

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: SEPT. 4, 2008



AUTHORIZE SUBMITTAL OF COMMENTS TO SLO COUNTY  
ON RETROFIT PROPOSALS

**ITEM**

Authorize submittal of comments to SLO County on Retrofit Proposals [RECOMMEND AUTHORIZATION].

**BACKGROUND**

The consumption of water in the Nipomo Mesa Water Conservation Area (NMWCA) has resulted in lowered groundwater levels, threatening water quality. In response to this threat to groundwater (the community's only fresh potable water source), the San Luis Obispo County Board of Supervisors has certified a Level of Severity III for the NMWCA. This is the highest severity level in the County General Plan's Resource Management System.

The County has proposed water conservation measures, the goal of which is to reduce the amount of water being used by residential, commercial and other uses located in the NMWCA. This reduction in water use will be achieved through requiring high-efficiency plumbing fixtures in existing homes, businesses and institutional buildings using water from the NMWCA (achieved through plumbing retrofits at the time of sale of a structure and with the remodeling of a structure) and by requiring developers of new structures to offset the new water demand of the structures by retrofitting existing structures.

These measures can be organized into six categories:

- High-efficiency plumbing fixtures required for existing structures, with plumbing retrofits required upon the sale of a qualifying structure and upon modification of a qualifying existing structure. Refer to Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19) and Exhibit LRP2007-0005:A (Ordinance Amending Title 8) for details.
- High-efficiency plumbing fixtures required for new development. Refer to Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19) for details.
- Plumbing-retrofit requirement for new structures to offset the new water demand of these structures, in which, prior to the issuance of a construction permit, the developer will present to the Department of Planning and Building evidence of plumbing retrofit of five existing structures. Refer to Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19) and Exhibit LRP2007-0005:A (Ordinance Amending Title 8) for details.
- In lieu of retrofitting plumbing fixtures in existing structures, a developer of a new structure may instead pay to the Nipomo Community Services District (NCSD) a fee, which will be used to provide water conservation plumbing hardware, irrigation systems, and water audits. Refer to Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19) for details.
- As an alternative to the "in-lieu-of" option, a developer may submit a water conservation program for public spaces in the NMWCA. Refer to Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19) for details.
- High-efficiency requirements for irrigation systems, and limitation of turf area and total area of irrigated landscape. Refer to LRP200-0000:A (Ordinance Amending Title 22).

These measures are outlined in three ordinance amendments:

- Exhibit LRP2007-0005:A (Ordinance Amending Title 8): Adopted by the San Luis Obispo. County Board of Supervisors on August 26, 2008.
- Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19). To be heard by the Board of Supervisors on September 23, 2008.
- Exhibit LRP200-0000:A (Ordinance Amending Title 22) To be heard by the Board of Supervisors on September 23, 2008.

Expected fiscal impact on the NCS D would be minimal. Developer fees would fund the portions of the measures administered by the NCS D (including administration costs).

### **RECOMMENDATION**

Staff believes that the proposed water-conservation measures will benefit the Nipomo community by achieving the goal of reduction of water use from the NMCA groundwater basin. Staff requests the Honorable Board of Directors review the plumbing retrofit proposals from the County, and provide recommendations for, and authorization of, submittal comments to the Board of Supervisors at their September 23, 2008 meeting.

### **ATTACHMENTS**

- Exhibit LRP2007-0005:A (Ordinance Amending Title 8): Adopted by the San Luis Obispo. County Board of Supervisors on August 26, 2008.
- Exhibit LRP: 2007-0006:A (Ordinance Amending Title 19). To be heard by the Board of Supervisors on September 23, 2008.
- Exhibit LRP200-0000:A (Ordinance Amending Title 22) To be heard by the Board of Supervisors on September 23, 2008.

