

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 11/10/2015	(3) CONTACT/PHONE Cheryl Cochran, Planner / 805-781-1366	
(4) SUBJECT Introduction of an ordinance amending Title 19 (Building and Construction Ordinance) to adopt by reference Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations the Model Water Efficient Landscape Ordinance as mandated by the State of California Department of Water Resources per Executive Order B-29-15. Hearing date set for November 24, 2015. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board:  1. Introduce the ordinance in Attachment 1, and direct the Clerk to set it for public hearing and action on November 24, 2015.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No
(10) AGENDA PLACEMENT { X } Consent    { } Presentation                    { } Hearing (Time Est. ___)    { } Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS { } Resolutions    { } Contracts    { X } Ordinances    { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required    { X } N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { X } N/A    Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Cheryl Cochran, Planner

DATE: 11/10/2015

VIA: Matt Janssen / Division Manager, Policy and Programs

SUBJECT: Introduction of an ordinance amending Title 19 (Building and Construction Ordinance) to adopt by reference Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations the Model Water Efficient Landscape Ordinance as mandated by the State of California Department of Water Resources per Executive Order B-29-15. Hearing date set for November 24, 2015. All Districts.

## **RECOMMENDATION**

It is recommended that the Board:

1. Introduce the ordinance in Attachment 1, and direct the Clerk to set it for public hearing and action on November 24, 2015.

## **DISCUSSION**

The intent of the introduction of this item is to provide the public and your Board with an opportunity to review the proposed amendments prior to the Clerk scheduling them for hearing on November 24, 2015. At that hearing, staff will recommend that your Board review, deliberate, and take action on the proposed amendments. Since this item is an introduction no action regarding the proposed amendment is necessary at this time.

No action regarding the proposed amendment may be taken until the November 24, 2015 hearing date. If your Board wishes to make any changes to the proposed amendment shown in Attachments 1, those changes may be made today and re-introduced at this time. Any changes (that are not typographical or clerical) made on November 24, 2015, will require re-introduction at that time and final adoption at a subsequent hearing date.

## **Background**

On April 1, 2015, Governor Brown signed Executive Order B-29-15, which directed the Department of Water Resources (DWR) to update the State's Model Water Efficient Landscape Ordinance (MWELO) through expedited regulation. The California Water Commission approved the revised Ordinance on July 15, 2015. All local agencies are required to adopt either the MWELO or a local ordinance that is at least as effective by December 1, 2015. If a local agency does not take action, the MWELO becomes effective by default. However, it is necessary to adopt the ordinance by incorporating it into the County Code to ensure that; 1) the requirements are included in the development review and building review and inspection processes to ensure that projects are in compliance with state law, 2) to fully inform the public of the requirements, 3), to limit potential liability to applicants and the County, 4), to ensure that the County remains eligible for grant funding and 5) to ensure that reporting requirements and procedures are incorporated into County processes. The new requirements also include annual reporting by local agencies beginning on December 31, 2015.

The first Model Water Efficient Landscape Ordinance was adopted by DWR in 2010 in compliance with AB 1881. Local agencies were required to adopt the model ordinance or a local water efficient landscape ordinance that was at least as

effective and to report their adoption decision to DWR. The County responded with an explanation as to how the County's existing requirements for outdoor water conservation meet the intent and requirements of the ordinance at that time. Because the updated MWELo contains many additional requirements, the County's existing landscaping standards can no longer be determined to be as effective as the MWELo. In response to Executive Order B-29-15, DWR has increased efforts to ensure that local agencies come into compliance with the MWELo, such as instituting annual reporting requirements.

The proposed amendment would adopt the updated MWELo by adding a reference in Title 19 to Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations. The reference to the MWELo is being added to Title 19 because the new landscaping provisions must be addressed during the building permit process. Due to the short timeframe available for the County to comply with State requirements, Title 22 will be updated for consistency at a later date. The California Green Building Code will also be made consistent in the next regular update.

### **Applicability**

As a result of MWELo adoption, smaller projects will be subject to more strict landscaping requirements. The MWELo applies to all new projects with an aggregate landscape area of 500 square feet or greater that require a building permit. It also applies to rehabilitated landscape projects with an aggregate landscape area of 2,500 square feet or greater that require a building permit. Project applicants with new landscapes less than 2,500 square feet can choose a prescriptive compliance option contained in Appendix D of the MWELo. This method offers a simplified option; however, these requirements are still more stringent than the County's existing requirements for landscapes of this size.

