

MWEO

From: Larry Rohlfses [larryrohlfses@clca.org]
Sent: Tuesday, December 30, 2008 3:23 PM
To: MWEO
Cc: Eching, Simon; Frame, Kent; Colvin, Judith; Huff, Gwen
Subject: CLCA Model Ordinance Comments

Attachments: CLCA_ModelOrdinance.pdf



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Simon,

Attached you will find CLCA's comments on the November 26 draft of the Model Water Efficient Landscape Ordinance Update.

Happy New Year to all the water efficiency folks at DWR,

LARRY
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December 30, 2008

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RE: Comments on the November 26, 2008 Draft Model Water Efficient Landscape Ordinance Update

Dear Simon:

The California Landscape Contractors Association, representing more than 3,000 licensed landscape contractors and associated industry suppliers, is pleased to submit these comments on the department's proposed regulations to update the Model Water-Efficient Landscape Ordinance. They appear below by draft ordinance section number.

Comment 057.1

490.1 Applicability

CLCA applauds the department for changing the 2500-square-foot threshold in the February 8, 2008 draft to 5000 square feet for homeowner-provided and homeowner-hired landscaping in single-family and multi-family residential projects. However, we believe that the 5000-square-foot threshold is still too low. CLCA believes that subsection (a)(3) is inappropriate for all but the very largest residential landscapes (what we sometimes call residential estates) and simply will not work in practice.

As we stated in our March 25, 2008 letter, homeowners simply do not have the expertise to complete the Landscape Documentation Package or the Certificate of Completion. Consequently, they would be left with three choices: (1) hire a landscape architect and a landscape contractor, (2) hire a design-build landscape contractor, or (3) hire a landscape architect and install the landscape themselves using the architect's plans and other documentation. Few homeowners would have the ability to follow through with the third option. Whichever option the homeowner selected, the cost of completing the Landscape Documentation Package and the Certificate of Completion with at least some professional help would be very expensive. Our March 25 comments included an itemization of the costs to owners that compliance with the February 8 draft would have required for four types of 2500-square-foot projects, including two single-family residential project examples. Most of these costs still apply to the November 26 draft of the Model Ordinance update.

Additionally, homeowners will view this proposed Model Ordinance as arbitrary and capricious because only those landscapes that require a building or landscape permit would have to comply with it. Permits may not be required for landscape planting and irrigation, but they are typically required of retaining walls, arbors, outdoor kitchens, and swimming pools. A homeowner who installs a landscape with an arbor will not understand why he or she must file a Landscape Documentation Package and Certificate of Completion when the person's neighbor does not have to do so. A homeowner in a city that requires a permit for landscape irrigation will not understand why he or she must spend several thousand dollars on Model Ordinance compliance when homeowners in other cities are not required to do so.

CLCA believes that most homeowners will divide a single landscape project into two or more projects in order to evade the requirements of the Model Ordinance. Or worse, they will evade the Model Ordinance by not taking out the required permits and hiring an unlicensed contractor to do the work.

CLCA suggests that DWR replace the 5000-square-foot trigger with a 10,000-square-foot trigger. If it turns out that the Model Ordinance is workable for homeowner-provided and/or homeowner-hired landscaping in single-family and multiple-family residential projects, DWR could lower the trigger at some future date with some confidence that it might work, based upon experience gained with a 10,000-square-foot trigger.

Should DWR reject the above suggestion, we alternatively ask that the department consider the use of a simplified compliance process for homeowner-hired or homeowner-provided landscapes less than 10,000 square feet. This simplified compliance process would not require a grading design plan, irrigation audit upon completion, and perhaps other requirements as well.

Comment 057.2

492.3 Elements of the Landscape Documentation Package

CLCA believes that subsection (a)(1)(C) should be changed to "Project Address or parcel and lot number(s). The address may not be readily available for some new projects. The parcel and lot number(s) may be difficult to obtain for existing projects. It shouldn't be necessary to provide both types of information.

Comment 057.3

492.6 Landscape Design Plan

CLCA suggests that the required statement in subsection (b)(12) be changed to the following: "*I have complied* with the criteria of the ordinance and *applied* them accordingly for the efficient use of water in the irrigation design plan." When the landscape architect, certified irrigation designer, or landscape contractor signs the plan, he or she will have already complied with the ordinance.

Comment 057.4

492.7 Irrigation Design Plan

CLCA believes the requirement in (a)(1)(R) to irrigate areas less than eight feet in width with subsurface irrigation or low-volume irrigation technology is not appropriate, especially for small landscapes and residential landscapes. As we stated in our March 25 letter, nozzles currently exist that spray four feet or less, and while it makes sense to restrict turf from long median strips that are eight feet or less in width, it is far less necessary to do the same for the typical residential or small landscape. Micro spray technology typically does not have a high uniformity, would be prone to damage on a lawn, and could be a safety hazard. Subsurface irrigation may leave a checkerboard pattern in the turf and is difficult to maintain over time.

CLCA also believes that the prohibition of overhead irrigation within 24 inches of any non-permeable surface in subsection (a)(1)(S) is not appropriate, especially for small landscapes and residential landscapes. As stated in our March 25 letter, this requirement would limit design creativity, result in unattractive landscapes, and/or add project costs.

