



Board Report

File #: ORD 18-011, **Version:** 1

REF110056 - WATER AND ENERGY EFFICIENT LANDSCAPE ORDINANCE

Introduce, waive reading, and set November 6, 2018 at 10:30 AM as the date and time to consider:

- a. Adopting an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in the unincorporated coastal area of Monterey County;
- b. Adopting an ordinance to add Chapter 16.64 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in the unincorporated inland area of Monterey County;
- c. Adopting the proposed Monterey County Landscape Manual - Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation by Resolution; and
- d. Finding the actions categorically exempt pursuant to CEQA Guidelines Sections 15307 and 15308.

Location: County-wide

Proposed CEQA Action: Categorically exempt pursuant to Section 15307 and 15308 of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Board of Supervisors introduce, waive reading, and set November 6, 2018 at 10:30 AM as the date and time to consider:

- a. Adopting an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in the unincorporated coastal area of Monterey County;
- b. Adopting an ordinance to add Chapter 16.64 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in the unincorporated inland area of Monterey County; and
- c. Adopting the proposed Monterey County Landscape Manual - Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation by Resolution; and
- d. Finding the actions categorically exempt pursuant to Sections 15307 and 15308 of the CEQA Guidelines.

SUMMARY:

In an effort to reduce water waste and increase water conservation throughout California, state law requires local agencies to adopt the updated Model Water Efficient Landscape Ordinance (MWELO) or a local ordinance that is equally as effective in water conservation. It is proposed that the County adopt local landscape coastal and non-coastal ordinances which meet the requirements of state law while implementing regulations that meet specific needs of the County. Implementation of these regulations will result in a reduction of water and energy use related to landscape projects.

DISCUSSION

The proposed ordinances would amend Title 16 of the Monterey County Code and add two new chapters for the coastal and inland areas, respectively (see **Attachments A and B**). The regulations contained within the

proposed ordinances are consistent with the existing County regulations for water conservation in landscapes and are at least as effective for conserving water as the MWELo. Applicability thresholds for the proposed ordinances are identical to those contained in the MWELo. The proposed ordinances will be applicable to projects with either a new landscape area of equal to or greater than 500 square feet or a rehabilitated landscape area of equal to or greater than 2,500 square feet. Once a project is identified to be subject to the ordinances, then County must determine if the project qualifies as a Minor Landscape or Major Landscape project. Minor Landscape projects are new landscapes with an aggregate landscape area between 500 to 2,500 square feet or a rehabilitated landscape of at least 2,500 square feet. Major Landscape projects are new or rehabilitated landscapes with an aggregate landscape area greater than 2,500 square feet.

Adoption of a Landscape Manual is also proposed. This manual will work in conjunction with the coastal and inland ordinances to explain the regulations, the permit process for landscape projects, and technical information on planting and irrigation. The manual also contains the necessary forms for documentation.

Public outreach was conducted through Planning Commission workshops, presentations at various committee meetings, and stakeholder involvement. On February 23, 2016, staff introduced the proposed Coastal and Inland Water and Energy Efficient Landscape ordinances before the Board of Supervisors. During the hearing, correspondence from Michael Waxer, representing American Institute of Architects (AIA) Monterey Bay Chapter, was distributed and Pam Silkwood, representing the Refinement Group, was present requesting the Board of Supervisors postpone consideration of the ordinances to allow additional time for review. The Board directed staff to meet with Mr. Waxer and Ms. Silkwood to discuss the regulations contained in the proposed ordinance and return to the Board of Supervisors at a later date. On March 1, 2016, staff met with Mr. Waxer and Ms. Silkwood to discuss the proposed landscape regulations and their suggestions were incorporated where appropriate. On April 19, 2016, the Board received a report on the outcome of the meetings, considered the recommended solutions, and directed staff to make modifications to the ordinance language. In addition, the Board recommended staff work with the Monterey Peninsula Water Management District (MPWMD) as they were in the process for developing their ordinance.

On May 2, 2016, County staff met with and provided MPWMD staff with copies of the modified ordinances and manual. On August 15, 2016, MPWMD added Rule 142.1 - Water Efficient Landscape Requirements through the adoption of Ordinance 172. Language in the proposed ordinances (**Attachment A and B**) is consistent with the regulations found in Rule 142.1.

The ordinances before the Board incorporate revisions in response to comments from these outreach efforts. Specific changes in the ordinances since the 2016 draft address the public's concerns relative to the agricultural cultivation exception and maintenance of landscapes. Sections 16.63.030.D.5 and 16.64.030.D.5 of the ordinances introduced to the Board in 2016 provided an exception from the regulations for "agricultural cultivation activities" but did not include a definition. The Refinement Group proposed a definition that incorporated a list of example activities. Staff agrees that clarification is useful but recommends against over specification, as this could result in unintended consequences. Instead, the ordinances include a new finding (Section 1.H of ordinance) which clarifies the intent and purpose of the regulations: to govern those types of landscape that are ornamental, not agricultural planting. Additionally, a definition of "agricultural cultivation activities" has been added, defining "Agricultural cultivation activities to mean "the production of food and/or fiber." (Sections 16.63.020.A and 16.64.020.B.) The ordinances have also been modified to clarify that requirement for maintenance of landscapes is subject to a reasonableness standard. Therefore, the proposed

ordinances now state that all required landscaping shall be “reasonably” maintained. (Sections 16.63.050.G.2; 16.63.060.J.2; 16.64.050.G.2; and 16.64.050.J.2). Additionally, the ordinances omit the following sentence from the prior drafts: “Plants lost due to disease, destruction, or lifecycle shall be replaced and shall comply with all adopted standards for size, species, and irrigation.” (In prior draft of Sections 16.63.050.G.3; 16.63.060.J.3; 16.64.050.G.3; and 16.64.050.J.3 of the ordinances.) The ordinances have also been updated to replace “Director of Planning” with the “Chief of Planning” to reflect changes in these titles since 2016.