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

(1) DEPARTMENT Planning and Building		(2) MEETING DATE August 26, 2008		(3) CONTACT/PHONE James Caruso, Senior Planner (805) 781-5702	
(4) SUBJECT Amendment to Title 8 of the County Code, the Health and Sanitation Ordinance, requiring sellers of real property within the Nipomo Mesa Water Conservation Area to retrofit plumbing fixtures with low water-consuming plumbing fixtures at the time of sale.					
(5) SUMMARY OF REQUEST County File No: LRP2007-0005--A request by the County of San Luis Obispo to amend Title 8 of the County Code, the Health and Sanitation Ordinance. The proposed ordinance requires sellers of real property within the Nipomo Mesa Water Conservation Area to replace existing plumbing fixtures in homes and businesses with low water consumption fixtures prior to transfer of title. Supervisorial District: 4					
(6) RECOMMENDED ACTION That the Board of Supervisors: 1. Approve the amendments to Title 8, The Health and Sanitation Ordinance, as shown in Exhibit LRP2007-0005:A, based on the findings in Exhibit LRP2007-0005:B; and 2. Direct staff to continue to develop water conservation measures for the Nipomo Mesa Water Conservation Area.					
(7) FUNDING SOURCE(S) Current County Budget		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Nipomo Community Services District, Public Works Department.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract: _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input checked="" type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All		(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board N/A	
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. - 30 min) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business		(17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input checked="" type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A			
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A			
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input type="checkbox"/> N/A Dates: 6/26/07, 7/24/07, 10/16/07, 1/15/08, 3/11/08, 6/10/08, 8/19/08	
(23) ADMINISTRATIVE OFFICE REVIEW					



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

**TO: BOARD OF SUPERVISORS**

**FROM: JAMES CARUSO, SENIOR PLANNER**

**VIA: CHUCK STEVENSON, AICP, DIVISION MANAGER, LONG RANGE PLANNING**

**DATE: AUGUST 26, 2008**

**SUBJECT: AMENDMENT TO TITLE 8 OF THE COUNTY CODE, THE HEALTH AND SANITATION ORDINANCE, REQUIRING SELLERS OF REAL PROPERTY WITHIN THE NIPOMO MESA WATER CONSERVATION AREA TO RETROFIT PLUMBING FIXTURES WITH LOW WATER-CONSUMING PLUMBING FIXTURES AT THE TIME OF SALE.**

**RECOMMENDATION**

That the Board of Supervisors:

1. Approve the amendment to Title 8, The Health and Sanitation Ordinance, as shown in Exhibit LRP2007-0005:A based on the findings in Exhibit LRP2007-0005:B; and
2. Direct staff to continue to develop water conservation measures for the Nipomo Mesa Water Conservation Area.

**DISCUSSION**

**Background**

Your Board continued this hearing from August 19, 2008 to revise the exemption language. The revised ordinance is attached to this memo and is ready for approval.

**OTHER AGENCY INVOLVEMENT/IMPACTS**

The proposed amendment was referred to the Nipomo Community Services District and the Public Works Department.

**FINANCIAL CONSIDERATIONS**

No financial impacts to the current county budget.

**INTENDED RESULTS**

Adoption of this ordinance will result in lower water use within the Nipomo Mesa Water Conservation Area.

**ATTACHMENTS**

1. Exhibit LRP2007-0005:A: Plumbing Retrofit upon Sale Ordinance
2. Exhibit LRP2007-0005:B: Findings



EXHIBIT LRP2007-0005:A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 8  
OF THE SAN LUIS OBISPO COUNTY CODE,  
THE HEALTH AND SANITATION ORDINANCE,  
BY ADDING CHAPTER 8.92 RELATING TO A  
PLUMBING FIXTURE RETROFIT UPON SALE ORDINANCE IN  
THE NIPOMO MESA WATER CONSERVATION AREA

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: Chapter 8.92 of the Health and Sanitation Ordinance, Title 8 of the County Code, Retrofit of Plumbing Fixtures Upon Sale in the Nipomo Mesa Water Conservation Area, is hereby added as follows:

**8.92.010 Purpose.**

The Board of Supervisors does hereby find, determine and declare that overall water use in the Nipomo Mesa Water Conservation Area has surpassed a sustainable capacity:

1. The consumption of water in the Nipomo Mesa Water Conservation Area has resulted in lowered groundwater levels that threaten water quality. In response to this threat to groundwater, the community's only fresh potable water source, the Board of Supervisors has certified a Level of Severity III for the Nipomo Mesa Water Conservation Area; this is the highest severity level in the County General Plan's Resource Management System.

