

Excerpt from: RECLAMATION *Managing Water in the West*

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California** <http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

### **Policies That Affect Water Use Efficiency Measures**

A maze of Federal, State and local rules and regulations impact, both positively and negatively, the ability of agencies and individuals to implement water use efficiency measures. This section describes some of the challenges faced by water use efficiency enthusiasts as well as the institutions that promote these activities.

#### **“NIMFY”: Not in My Front Yard**

This section demonstrates how local land use policies restrict or promote water use efficiency in the City of Sacramento, California; Loomis, California; Albuquerque, New Mexico; Castle Rock, Colorado; and Salt Lake City, Utah.

Often, local planning, building, and nuisance abatement codes have been on the books since the inception of the local government. At times, these ancient CC&Rs are used by nuisance abatement and code enforcement officers to protect public safety, preserve the property values of a neighborhood, prevent urban blight, or simply to respond to a cranky neighbor’s complaint.

Unfortunately, the enforcement of a good number of these local codes, old and new, impedes the implementation of water use efficiency measures. As an example, the charter of the City of Sacramento forbids the installation of residential water meters. As home to two of California’s mightiest rivers, the Sacramento and the American, the founding fathers believed that the bountiful water resources of the community should be freely accessible to city residents. It took many years for the State of California to pass legislation overruling this charter, recognizing that measuring water and charging water users based on volume is an essential element of good water management.

Another section of Sacramento’s City Code has recently come under fire. In 2004, Section 17.68.010, Landscaping Requirements, was used to respond to a neighbor’s complaint about a front yard vegetable garden next door. Since that section of the code requires that front yards be “landscaped, irrigated, and maintained with primarily low ground cover and turf,” the vegetable growing homeowner was cited with code violations of more than \$800. The case was later excused, but a community-based movement was born to revise the code. A public meeting was held June 14, 2006 to present proposed revisions to the code.

Community members raised issues related to the proposed revisions including the arbitrary nature of the percentage of the front yard dedicated to vegetables, the

page - 15 –

four-foot plant height limit, and the preference for turf, a high water using plant.

Several attendees emphasized the need for well maintained, water efficient gardens and how this particular code section was in conflict with the Urban Environmental Accord entered into by the City. (Ralph Montano, “Some digging in for a fight: draft ordinance limits growing of vegetables in front yards,”

*Sacramento Bee*, 22 June 2006, A15.)

Excerpt from: **RECLAMATION** *Managing Water in the West*

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California**

<http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

In the Town of Loomis, a foothill community to the east of Sacramento where developers are attempting to blend mansions with boutique agriculture, primarily carefully manicured vineyards, local officials have attempted to establish CC&Rs that would ban livestock from the development. They have run into trouble with the town's conflicting policy that says horses and other farm animals are an essential part of Loomis' agricultural heritage and must be permitted on land with agricultural zoning. (Bob Shallit, "Mansions, ag rules clashing in Loomis," *Sacramento Bee*, 22 June 2006, D-1.)

"Ranchettes," upscale residential units on several acres of land in rural areas are encroaching on farm and ranch land from California's Sierra foothills and Central Valley to the slopes of the Colorado Rockies and western Montana's big-sky country. Ed McMahon of the Urban Land Institute observes: "Essentially, it's the suburbanization of the American West." Mike McCoy of the University of California, Davis estimates that "at the current rate, two-thirds of land developed by 2050 in the Central Valley's eight top farm counties will be ranchettes or other very low density housing." (John Ritter, "'Ranchette' buyers take a slice of rural West," *USA Today*, 6 October 2006, 17A.)

Also in Loomis, a restrictive property owners association's policy that was in conflict with the County General Plan had a very negative effect on a resident native plant enthusiast. While the County General Plan stated that the primary goal was to preserve and protect the natural environment as much as possible and to maintain the rural character of the area, the homeowner's association rolled fines into the homeowners' monthly assessment because of the natural, low water using landscape that they installed in 2002, citing that it was not in keeping with the lawn-intensive appearance of the rest of the development. The fines were \$10 per day with that rate potentially rising to \$100 per day, at the discretion of the association. Next, the homeowners were threatened with a lien on their property and a possible non-judicial foreclosure. The homeowners, disheartened by the experience, sold their dream house and moved out of the community.

("Foreclosure looming over homeowners natural landscape," *AHRC News Services*, 4 September 2004.)

