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REPORT TO HONORABLE MAYOR AND CITY COUNCIL

PROPOSED GRAYWATER RECOMMENDATIONS

INTRODUCTION

On February 27, 2013, the Natural Resources & Culture Committee (Committee) considered an item regarding the Water Policy Implementation Task Force's (Task Force) recommendations on graywater usage in the City. The Task Force reviewed and provided direction on the graywater recommendations provided in Council President Pro Tem Lightner's February 22, 2013 memorandum to the City Council. The recommendations included streamlining the permitting process, tasking the Public Utilities Department (PUD) with developing an outreach and education campaign and exploring the possibility of providing residents and developers with incentives for installing graywater systems.

The Committee, upon motion by Councilmember Zapf, voted to forward the five graywater recommendations to the City Council. This Office was directed to analyze any conflicts with State law or the San Diego Municipal Code (SDMC) and, if necessary, to draft the appropriate documents to implement the recommendations. This memorandum provides that analysis.

QUESTIONS PRESENTED

1. Does California law allow the City to implement the five graywater recommendations?
2. Is it necessary to amend the San Diego Municipal Code (SDMC) or a Council Policy to allow the City to implement the five graywater recommendations?

SHORT ANSWERS

1. Yes. The five recommendations are generally reflective of existing law and pose no conflict with State law.
2. No. The five recommendations do not conflict with the SDMC, and are consistent with Council Policy 400-15.

ANALYSIS

According to California Health & Safety Code § 17922.12, graywater is “untreated wastewater which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and which does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs but does not include wastewater from kitchen sinks or dishwashers.”

As part of an effort to improve residential access to and use of residential graywater systems, the Task Force approved the following five recommendations. Our analysis reveals no conflicts with State law, the SDMC, or Council Policy 400-15. Each of the five recommendations is analyzed in turn below:

Recommendation #1. Continue with “no permit” policy for Closed Clothes Washer Systems.

SDMC section 147.0103(a) provides that the 2010 California Plumbing Code has been adopted by the City. Chapter 16A section 1603A.0 of the California Plumbing Code provides that no construction permit is required for a graywater Clothes Washer System if it complies with the requirements of that section. Thus, the City may continue with the “no permit” policy for these systems.

Recommendation #2. Expand the “no permit” requirement to systems used for landscape irrigation that discharge less than 250 gallons a day and primarily consist of systems taking discharge water from washing machines and wash basins and does not include a potable water connection, the use of a pump, or affect other plumbing, electrical, mechanical or building components. Emphasize the use of Best Management Practices to prevent runoff.

Under Code section 1603A.1.2, a “Simple System” (one with a discharge capacity of 250 gallons per day or less) requires a construction permit, “unless exempted from a construction permit by the Enforcing Agency. The Enforcing Agency shall consult with any public water system (as defined in Health and Safety Code section 116275) providing drinking water to the dwelling before allowing an exemption from a construction permit.” The Development Services Department (DSD) is the “Enforcing Agency”, as it is the local agency specified to issue graywater systems construction permits [“*Enforcing Agency*” is the designated department or agency, as specified by statute or regulation. Definitions, Section 207.0, California Plumbing Code; see also City of San Diego Development Services Information Bulletin 208, October 2010].

The PUD is the “public water system” as defined in Health and Safety Code, section 116275. Therefore, under California Plumbing Code section 1603A.1.2, it is legally permissible to expand the “no permit” requirement to Simple Systems provided that the DSD consults with the PUD before providing an exemption for a construction permit. (*Id*).

Recommendation #3. Streamline the permitting process for “simple” and “complex systems” that take discharge water from other elements in a residence such as bathtubs and showers that would require more extensive in-house plumbing, electrical or mechanical modifications or use of a pump.

Any graywater system that is not a clothes washer system or Simple System is considered a “Complex System” under section 1603A.1.3 of the California Plumbing Code. Complex Systems have a discharge capacity over 250 gallons per day. Regarding the permitting process, under section 1603A.1.3(2), the DSD is required to consult with the PUD before allowing an *exemption* of the construction permit requirement. Implicit in allowing an exemption is the authority to do something less than an exemption, so we see no obstacle, to streamlining the permit process.

City of San Diego Development Services Information Bulletin 208, October 2010, Section III, contains the submittal requirements for obtaining a graywater system construction permit. In order to maintain the construction permit requirement but *streamline* the process for obtaining one, we defer to the DSD staff as to what it can do to streamline the permitting process.

Recommendation #4. Public Utilities Department, in consultation with Development Services Department, should develop and include information on simple graywater systems in their public outreach materials and social media outreach, and emphasize the use of Best Management Practices to prevent runoff.

Public outreach and information on graywater systems is generally consistent with Council Policy. Under Council Policy 400-15, it is the policy of the City Council to support new technological improvements in the field of water conservation (section C. 8., page 5), and to support economically sound activities that reduce the City’s reliance on imported water (section D.1., page 5). Council Policy 400-15 sections E. 6 and 8 also call on the City Council to support the use and development of graywater collection systems (*Id.*, page 6). The City Council may, however, amend Council Policy 400-15 to provide more specific guidance on public outreach, if it desires.

Recommendation #5. Oversight of “Complex Systems” should continue to be in the purview of the Development Services Department in order to ensure that plumbing and building code requirements are met.

This recommendation simply reflects the requirements of the California Plumbing Code. However, as addressed in the discussion for Recommendation #3, under California Plumbing Code section 1603A.1.3(2), the DSD may streamline the construction permit process. Streamlining and oversight by DSD should be balanced to ensure plumbing and building code requirements are met.

CONCLUSION

The five recommendations are consistent with Council Policy 400-15, and State and local law. Nothing in State law or the SDMC conflicts with these proposals, and Council Policy 400-15 clearly contemplates the City taking and supporting these recommendations. It is not necessary to amend Council Policy 400-15 or the SDMC to implement these recommendations.

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