2. The purpose of this chapter is to reduce the amount of water being used by residential, commercial and other uses located in the Nipomo Mesa Water Conservation Area. Reduction in water use shall be achieved through retrofitting existing plumbing fixtures with low water consumption plumbing fixtures in existing homes, businesses and institutional buildings upon the sale of any such structure that uses water from the Nipomo Mesa Water Conservation Area.

**8.92.020 Definitions.**

The following words and phrases shall, for the purposes of this chapter, be interpreted as follows:

- (1) "Residential" means any private structure suited for or characterized by private residences or residential neighborhoods.
- (2) "Commercial" means any structure used for the purpose of, or characterized by commercial business.
- (3) "Low consumption plumbing fixtures for residential units" include:
  - (a) Toilets that are rated at no more than 1.28 gallons per flush (HET);
  - (b) Showerheads that do not exceed 2.5 gallons per minute;
  - (c) Aerators on all lavatory sinks that do not exceed 2.0 gallons per minute.
- (4) "Low consumption plumbing fixtures for commercial units" include:
  - (a) Waterless urinals that use 0 gallons per flush;
  - (b) Toilets that are rated at no more than 1.28 gallons per flush (HET);
  - (c) Showerheads that do not exceed 2.5 gallons per minute;
  - (d) Aerators on all lavatory sinks that do not exceed 2.0 gallons per minute.
- (5) The Nipomo Mesa Water Conservation Area is shown in Figure B as the area within the "Nipomo Mesa Water Conservation Area Boundary."

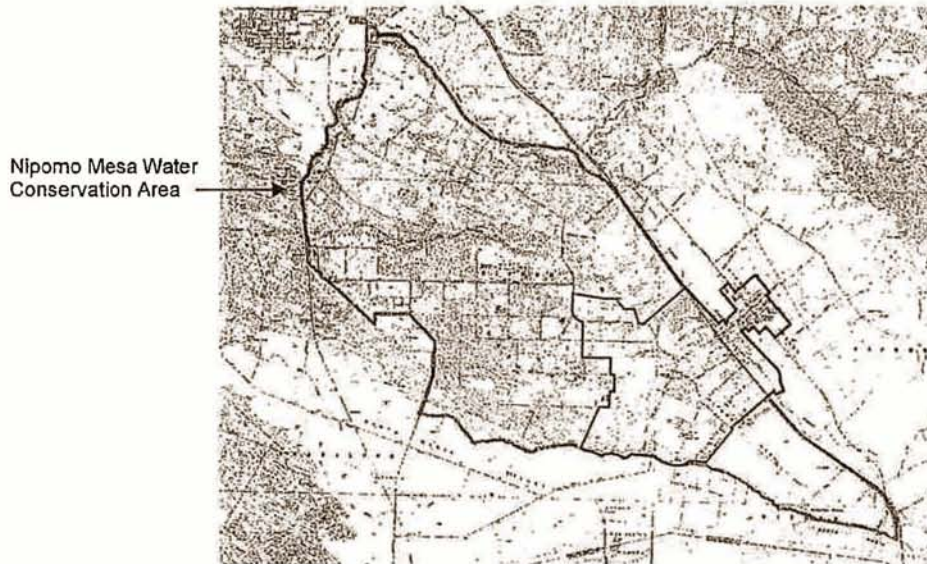


Figure B: Nipomo Mesa Water Conservation Area, not to scale

- (6) "Title 8 Water Conservation Certificate" is an acknowledgement from the County of San Luis Obispo Department of Planning and Building that all plumbing fixtures in a structure have been retrofitted in accordance with this Chapter.



