



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: ORD 21-021, **Version:** 1

REF210007/WATER AND ENERGY EFFICIENCY IN LANDSCAPING ORDINANCE

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance

Location: County-wide

Proposed CEQA Action: Consider categorical exemption pursuant to Section 15307 and 15308 of the CEQA Guidelines.

RECOMMENDATION

It is recommended that the Board of Supervisors:

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance.

SUMMARY

State law requires the County to implement the state's Model Water Efficient Landscape Ordinance (MWELo), or alternatively, the County may adopt and implement a water efficient landscape ordinance if the Board of Supervisors finds, based on evidence in the record, that it is at least as effective at conserving water as the state's MWELo. Absent a local landscape ordinance, the County has been implementing the MWELo. If the Board chooses to advance the landscape ordinance for adoption, that adoption would be scheduled on the consent calendar for the Board meeting on December 7, 2021.

DISCUSSION

Application of a local water efficient landscape ordinance in lieu of the MWELo requires a local agency must find, based on evidence in the record, that the local ordinance is "at least as effective in conserving water" as the MWELo (Government Code section 65595(c)(1)). The attached ordinance includes these findings. The reasons this ordinance is at least as effective in conserving water as the updated MWELo include the following: the elements of the MWELo identified in Section 65596 of the Government Code have been incorporated into this ordinance; the County requirement for Minor Landscape Package submittal applies to landscapes up to 2,500 square feet for new construction which is more restrictive than the MWELo that does not require compliance with the MWELo for landscapes up to 500 square feet for new construction; and the definition of "recreational area" is more restrictive than the MWELo definition, thereby limiting the number of areas that would automatically qualify as "special landscape area". Each landscape project in the built environment subject to this ordinance has the opportunity to qualify as a "special landscape area" by irrigating with recycled water.

The Planning Commission and Board of Supervisors have considered prior drafts of the proposed local landscape ordinance. The Planning Commission recommended adoption of a County Landscape Ordinance on March 25, 2015 (Planning Commission Resolution No. 15-027/ REF110056). The Board of Supervisors considered versions of the draft landscape ordinances on March 22 and April 19, 2016 and October 23, 2018.

Per Board direction, staff met with stakeholders and made clarifications to the extent appropriate.

During the April 19, 2016 Board meeting, staff responded to concerns presented during previous meetings and these concerns are addressed in the ordinance as follows:

- *Define agricultural cultivation as being exempt from this ordinance.* The ordinance defines and exempts agricultural cultivation activities and clarifies that the intent is to regulate landscapes that are within the built environment. This ordinance also clarifies the definition of Special Landscape Area consistent with the MWELo.
- *Revise definition of rehabilitated landscape to exclude “ordinary maintenance/repair” and “restoration after natural disaster”.* These are included in the minimum requirements of the state MWELo. Staff proposes no changes to the MWELo that would be inconsistent with the state minimum requirements.
- *Requirement for maintenance of landscapes could compel a practice of landscape watering irrespective of water conservation efforts.* Maintenance of landscapes is clarified as removing noxious weeds and dead plant material, not as enabling lush green landscape vegetation.

Prior drafts consisted of separate ordinances for the coastal zone and non-coastal areas.

This draft has consolidated coastal and inland ordinances into one ordinance which proposes to add Chapter 16.63 to the County Code to apply in both the inland and coastal areas of the unincorporated County. The current draft also incorporates SB1383 (Short-Lived Climate Pollutant (SLCP) Reduction Strategy) updates to the MWELo, as mandated by the state of California. Additionally, staff has made minor corrections and clarifications and added additional findings to the ordinance. The Monterey Peninsula Water Management District (MPWMD) Board adopted a consolidated version (Rule 142.1) of the landscape ordinance in September 2016 that does not include the SB1383 updates to the MWELo.

The County Administrative Office (CAO) is aiming to adopt regulations to implement SB1383 by January 1, 2022, and the landscape ordinance implements one aspect of SB1383.

SB1383 grants to CalRecycle the regulatory authority to require all local jurisdictions implement strategies to divert food waste and other organic materials from the landfills. The decomposition of food matter in landfills produces methane emissions. Methane (CH₄) is a greenhouse gas (GHG) that is more efficient than carbon dioxide (CO₂) in trapping heat in the atmosphere. Municipalities are tasked with achieving the state’s goal of 50 percent reduction of the 2014 level in statewide disposal of organic materials from the waste stream by 2020, and a 75 percent reduction by 2025. Organic material is defined on the CalRecycle website as waste that can be readily prevented, recycled, or composted.

SB1383 requirements update the existing MWELo regulations that have been in place since 2015 by including the following:

- exemption from adding compost or tilling soils with greater than six percent (6%) organic matter in the top six (6) inches of soil;
- exception to implementing a minimum three- (3-) inch layer of mulch in turf areas, creeping or rooting groundcovers, direct seeding applications where mulch is contraindicated, and up to five percent (5%) of the landscape area to provide habitat for beneficial insects and other wildlife;
- organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available; and
- exemption from use of organic mulch materials where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

The ordinance also authorizes the Board to adopt a landscape manual by resolution. Adoption of a Landscape Manual is part of the overall landscape program, though not being considered at this hearing. This manual would work in conjunction with the ordinance to explain the regulations and the permit process for landscape projects and would contain technical information on planting and irrigation. The manual would also contain the necessary forms for implementation of the ordinance. Staff anticipates presenting the manual to the Board of Supervisors for the Board's consideration in the early part of 2022.

Staff recommends that the Board of Supervisors find adoption of the ordinance exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines because the adoption of the ordinance is an action taken by the County, as authorized by state law, to assure the maintenance, restoration or enhancement of natural resources and the environment. The ordinance and subsequent manual are designed to result in water and energy conservation in landscaping and, by incorporating the SB 1383 requirements, to reduce the GHG, methane. A finding for the CEQA exemption has been incorporated within the ordinance findings.

OTHER AGENCY INVOLVEMENT

County Counsel has reviewed and approved the ordinance as to form.

FINANCING

Funding for staff time associated with preparation of the ordinance is included in the FY21-22 Adopted Budget for HCD Appropriation Unit HCD002. Costs for staff time to review landscape projects after implementation of the ordinance will be recovered through the existing fees charged for landscape project review. 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 while the average staff time spent on Major Landscape project review is project to be approximately 3 hours. Complex landscape projects requiring additional review time beyond the average can be recovered through the re-inspection fee, or a deposit. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

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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Approved by: Erik V. Lundquist, AICP, Director of HCD

cc: Front Counter Copy; California Coastal Commission; Public Works, Parks, and Facilities (PWPF);

Environmental Health Bureau; Monterey County Water Resources Agency; HCD-Environmental Services; Monterey Peninsula Water Management District; Office of the Agricultural Commissioner; Jonathan Pangburn, Unit Forester, CAL Fire San Benito - Monterey; Anna V. Quenga, AICP, Interim HCD-Planning Services Manager; 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 REF210007.

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

Attachment A - Ordinance for Water and Energy Efficient Landscapes

Attachment B - Planning Commission Resolution No. 15-027