According to industry reports, six million California residents are ruled by homeowners associations in over 30,000 individual associations. For many of these residents, the homeowners association controls the landscape water use. For others, the homeowners association controls the water use of common areas, including parks, slopes, walkways, and other landscaped area. In 2006, the

page - 16 -  
California Legislature passed Assembly Bill 1881 to forbid the restriction of native plants or other low water using plants by property owners associations. While people choose native plants and other low water using plants for many reasons, native plant gardening has significant benefits for water use efficiency. Gardens planted with locally-adapted native plants can minimize the use of irrigation water. This can be particularly significant in reducing peak season water demand, since these plants require very little water in the summer when

Excerpt from: **RECLAMATION** *Managing Water in the West*

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California**

<http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

water demand is usually the highest.

Persistent and widespread anecdotal reports indicate that well-maintained landscapes with native or other low water using plants are actively discouraged by many local governments and boards of directors of common interest developments. Local planning or design review boards may refuse to approve landscaping plans with unfamiliar plant species. Local code enforcement officers may cite homeowners for “weeds” of excessive heights. Homeowners’ associations with design review have been among the most egregious offenders. These neighborhood quasi-governments can assess fines and place liens on properties planting the ‘wrong’ plants.

The effect of random enforcement actions multiplies its chilling effect on the landscaping industry, where apprehension about regulatory hindrances results in additional pressure to constantly offer the safest, most mainstream plant selection that will not engender any controversy.

In 2004, Albuquerque, New Mexico adopted an ordinance that prohibits property associations, both residential and commercial, from requiring mostly high wateruse grass in yards. The intent was to ensure that all property owners can choose to plant a xeriscape if they wish. Up to 20 percent can be planted in high wateruse grass. Legitimate public interest: avoiding environmental damage caused by over-pumping Albuquerque's ground water supply, was justification for this action. (“Albuquerque halts requirements for turf,” *WaterWiser*, American Water Works Association, <http://www.awwa.org/waterwiser/watch/> April, 2004, accessed 7 July 2006.)

As part of Castle Rock, Colorado’s ongoing campaign to reduce water consumption, home owner association leaders could face a \$1,000 fine and risk arrest if they penalized home owners who want to use less grass and more drought-tolerant plants. Colorado State law prohibits new developments from mandating irrigated turf or banning xeriscaping. Castle Rock's ordinance applies to existing communities as well. (J. Bunch, “Prospects greener for lawn alternatives in Castle Rock,” *Denver Post*, 9 Nov 2004.)

After four years of drought, the mayor of Salt Lake City, Utah and many of his neighbors have gotten into the act, converting their lawn-dominated front yards to a native plant gardens. The city is in the process of updating an ordinance that

page - 17 -

requires all front yards be completely covered with flat green grass. Mayor Rocky Anderson observed, “Five or six years ago, nobody had these types of lawns here. But I think having the native plants is reflective of the identity of our place. We’re in a desert and maintaining our identity can be extremely beautiful, too.” Within the next ten years, he anticipates that xeriscapes will be standard in Salt Lake City, if only because they are so much more affordable. He said that after he planted his, his water bill dropped 65 percent. (Melissa Sanford, “Salt Lake City Moving Toward Less Thirsty Lawns,” *N.Y. Times*, August 25, 2006, p.A-7.)

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California**

<http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

### **Landscape Ordinances**

California's Model Water Efficient Landscape Ordinance (Model Ordinance) and local landscape ordinances institutionalize the design and installation of water efficient landscapes.

While some ordinances have a deleterious effect on water use efficiency efforts, State and local ordinances can foster efficient water management, especially in times of significant growth or water shortages.

The City of Petaluma, California, under a 'de facto' building moratorium because of a potential water shortage, has proposed an ordinance that would restrict lawns and thirsty plants to 30 percent of landscaping on commercial and residential properties, including existing single family homes. This would reverse decades of encouraging lawns at new commercial sites. (Tobias Young, "Petaluma proposes limits on lawns; water shortage fears spur proposal to set restrictions on landscaping projects," *Santa Rosa Press-Democrat*, 6 June 2006.)

On a broader scale, DWR adopted the Model Ordinance in June 1992. Local agencies had until January 1993 to adopt the Model Ordinance, adopt their own ordinance, or issue legal findings that they did not need an ordinance. If no action was taken, the Model Ordinance automatically went into effect.

The Model Ordinance contains provisions to promote water efficient landscapes including:

- establishment of a water allowance at 80 percent of Reference Evapotranspiration (ET<sub>o</sub>);
- minimum irrigation efficiency of 62 percent
- appropriate selection and groupings of plants;
- encouragement of planting of trees and native plants;
- appropriate landscaping for fire safety in fire prone areas;
- separate irrigation valves for hydrozones;
- separate water meters for landscape;
- installation of automatic irrigation controllers and rain shut-off devices;
- 18 -
- irrigation systems designed to avoid runoff and overspray;
- no overhead sprinklers in median strips;
- monthly and annual irrigation schedules specifying estimated water use,
- grading plan;
- routine landscape maintenance and water management practices;
- irrigation audits conducted every five years;
- requirement of soil tests and three inches of mulch in non-turf areas;
- the use of recycled water whenever possible;
- conservation information to all new homeowners, and
- one model home to demonstrate conservation principles.