### **Local Agency Review Process Requirements**

The MWELo requires applicants with projects containing new landscaping equal to or greater than 500 square feet to submit a Landscape Documentation Package. The submittal will be required as part of the building permit process, and the County must review and approve or deny the Landscape Documentation Package. Once approved, the County is required to submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor. Local agencies have the option of designating a water purveyor as the responsible entity for implementation of all or a portion of the MWELo requirements. Since the unincorporated areas of the County are served by many different small water purveyors with varying capacities, it may not be practical to rely on water purveyors to implement MWELo requirements. Regardless, the County would be the only responsible party in rural areas of the County that are not served by a water purveyor.

The Landscape Documentation Package must include a water efficient landscape worksheet, a soil management report, a landscape design plan, an irrigation plan, and a grading plan (if necessary). A landscape water meter is required on all non-residential irrigated landscapes between 1000 and 5000 sq. ft. and all residential landscapes 5,000 sq. ft. or greater.

After the Landscape Documentation Package is approved and landscaping is installed, the applicant must submit a Certificate of Completion signed by the landscape plan designer, irrigation installer, or landscape contractor to verify that landscaping has been installed according to the approved plans. An irrigation audit report must be included with the certificate of completion. The irrigation audit can be conducted by either a local agency landscape irrigation auditor or a third party certified landscape irrigation auditor.

### **Exceptions for Recycled Water, Greywater, Special Landscape Areas**

The MWELo includes exceptions for alternative water supplies and for special landscape areas such as edible plants and non-residential recreation areas. For example, as an incentive for greywater use, landscapes under 2,500 sq. ft. that are irrigated entirely with graywater or captured rainwater have far fewer requirements. They are subject only to the prescriptive requirements of Appendix D, Prescriptive Compliance Option.

### **Relation to Stormwater Requirements**

The MWELo requires friable soil in planted areas to maximize water retention and infiltration. Four yards of compost per 1000 sq. ft. of area must be incorporated. Other recommended measures for increasing onsite stormwater retention are listed in the Ordinance. These requirements will be met in conjunction with the County's existing stormwater requirements.

### **Prescriptive Compliance Option**

Applicants with projects where total landscape area is less than 2,500 sq. ft. can choose to comply with the prescriptive requirements listed in Appendix D. With this option, many criteria are no longer required, including the Water Efficient Landscape Worksheet and Calculations, the Soil Management Report, and the Irrigation Audit Report. Instead, water efficient landscaping is achieved by using climate adapted plants (i.e. native) that require little, occasional, or no summer water in 75% of the total landscaped area for residential projects and 100% of the total landscaped area for non-residential projects. Turf cannot exceed 25% of the total landscaped area for residential projects and is not allowed in non-residential projects.

### **Reporting Requirements**

Local agencies are required to report to Department of Water Resources on implementation and enforcement of the MWELO by December 31, 2015. Subsequently, local agencies will be required to report on an annual basis by January 31 of each year. Reporting must include the number projects subject to the ordinance during the reporting period, procedures for review, verification, and enforcement, as well as challenges in implementing the ordinance and educational and other needs to assist proper implementation. The impact on staffing and service is not known at this time. The department will monitor impacts to staff resources associated with MWELO implementation and reporting requirements and may request resources in the future.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

County Counsel has reviewed the amendment as to its form and legal effect.

### **FINANCIAL CONSIDERATIONS**

The department will monitor impacts on staff resources needed to meet MWELO implementation and reporting requirements and may request resources or amendments to the County fee schedule in the future.

### **RESULTS**

Adopting the Ordinance amendment in Attachment 1 will incorporate the requirements of the Model Water Efficient Landscape Ordinance and comply with Executive Order B-29-15 as required by law. This ordinance is consistent with the County's goal of promoting a healthy, livable and prosperous community.

### **ATTACHMENTS**

1. Attachment 1 - Amendment to Title 19
2. Attachment 2 - Model Water Efficient Landscape Ordinance
3. Attachment 3 - General Rule Exemption