- (7) "Retrofit Verification Declaration" is provided to the Department of Planning and Building by a licensed plumber or building contractor, or a home inspector certified by the CREIA, ASHI, or ICC. The Declaration shall be in a form provided by the Department. The completed form is subject to review and approval by the Department prior to issuance of a Title 8 Water Conservation Certificate.

#### **8.92.030 Retrofit upon sale.**

##### Retrofit Requirements Upon Change of Real Property Ownership.

- (1) All existing residential, commercial, and other buildings that receive water from the Nipomo Mesa Water Conservation Area shall be retrofitted with low consumption plumbing fixtures at or prior to the time of sale. This ordinance shall apply to new escrows or sales agreements initiated after the effective date of this ordinance.
- (2) Responsibility of the Seller. The seller shall be responsible for complying with the requirements of this chapter and for obtaining a "Title 8 Water Conservation Certificate" in compliance with Section 8.92.030 prior to the time of sale.
- (3) Upon retrofitting of the structure, the seller shall submit evidence of the completed retrofit to the Department of Planning and Building. Such evidence shall consist of a County-provided Retrofit Verification Declaration completed and executed by a licensed plumber, licensed contractor or a home inspector certified by the CREIA, ASHI or ICC. The completed declaration shall be accompanied by any fee adopted by the Board of Supervisors.
- (4) Upon submittal of a Retrofit Verification Declaration to the San Luis Obispo County Department of Planning and Building and County approval of the Declaration, the seller shall be issued a "Title 8 Water Conservation Certificate" by the Department of Planning and Building.
- (5) The seller shall give written notice to the transferee of the requirements of this chapter prior to the change of ownership. A signed copy of the Title 8 Water Conservation Certificate and a written notice of retrofit requirements shall be included in the transfer documentation.
- (6) The seller of a structure that has already been retrofitted with low consumption plumbing fixtures may verify compliance with the Department of Planning and Building and request issuance of a



"Title 8 Water Conservation Certificate" by one of the following methods:

- (a) Physical inspection of the fixtures by a licensed plumber, licensed building contractor, or a home inspector certified by the CREIA, ASHI or ICC, and submittal of a Retrofit Verification Declaration to the Department of Planning and Building for review and approval; or
  - (b) Participation in a water purveyors' plumbing fixture rebate program in which documentation of an inspection demonstrates that the retrofit requirements of this chapter have been satisfied; or
  - (c) Submittal to the Department of a previously issued Title 8 Water Conservation Certificate for the parcel changing ownership.
  - (d) Inclusion in the plumbing retrofit data base maintained by the Department of Planning and Building of the parcel changing ownership.
- (7) Disposing of toilets. All toilets that have been removed from structures must be recycled in a legally established recycling facility to complete compliance.

#### **8.92.040 Exemptions.**

- (1) All existing 1.6 gallon-per-flush toilets shall be exempt from the provisions of this chapter.
- (2) The Planning Director may exempt historic facilities from the provisions of this chapter, and impose reasonable conditions in lieu of full compliance herewith. The Director may exempt facilities from the provisions of this chapter when low consumption plumbing fixtures are not available to match a historic architectural style. The Director shall require that sufficient evidence or proof be submitted to substantiate any exemption.

#### **8.92.050 Penalties.**

Any seller who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to chapter 1.04.010.

SECTION 2: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares it would have passed this ordinance and each section, sub-section, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3: This ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. It shall be published with the names of the Board of Supervisors members voting for and against same, once in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

SECTION 4: The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Introduced at a regular meeting of the Board of Supervisors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2008, by the following roll call vote, to-wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Chairman of the Board of Supervisors of the  
County of San Luis Obispo, State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors, County of San Luis  
Obispo, State of California


BY: \_\_\_\_\_

(SEAL)



APPROVED AS TO FORM AND LEGAL EFFECT:

R. WYATT CASH  
County Counsel

By:   
Deputy County Counsel

Dated: 7.21.08

EXHIBIT LRP2007-0005:B  
FINDINGS

Environmental Determination

- A. The Environmental Coordinator has approved a Categorical Exemption for this proposal (Section 15307, Class 7). The proposed amendment to the Health and Sanitation Ordinance constitutes an action to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Amendment

