

MWEO

From: Kevin Pointer [Kpoin@ci.carlsbad.ca.us]
Sent: Tuesday, December 30, 2008 5:28 PM
To: MWEO
Cc: David de Cordova; Jennifer Jesser
Subject: Notice of Modifications to the Proposed Regulation (MWEO)
Attachments: Modified MWEO.pdf

Good evening,

Please accept the attached comments pertaining to the Notice of Proposed Regulation on the Model Water Efficient Landscape Ordinance. A hard copy of the correspondence has additionally been transmitted via US mail and may be expected within the next several days. Thank you for providing our agency with an opportunity to comment.

Most Sincerely,



Kevin Pointer
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City of Carlsbad

Planning Department

December 30, 2008

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

RE: COMMENTS ON MODIFIED TEXT OF PROPOSED REGULATIONS (MODEL WATER EFFICIENT LANDSCAPE ORDINANCE)

Dear Mr. Eching,

This letter is in response to the Notice of Modifications to the Proposed Regulation (Model Water Efficient Landscape Ordinance (MWELO)). The Notice of Modifications provided the City of Carlsbad (City) and other parties with 34 days to review and comment on the proposed modifications to the MWELO.

Late Comment 065.1

After reviewing the modified MWELO, the City of Carlsbad maintains concerns addressed in our original correspondence which was transmitted in response to the original Notice of Proposed Rulemaking (NPR). We do not believe that the modified MWELO sufficiently addresses all concerns raised by other parties and by the City in our March 27, 2008 correspondence. Such concerns pertain to stringent landscaping review criteria and auditing requirements proposed by the California Department of Water Resources (DWR). Concerns previously raised that the DWR has not sufficiently addressed include the following:

Late Comment 065.2

- Landscapes using primarily reclaimed water should be exempted from regulation by the MWELO. Reclaimed water is not a valuable or limited resource in the same sense as potable water; therefore, regulation of reclaimed water by the MWELO is not consistent with the purpose and intent of the MWELO and Water Conservation in Landscape Act.

Late Comment 065.3

- According to the modified text of the proposed regulation, overhead irrigation is not permitted within 24 inches of any non-permeable surface. According to the MWELO, only drip, dripper line and other low flow non-spray irrigation systems would be allowed within the 24 inch setback. This regulation should be eliminated from the MWELO because its apparent intent is to address non-point source pollution and prevent excessive stormwater discharge—aspects that are currently regulated by other legislation such as the Clean Water Act.

In addition to concerns raised by those commenting during the initial 45-day public comment period, the City of Carlsbad offers the following comments pertaining to the overall impact of the proposed regulation, which includes recent modifications to the proposed regulation prepared by DWR:



Late Comment 065.4

- The proposed threshold increase for homeowner-installed or provided landscapes from 2,500 square feet to 5,000 square feet should be clarified to ensure consistent and equitable applicability of the revised ordinance. Additional specificity should be included in the model ordinance to clarify how this regulation would be implemented by local agencies/water purveyors. If a property owner develops a single-family residence on a single lot which has a landscape area between 2,500 and 5,000 square feet and the property owner has intent to sell the property, ambiguity exists as to whether this property owner be considered a homeowner or developer for the purposes of implementing the MWELo. The City recommends that the term "homeowner" be defined by the MWELo or that all thresholds for auditing requirements be increased to 5,000 square feet for homeowner or developer installed landscaping.

Late Comment 065.5

- Public parks including golf courses should reduce water consumption where possible, but not be subject to water allowances and auditing requirements because they serve more functional rather than aesthetic purposes. Public park turf areas are critical to the quality of life for those who live, work and play in the state of California. Sports, open play, green space and other recreational areas that utilize turf, particularly in urban areas, are proven to promote health and reduce crime. Additionally, according to the modified/proposed MWELo, a higher Maximum Applied Water Allowance (MAWA) would be applied to recreational areas, the term "recreational area" is not sufficiently defined based on references to recreational areas only accommodating "active play." The City recommends that the term "active play" be elaborated or the definition of recreational area be expanded/modified.

Late Comment 065.6

- Ambiguity exists within Section 492.5 of the proposed regulation, which would require the submittal of a Soil Management Plan. Accordingly, a soil management plan "shall" be required to be submitted; however, components of the soil management plan "may" be submitted by the applicant. It is recommended that DWR clarify the exact components that establish an adequate soil management plan.

Thank you for your consideration of these comments and for providing us with the opportunity to review the draft changes. Please direct all future notifications on this matter to the City of Carlsbad Planning Department (Attention: Don Neu, Planning Director), 1635 Faraday Avenue, Carlsbad, CA 92008-7314.

Sincerely,



DAVID DECORDOVA
Principal Planner
City of Carlsbad

- c: Gary Barberio, Assistant Planning Director
Dave de Cordova, Principal Planner
Jennifer Jesser, Senior Planner
Kyle Lancaster, Parks Superintendent
Mark Steyaert, Parks Development Manager
Mark Stone, Deputy Public Works Director