In March of 2001, Western Policy Research issued a report sponsored by the California Urban Water Agencies called "Water Efficient Landscape Ordinance

Excerpt from: **RECLAMATION** *Managing Water in the West*

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California**

<http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

(AB 325): A Statewide Implementation Review.” Researchers found that nearly 90 percent of new development between 1992 and 1999 took place in agencies that had adopted a water efficient landscape ordinance. There was a general consensus that since the Act was implemented, landscape designs have been improved using drought tolerant plants, better quality and more efficient irrigation systems and increased ease of water budgeting and irrigation design facilitated by computer software.

Their survey of 140 cities and 11 counties indicated an inconsistency in standards, implementation and post-construction follow-up. Some of the weaknesses cited were lack of follow-up after construction is completed and disregard of irrigation and maintenance schedules resulting in over-irrigation. They identified ‘maintenance’ as the weakest link in the design, installation, and maintenance scenario. (Anil Bamezai; Robert Perry; Carrie Pryor, “Water efficient landscape ordinance (AB325): A statewide implementation review. A report submitted to the California Urban Water Agencies,” Western Policy Research, Santa Monica, CA, 2001.)

To encourage the adoption of local ordinances that are more stringent than the State’s Model Ordinance, the Coachella Valley Water District (CVWD) offers local planning agencies technical assistance in plan review and site inspection if they adopt a standard local ordinance that they proposed. The Low Desert regions of the Coachella Valley are fast growing communities where the CVWD finds the standard amount of water offered in the Model Ordinance could result in the design of landscapes that would use nearly 60 inches of water per year, more than the region can afford under present and future conditions. Thus, they request local agencies adopt a lower water budget than that of the Model Ordinance. California will soon be updating the Model Ordinance, in response to enabling legislation (AB 1881) that will implement recommendations of the 2005 California Landscape Task Force Report, *Water Smart Landscapes for California*. Local agencies will be required to adopt local ordinances that are at least as effective as the Model Ordinance, as part of this revision.

page - 19 -

The Public Policy Institute of California released their report in July 2006: *Lawns and Water Demand in California* by Ellen Hanak and Matthew Davis, emphasizing not only the importance of land use planning, but also the that of conservation oriented rate structures in relation to landscape water use efficiency. The authors find that water pricing is an overarching tool for providing incentives for landscape water use efficiency. They quote recent studies that indicate water is a more “elastic” commodity and that consumers are more sensitive to water prices than previously thought, and that pricing can be an especially important outdoor conservation tool.

Hanak and Davis observe that some of the biggest growth pressures in the coming decades will be in hotter inland areas with larger, single family lots than the two major metropolitan coastal regions that are showing an increase in multi-family residences. This results in homeowners using two to three times more water

Excerpt from: **RECLAMATION** *Managing Water in the West*

## **Coordinating Government Programs and Policies to Advance Water Use Efficiency in California**

<http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>

outdoors in hotter inland climates than those in coastal areas.

While some developers continue to build houses on large lots, often referred to as ranchettes, many are moving toward the “McMansion” approach: large houses on small lots, or condominiums. In the fast growing six county Sacramento region, about 40 percent of new-home sales in 2005 involved houses on lots smaller than 4,000 square feet, according to the Gregory Group. Five years ago in El Dorado, Placer, Sacramento and Yolo counties it was a mere 1.5 percent. This trend

reflects one of the key changes in the housing supply that the Sacramento Area Council of Government’s “Blueprint” promotes: higher density housing. (Jim Wasserman, “Those incredible shrinking backyards: Builders squeezing big homes on ever-smaller parcels,” *Sacramento Bee*, 26 July 2006.)

Another trend that is being embraced by planners, water suppliers, environmentalists and builders is the “Green Building” movement. These ecofriendly developments emphasize energy and water use efficiency, natural over chemical, recycled materials, and renewable resources. “There’s a lot more consumer interest. It’s starting to be a groundswell,” says Calli Schmidt, a spokeswoman for the National Association of Home Builders. A McGraw-Hill Construction survey in March 2006 predicted that green building would reach a “tipping point” next year and that two-thirds of builders would be building green homes. (John Ritter, “Building ‘green’ reaches a new level,” *USA Today*, 27 July 2006).

In support of this movement, the Federal government, 15 states and 46 cities require new public buildings to meet the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) standards. Water suppliers can ‘jump on the bandwagon’ of progressive programs such as this and insure that water use efficiency is built in from the start.

Pages 14-19 of <http://www.usbr.gov/lc/socal/reports/Financialasst.pdf>