- B. The proposed amendment to the Health and Sanitation Ordinance will limit the extraction of groundwater and expand the application of low water-use requirements.
- C. The proposed amendment to the Health and Sanitation Ordinance will require specific indoor conservation measures upon sale of buildings that use water from the Nipomo Mesa Water Conservation Area.
- D. The proposed amendment is consistent with the Land Use Element and Local Coastal Program and other adopted elements of the general plan because the proposed requirements are consistent with the general goals of the Land Use Element to avoid the use of public resources, services and facilities beyond their renewable capacities, and to monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels.
- E. The proposed amendments will protect the public health, safety and welfare of the area residents by reducing water extractions from the Nipomo Mesa Water Conservation Area by requiring low water consumption plumbing fixtures upon sale of buildings that use water from the Nipomo Mesa Water Conservation Area.



EXHIBIT LRP: 2007-0006:A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, BY AMENDING SECTION 19.07.042 RELATING TO WATER CONSERVATION IN THE NIPOMO MESA WATER CONSERVATION AREA AND ADOPTING FINDINGS OF FACTS TO SUPPORT THE IMPOSITION OF REQUIREMENTS GREATER THAN ESTABLISHED BY OR PURSUANT TO THE CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, California Health and Safety Code, Sections 18941.5 and 17958.5 authorizes the Board of Supervisors to make modifications or changes to the California Building Standards Code, including adopting more restrictive building standards, as it determines are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, California Health and Safety Code Section 17958.7 requires the Board of Supervisors to make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, the Board of Supervisors finds that each of the changes or modifications to measures referred to herein are reasonably necessary because of local climatic, geological, or topographical conditions in the area encompassed by the boundaries of the County of San Luis Obispo, and the Board of Supervisors further finds that the following findings support the local necessity for the changes or modifications:

**FINDING 1**

Climatic: Climatic conditions in this jurisdiction have led to groundwater basin overdraft conditions that must be addressed through installation of lower water using fixtures such as toilets. Uneven rainfall patterns and dry summers contribute to lowering groundwater levels.

WHEREAS, the Board of Supervisors determines that the provisions of the State Building Standards Code are hereby modified, changed and amended, as provided for in this ordinance, and as previously provided in ordinance number 3139 (Chapters 19.01, 19.04, 19.40, and 19.80 and Sections 19.20.002 through 19.20.090, 19.20.150 through 19.20.380, 19.20.126 and 19.90.010 of the San Luis Obispo County Code are hereby repealed and replaced by new Chapters 19.01, 19.02, 19.03, 19.04, 19.05, 19.06, 19.07, 19.40, 19.80, and 19.85 and new Sections 19.20.126 and 19.90.010) based upon the foregoing findings and that said Board takes said action because of the public interest in protecting life and preserving public safety and property.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by revising subsection b as follows:

**19.07.042 - Water Conservation Provisions.** The requirements in this section shall apply to all new installations and, where specifically required, to existing structures.

- a. **Water fixtures.** Water fixtures shall comply with current requirements of the California Energy Commission and Department of Water Resources.
- b. **Existing Structures.** In existing buildings, replacement water fixtures shall conform to the above requirements. In addition, all fixtures in an existing building shall be brought into conformance with these requirements when an alteration of that building meets either of the following criteria, except in the Nipomo Mesa Water Conservation Area and the Los Osos Groundwater Basin as described in Subsections d and e.
  - (1) A bathroom is added;
  - (2) The floor areas is increased by twenty per cent (20%) or more
- c. **Other requirements:**
  - (1) Spas, hot tubs, fountains and other decorative bodies of water shall be equipped with recirculating systems and shall be designed to operate without a continuous supply of water.
  - (2) Vehicle wash facilities shall have approved water reclamation systems which provide for reuse of a minimum of 50 percent of the wash water. Hoses, pipes, and faucets for manual application of water to vehicles at such facilities shall be equipped with positive shut-off valves designed to interrupt the flow of water in the absence of operator applied pressure.
  - (3) Water supply piping shall be installed so that each dwelling unit may be served by a separate water meter.

