



Legislation Text

File #: 19-1236, **Version:** 1

Planning and Building Department recommending the Board adopt and authorize the Chair to sign Resolution **139-2019** adopting the California Department of Water Resources 2015 Model Water Efficient Landscape Ordinance pursuant to Governor's Executive Order B-29-15 and the Water Conservation in Landscaping Act and its implementing regulations. (Est. Time: 10 Min.)

FUNDING: Development Fees

DISCUSSION / BACKGROUND

In April 2015, the Governor issued Executive Order No. B-29-15 (Executive Order) which tasked the California Department of Water Resources (DWR) with revising the 2010 Model Water Efficient Landscape Ordinance to increase water efficiency standards for residential and non-residential projects with new and/or retrofitted landscapes. DWR updated its implementing regulations with the new standards in accordance with the Executive Order which resulted in what is now referred to as the 2015 Model Water Efficient Landscape Ordinance.

Pursuant to the Water Conservation in Landscaping Act (Government Code §§ 65591-65599) (the Act), Executive Order No. B-29-15 (Executive Order), and the Act's 2015 implementing regulations (California Code of Regulations Title 23, §490 et seq.) ("Regulations"), a local agency was required to either adopt the California Department of Water Resources' 2015 Model Water Efficient Landscape Ordinance (MWELo) or a local Water Efficient Landscape Ordinance (WELo) that is at least as effective in conserving water as the 2015 MWELo by December 1, 2015. If the local agency did not adopt the MWELo or a qualifying WELo on or before that date, the MWELo automatically applies within the jurisdiction after December 1, 2015 and has the same force and effect as if adopted by the local agency.

The County recently learned that its adopted landscape and irrigation standards were not in full compliance with the Act, the Regulations, and the Executive Order because the County had not adopted the 2015 updated MWELo or a qualifying WELo by December 1, 2015, and the County was not enforcing and implementing the updated 2015 MWELo that automatically became effective consistent with the Act, Regulations and Executive Order.

Upon discovering that it was not in full compliance with the Act, the County immediately took steps to comply with the requirements of the 2015 MWELo, including filing past due reports with DWR, notification of the public regarding coming enforcement of the 2015 MWELo and development of MWELo checklists to provide guidance in determining whether a project is subject to the 2015 MWELo and guidance for achieving compliance with the 2015 MWELo.

After development of the MWELo checklists, the County began implementation and enforcement of the 2015 MWELo starting June 1, 2019. The County updated the MWELo checklists on July 1, 2019 and again on July 29, 2019 to provide additional clarification regarding use of the submittal forms and checklists and to make clear that compliance with the MWELo is required and that the

submittal forms and checklists are intended as guides and not as a substitute for the requirements of the MWELo.

Although the 2015 MWELo automatically became effective by law, pursuant to the Act, Regulations and consistent with the Executive Order, the County has determined that it is in the County's best interest to formally adopt the 2015 MWELo in order to prevent any confusion that might arise by virtue of the County's existing landscaping and irrigation standards that were previously adopted by the Board of Supervisors through Resolution No. 198-2015 and made applicable through Title 130, Chapter 33 (Landscaping Standards) of the County's Ordinance Code.

There are certain aspects of the County's existing landscaping and irrigation standards that go beyond the requirements of the 2015 MWELo that the County desires to maintain; therefore, at this time, and while the County examines whether or not to conduct a more comprehensive update to the landscape and irrigation standards, the staff deems it prudent to adopt the 2015 MWELo with the clarification that if there are any conflicts between the requirements of the 2015 MWELo and the County's existing landscape and irrigation standards or the County's Design and Improvement Standards Manual (DISM), then the requirements of the 2015 MWELo shall control.

ALTERNATIVES

Continue to comply with the requirements of the 2015 MWELo without formally adopting the 2015 MWELo.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION / COMMENTS

It is recommended that the Board approve this item and direct staff to return to the Board with a recommendation for staffing levels for implementation of the ordinance.

FINANCIAL IMPACT

There is no financial impact associated with adopting the 2015 MWELo. However, compliance with the Ordinance will require additional staffing resources. The Department intends to return to the Board with a request for one Full Time Equivalent Development Technician position as well as a budget transfer increasing revenues and expenses to cover the salary and benefit expenses. The fully-burdened cost of a Development Technician is approximately \$90,000 a year. Funding for the position would be provided through the collection of a new MWELo implementation fee, which will be brought to the Board in October with a comprehensive fee schedule update.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Clerk to send one (1) fully executed copy of the Resolution to the Planning and Building Department, attention of Char Tim, Clerk of the Planning Commission.

STRATEGIC PLAN COMPONENT

Good Governance.

CONTACT

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