate is accurate and has, in fact, been approved.

Comment 055.9

8. Section 492.3(a)(6) requires that a grading design plan be submitted as part of the Landscape Documentation Package. Section 492.8 gives the requirements of the plan. Developments are often required to prepare comprehensive grading plans as part of a discretionary permit. The County recommends that local agencies be given the authority to allow these comprehensive grading plans to fulfill the landscape ordinance requirement for a grading design plan.

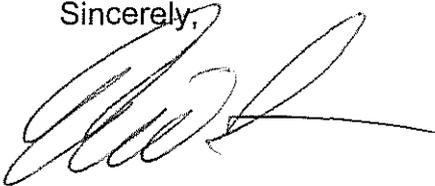
Comment 055.10

9. This version of the draft ordinance deleted a previous provision that permitted the local agency to grant waivers and variances. The County recommends that the waiver and variance provision remain as part of the ordinance.

Comment 055.11

The County of San Diego appreciates the opportunity to comment on the Notice of Proposed Rulemaking for the Model Efficient Landscape Ordinance. The latest revision is a significant improvement over the previous version but there is still room for further refinement. If you have any questions regarding these comments, please contact Dixie Switzer at (858) 694-3041.

Sincerely,



ERIC GIBSON, Director  
Department of Planning and Land Use

cc: Michael De La Rosa, Policy Advisor, Board of Supervisors, District 1, MS A500  
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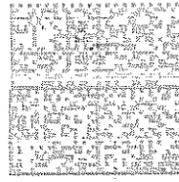
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