SECTION 2. Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by amending subsection d as follows:

- ~~d. **Nipomo Mesa Water Conservation Area.** In addition to the requirements in Section 19.07.042, all new installations in the Nipomo~~



Mesa Water Conservation Area shown in Figure 20-1 shall include sink faucets in all bathrooms and kitchens equipped with automatic shut-off devices. In lieu of faucets with automatic shut-off devices, a minimum of two high efficiency toilets (1.2 gallons maximum per flush) shall be installed.

**d. Nipomo Mesa Water Conservation Area:** In addition to the requirements in sections a, b and c above, the requirements in paragraphs (1) through (6) below shall apply to all new development that uses water from the Nipomo Mesa Water Conservation Area shown in Figure 20-2.

(1) The developer of any new structure that uses water from the Nipomo Mesa Water Conservation Area shall install plumbing fixtures that meet the following requirements:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.5 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
- iv. Hot water circulation systems for master bathrooms and kitchens if the furthest plumbing fixture unit in these rooms is greater than twenty (20) pipe - feet from the hot water heater;
- v. Commercial structures shall use waterless urinals;
- vi. New residences shall be plumbed for grey-water systems pursuant to Chapter 16 of the Uniform Plumbing Code.

(2) Any remodel of an existing structure or addition to an existing structure that uses water from the Nipomo Mesa Water Conservation Area, that requires a construction permit pursuant to this Title, that is valued at \$20,000 or more as determined by the Building Division of the Department of Planning and Building, and that is not solely for roof replacement or electrical work to bring the structure into compliance with this Title, shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.5 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
- iv. All urinals in commercial structures shall be replaced with waterless urinals.

Toilets rated at no more than 1.6 gallons per flush are exempt from this requirement and do not have to be replaced.

- (3) Prior to issuance of a construction permit for a new structure with plumbing fixtures that use water from the Nipomo Mesa Water Conservation Area, the developer of such new structure shall provide evidence to the Department of Planning and Building that the plumbing fixtures in five (5) existing structures within the Nipomo Mesa Water Conservation Area have been retrofitted by replacing all toilets, showerheads and faucet aerators as follows:
- i. Toilets rated at no more than 1.28 gallons per flush (HET);
  - ii. Showerheads rated at no more than 2.5 gallons per minute;
  - iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
  - iv. All urinals in commercial structures shall be replaced with waterless urinals.
  - v. Owners of existing structures that are retrofitted under this program shall agree to allow their water purveyors to release water use data to the Department of Planning and Building in order to gauge the effectiveness of the program to the extent allowed by California law.

Upon retrofitting of the required number of plumbing fixtures, the developer shall submit evidence of the completed retrofits to the Department of Planning and Building. This evidence shall consist of a Retrofit Verification Declaration completed and executed by a licensed plumber and/or contractor.

Upon submittal to the Department of Planning and Building of a completed and executed Retrofit Verification Declaration accompanied by the required fee, the developer shall be issued a Water Conservation Certificate from the Department of Planning and Building. Once the Water Conservation Certificate is issued, the new structure may receive final occupancy approval.

- (4) In lieu of retrofitting plumbing fixtures in existing structures as specified in subsection d(3), a developer of a new structure may instead pay to the Nipomo Community Services District (hereinafter referred to as the "District") the amount of \$750.00 per toilet to be installed in the new structure. Prior to issuance of a building permit for the new structure specified in subsection d(3), a receipt for the payment to the District shall be submitted to the Department of Planning and Building.
- (5) The District shall use the in lieu fees specified in subsection d(4) for programs that result in measurable water conservation in the Nipomo Mesa Water Conservation Area, including but not limited to the following:
- i. Subsidize toilet/showerhead retrofits.
  - ii. Subsidize interior water audits.