The ordinances require two readings at the Board. Staff proposes that the Board introduce the ordinances on October 23 and consider the ordinances and proposed landscape manual at its meeting of November 6, 2018. County staff have verified with the California Coastal Commission that adoption of Chapter 16.63, which applies in the coastal zone, and approval of the Landscape Manual (as it relates to the coastal areas) will not require certification by the California Coastal Commission (**Attachment D**). The Board can take action to adopt the Landscape Manual by resolution at the same time as the ordinances are presented for adoption on November 6, 2018.

Staff recommends that the Board of Supervisors find adoption of the ordinances and Landscape Manual exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines because their adoption and implementation is an action taken by the County, as authorized by state law, to assure the maintenance, restoration or enhancement of a natural resource and the environment. The ordinances and manual are designed to result in water and energy conservation in landscaping. A finding for CEQA exemption has been incorporated within the coastal and inland ordinance findings.

OTHER AGENCY INVOLVEMENT:

On March 25, 2015, the Planning Commission recommended the Board of Supervisors adopt the Coastal Landscape Ordinance; the Inland Landscape Ordinance; and the Landscape Manual in order to be consistent with state law and promote water conservation and prevent water waste through landscape design. See **Attachment C**.

County Counsel has reviewed the ordinances and approved the ordinances as to form. The following agencies have also reviewed the documents:

- Resource Management Agency
- Health Department/Environmental Health Bureau
- CAL Fire San Benito - Monterey
- Monterey County Regional Fire District
- Office of the Agricultural Commissioner
- Monterey County Planning Commission

FINANCING:

Funding for staff time associated with preparation of the ordinances and manual is included in the Adopted Budget for RMA-Planning, Appropriation Unit RMA001. Costs for staff time to review landscape projects after implementation of the ordinances will be recovered through the existing fees charged for landscape project review. The Monterey County Land Use Fee Schedule lists three fees for landscape plan review: \$265.43 for “Landscape/Fuel Management Review, Residential” (equal to 1.5 hours of staff time), \$530.86 for “Landscape/Fuel Management Review, Commercial” (equal to 3 hours of staff time), and \$176.95 for “Landscape/Fuel Management Re-inspection of Commercial and Residential” (charged by the hour). Two types

of landscape projects will require review by staff as a result of implementation of the ordinances: Minor Landscape projects and Major Landscape projects. Staff projects that the average staff time spent on Minor Landscape projects (plan review and final inspection) equates to approximately 1.5 hours. It is also projected that average staff time spent on Major Landscape project review will be approximately 3 hours. Complex landscape projects requiring additional review time beyond the average can be recovered through the re-inspection fee. RMA staff has been tasked with updating the land use fees and anticipates Board consideration by the end of this fiscal year. Although it will not be necessary to increase or decrease the existing landscape review fees, staff will recommend the fee titles be modified to match the permit type.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents an effective response to our County customers' needs, as well as the protection of the public interest in water conservation. Adoption of these ordinances will allow the County to ensure reduction in water and energy use in accordance with state law.

Check the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Reviewed by: Brandon Swanson, RMA-Planning Services Manager
Christina McGinnis, RMA-Planning Services Manager

Approved by: John M. Dugan, FAICP, Deputy Director of Land Use and Community Development

The following attachments on file with the Clerk of the Board:

- Attachment A - Draft Ordinance for Coastal Water and Energy Efficient Landscapes
- Attachment B - Draft Ordinance for Inland Water and Energy Efficient Landscapes
- Attachment C - Planning Commission Resolution No. 15-027, March 25, 2015
- Attachment D - California Coastal Commission Correspondence

cc: Front Counter Copy; California Coastal Commission; RMA-Public Works and Facilities; RMA-Parks Department; Environmental Health Bureau; Monterey County Water Resources Agency; RMA-Environmental Services; Monterey Peninsula Water Management District; Office of the Agricultural Commissioner; Jonathan Pangburn, Unit Forester, CAL Fire San Benito - Monterey; Brandon Swanson, RMA Services Manager; Christina McGinnis, RMA-Planning Services Manager; Jacqueline R. Onciano, Chief of Planning; Anna V. Quenga, Project Planner; Monterey Bay AIA; Michael Waxer; Rob Carver; Lino Beli; Richard Rudesill; Michael Harrington, Frank Pierce; The Open Monterey Project (Molly Erickson); LandWatch (Director); The Refinement Group; Project File REF110056.