CLCA suggests the following compromise. Leave these requirements for landscape areas that abut sidewalks and other "public" spaces if DWR must.

But remove these requirements for landscape areas that abut other spaces, especially backyard hardscapes. CLCA believes that owners, especially residential owners, will not accept de facto setbacks between turf and backyard patios, for example. CLCA also believes that most backyards are too small to effectively prohibit strips of up to eight feet of turf in all instances. In addition, it should be noted that hardscapes usually drain toward planted areas, especially in residential backyards.

CLCA also suggests that the required statement in subsection (b)(6) be changed to the following: "I *have complied* with the criteria of the ordinance and *applied* them accordingly for the efficient use of water in the landscape design plan." When the landscape architect or landscape contractor signs the plan, he or she will have already complied with the ordinance.

Comment 057.5

492.8 Grading Design Plan

CLCA suggests that the Grading Design Plan section precede the Landscape Design Plan section and the Irrigation Design Plan section, since grading design, when done, is performed before the landscape and irrigation design.

As mentioned in our March 25 letter, grading design plans are not typically done for residential projects and would add approximately \$1,100 to the cost of a typical 2,500-square-foot single-family residential landscape.

As mentioned in our March 25 letter, grading design plans should only be submitted for public agencies and private development projects if the plan is different from the one previously submitted by the civil engineer. It is pointless and confusing to require the landscape architect or landscape contractor to submit the civil engineer's plan for approval, for it would have been approved earlier.

We suggest the following wording for subsection (a): "A grading plan shall be submitted as part of the Landscape Documentation Package *if the grading design plan is different from the grading plan submitted by the civil engineer.*"

An alternative suggestion would be to remove completely the requirement for the submittal of a grading design plan in the Landscape Documentation Package, since it seems to have little to do with water conservation, and the original grading plan would already have been evaluated to prevent problems such as erosion and runoff.

CLCA also suggests that the required statement in subsection (a)(3) be changed to the following: "I *have complied* with the criteria of the ordinance and *applied* them for the efficient use of water in the grading design plan." When the civil engineer, landscape architect, or landscape contractor signs the plan, he or she will have already complied with the ordinance.

Comment 057.6

492.9 Certificate of Completion

CLCA suggests that DWR clarify and limit the requirement in subsection (a)(6) to require a preliminary field inspection of the irrigation system prior to backfilling. Does this preliminary inspection mean that the project applicant would have to inspect the entire irrigation system for minor leaks? That would require making the entire system watertight for a system test, a time-consuming and logistically impractical process. Typical practice in the landscape industry is to bury lateral

lines as they are completed. This allows the work to progress without slowing down the project inordinately. It is simply not practical to provide "evidence" of a preliminary inspection prior to backfilling. If there are lateral leaks below the surface, they will become manifest during the final field observation after project installation. Mainline inspection is the only inspection that is typically done before backfilling.

Subsection (a)(6) also should define what it means by "evidence" of a preliminary inspection prior to backfilling.

Subsection (b)(4) seems to imply that a second soil analysis is needed by requiring the project applicant to submit "documentation verifying implementation of soil report recommendations." Assuming that DWR does not wish to go to the extreme of requiring a second soil analysis or soil analysis report, please add guidance on how to comply with this requirement.

Comment 057.7

492.10 Irrigation Scheduling

CLCA believes that more work must be done to mesh this section with the requirement for weather-based irrigation controllers, soil moisture based controllers, or other self-adjusting irrigation controllers in 492.7. CLCA does not understand why the project applicant should be required to calculate several irrigation schedules if a self-adjusting controller is installed. More guidance on the relationship between the scheduling requirement and the controller requirement is needed. One suggestion would be to only require irrigation schedules for the plant establishment period.

Comment 057.8

492.12 Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis

CLCA strongly believes that an irrigation audit report as described in (c)(1) should not be required. Although the existing Model Ordinance calls for an irrigation audit upon completion of the landscape installation, it doesn't necessarily require a time-consuming distribution uniformity test as part of that audit. Nor does it require an irrigation audit for homeowner-provided or hired landscaping. Performing an irrigation audit as described in subsection (c)(1) would be very expensive and unnecessary. The plans would have been approved, a preliminary inspection of the irrigation system would have taken place, and a final inspection of the entire project inspection would have occurred prior or in addition to the audit. Should there be a need for another inspection of the irrigation system, that inspection should be performed by the land use agency. Landscape irrigation audits are appropriate if the owner of an existing landscape has been irrigating excessively or as a check to make sure that the irrigation equipment on an existing landscape hasn't deteriorated over a period of years. They would be superfluous in the case of new landscapes that must comply with the Model Ordinance.

Once again, CLCA submits these comments in the spirit of improving the regulations and achieving our mutual goal of promoting efficient use of landscape water.

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Sincerely,

A handwritten signature in black ink, appearing to read "Larry Rohlfe". The signature is fluid and cursive, with a large, sweeping underline that extends across the width of the signature.

LARRY ROHLFES, CAE
Assistant Executive Director

cc: CLCA Executive Director Sharon McGuire
CLCA Board of Directors
CLCA Model Ordinance Task Force