- iii. Subsidize exterior water audits.
- iv. Subsidize irrigation system changes that will save water pursuant to the results of a District-sponsored water audit.
- v. Subsidize removal of high water-using turf and landscape materials and replacement with low water-using landscape material.
- vi. Provide repairs to irrigation systems at a cost not to exceed \$100.00 per parcel.

Fees collected from new development located within the District boundaries shall only be used for water conservation projects within the District. Fees collected from new development that is located outside of the District boundaries shall be used for water conservation projects outside of the District boundaries.

- (6) As an alternative to subsection d(4), a developer may submit a water conservation program for public parks or schools and grounds in the Nipomo Mesa Water Conservation Area. The program shall be completed by a certified water manager and shall identify water savings and associated costs of conservation measures such as irrigation system replacement and/or repairs, installation of "smart controllers" and amendments to soils. The water conservation program shall demonstrate that the identified water savings equal or exceed the savings required by subsection d(3). Water conservation programs shall be subject to review and approval of the Planning Director and the owner of the public facility.

SECTION 3. The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo,

State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, 2008, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairman of the Board of Supervisors,

County of San Luis Obispo,  
State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_



EXHIBIT LRP200-0000:A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 22 OF THE  
SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE  
SECTION 22.112.020 RELATING TO THE NIPOMO MESA WATER  
CONSERVATION AREA

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Section 22.112.020 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by revising subsections F2 and F3 to read as follows and renumbering all figures as necessary:

2. Landscape standards. The standards in Chapter 22.16 apply to the following projects within the Nipomo Mesa Water Conservation Area (NMWCA). Only those exceptions set forth in Subsection 22.16.020.B.2, 4, 6, and 7, are allowed within this area:
  - a. Public projects. Development projects completed by a public agency that require a land use permit.
  - b. Other projects. All development projects not included in subsection 2a in and outside of urban and village reserve lines.
  - ~~b. New non-residential projects. All new projects within the Recreation, Office and Professional, Commercial Retail, Commercial Service, Industrial and Public Facilities land use categories.~~
  - ~~c. Developer installed.
    - (1) ~~All developer installed landscaping in all Residential land use categories within urban or village areas.~~
    - (2) ~~All developer installed landscaping in all land use categories outside of urban or village areas where the parcel is 5.0 acres or less.~~~~
  - ~~d. Homeowner installed. All homeowner installed landscaping for any project for which a land use permit is required.~~

c. Irrigation Systems. Irrigation systems shall include the following components:

- (1) Drip Irrigation. Drip irrigation systems are required for all landscaped areas (except turf areas). The drip irrigation system shall include the following components:
  - (a) Automatic rain shut-off device;
  - (b) Soil moisture sensors if recommended by a water audit;
  - (c) A separate meter for outdoor water; and
  - (d) An operating manual to instruct the building occupant how to use and maintain the water conservation hardware.
- (2) Smart controllers. Irrigation controllers that climatologically control irrigation systems and that automatically sense water needs for all irrigation zones, also known as smart controllers, shall be installed and maintained on all irrigated and landscaped areas.

fd. Turf area limits:

- (1) Multi Family dwellings: The maximum amount of turf (lawn) area for new multifamily dwellings shall not exceed twenty percent of the site's total irrigated landscape area. In all cases, the site's total irrigated landscape area shall be limited to 300 sq ft per unit.
- (2) All other projects: The maximum amount of turf (lawn) area shall not exceed twenty percent of the site's total irrigated landscape area. In all cases, the site's total irrigated landscape area shall be limited to 1,500 square feet. The review authority may approve exceptions to this requirement in order to allow the minimum amount of irrigated landscaped or turf area needed for schools, parks, and other uses that typically require larger irrigated landscape areas when the applicant can demonstrate the need for the additional irrigated landscaped area based on the characteristics of the use and the site .

3. **Building Permits.** Building permits issued for construction in the Nipomo Mesa Water Conservation Area shall comply with Section 19.07.042. 19.20.240.d.



SECTION 2. The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairman of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_