

ORDINANCE NO. 964 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADDING SECTION 21.22.B,
WATER EFFICIENT LANDSCAPE ORDINANCE

WHEREAS, The Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881) requires cities to adopt landscape water conservation ordinances by January 1, 2010; and

WHEREAS, in accordance with this law, the California Department of Water Resources prepared a Model Water Efficient Landscape Ordinance (MWELO); and

WHEREAS, all cities and counties have until January 1, 2010, to either adopt the state's MWELO or their own local water efficient landscape ordinance; and

WHEREAS, a draft local ordinance has been prepared and provides requirements that:

- Are as effective at achieving water savings as the MWELO; and
- Reduces the costs for new homes compared to the State's requirements; and.
- Reduces the City's administrative costs compared to the State's MWELO approach.

and

WHEREAS, this Zoning Ordinance Amendment would include a new Section 21.22B, Water Efficient Landscape Regulations; and

WHEREAS, at its meeting on November 10, 2009, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council approve the proposed ordinance; and

WHEREAS, based on consideration of information received at its meeting of December 1, 2009, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;

- c. Considered the recommendation from the Planning Commission meeting on November 10, 2009;
- d. Introduced said ordinance for the first reading; and

WHEREAS, on December 15, 2010, the City Council held a second reading of said ordinance.

NOW, THEREFORE, the City Council of the City of El Paso de Robles does hereby ordain as follows:

SECTION 1. Council Findings.

The Council finds that:

- a. It is necessary to amend the Zoning Ordinance in order to comply with the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881);
- b. The proposed code amendment would meet the City's policy to promote the conservation and efficient use of water and to prevent waste of this valuable resource;
- c. Consistent with California Law, the purpose of this ordinance is to promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;
- d. Consistent with California Law, the purpose of this ordinance is to establish a structure for planning, designing, installing, maintaining, and managing water efficient landscapes in new construction and rehabilitated projects.
- e. The proposed ordinance will achieve an overall water use reduction of approximately 19 percent compared to development without the landscape restrictions.
- f. The 19 percent reduction is estimated to be at least as effective as the States Model Water Efficient Landscape and Irrigation Ordinance as a result of the turf limitations and limitations on overhead spray irrigation for all projects including single family residential.

SECTION 2: A new Chapter 21.22B, Water Efficient Landscape Ordinance will be added to Title 21, Zoning Code, as shown in Exhibit A.

SECTION 3: A revision to Chapter 21.16. E.340. Landscape Requirements for Front Yards (R-1 Zone), **see bold language below:**

- A. Within one year of issuance of a certificate of occupancy, the holder of a building permit for a single-family dwelling shall have installed front yard landscaping in all nonpaved portions of the area between the front of the home and the street upon which the home faces. The landscaping may consist of lawn, ground cover, flowers, gravel, bark or other equivalent decorative materials. Bare ground and/or weeds are not acceptable landscaping treatments. **Please refer to Chapter 21.22B, Water Efficient Landscape Ordinance for rules and**

regulations regarding landscape and irrigation, including limitations on the percentage of turf/lawn that can be placed in the front yard.

- B. In order to ensure enforcement of this provision, if required landscaping is not completed prior to issuance of a certificate of occupancy, a security deposit, in a form and an amount to be established by city council resolution, shall be submitted prior to issuance of the certificate of occupancy. The costs of inspecting the landscaping, as required by this section, shall be charged against the security deposit. The remaining deposit shall be refunded upon compliance with the requirements of this section.
- C. Upon completion of landscaping installation, the holder of the building permit shall request a building inspection; upon approval of the installed landscaping, the permit holder is released from further responsibility regarding the landscaping. Following approval of landscaping installation, it shall thereafter be the responsibility of the property owner to ensure that the installed landscaping is adequately maintained. Inadequately maintained landscaping may be grounds for public nuisance abatement. Judgment of the adequacy of installed and/or maintained landscaping shall be the responsibility of the city planner, who shall use reasonable discretion. Exceptions from the requirements to landscape front yard areas may be granted by the development review committee upon demonstration that such landscaping would not be reasonable or appropriate based on property size or location.

SECTION 4: A revision to Chapter 21.16.I.290.C Landscape Requirements (Multi-family Residential Zones):

- A. Landscaping. Landscape plans shall be approved by the Development Review Committee to meet the standards listed below.
 - 1. Protection and Use of Existing Vegetation. Development on hillside lots shall, to the maximum extent possible, protect and use existing vegetation. Existing groundcover and shrubs should not be removed from lands with steep slopes (thirty percent or greater) unless necessary for weed abatement to remove fire hazards. Existing groundcover should not be removed from lesser slopes unless replaced with other vegetation. Existing groundcover shall be protected from damage during construction.
 - 2. New Landscaping. All development on hillside lots shall provide new landscaping as follows:
 - a. Erosion Control. All graded or cleared slopes shall be landscaped with groundcover designed to hold the slope and to mitigate the visual impacts associated with the bare ground. Groundcover on slopes with vertical heights greater than eight feet shall be irrigated.
 - b. Architectural Enhancement. Trees and shrubs shall be planted to provide screening under decks, along walls, and where required as a condition of site plan or development plan review to assist in providing visual relief.
 - c. Street Trees. Street trees shall be planted as required by Title 10 of this code.

- d. Irrigation. All landscaping required for erosion control, street trees and architectural enhancement shall be irrigated except where the development review committee explicitly approves otherwise.
- e. Plant Species. New landscaping shall incorporate plant species which meets the following criteria:
 - i. New vegetation should be compatible with natural vegetation and that on surrounding properties.
 - ii. All planting within thirty feet of buildings should be fire-retardant.
 - iii. For water conservation purposes, drought-tolerant species are encouraged.
- f. Completion of Landscaping. All landscaping and irrigation required for erosion control, street trees and architectural enhancement shall either be completed prior to issuance of a certificate of occupancy or security such as a performance bond be posted.
- g. **Please refer to Chapter 21.22B, Water Efficient Landscape Ordinance for rules and regulations regarding landscape and irrigation, including limitations on the percentage of turf/lawn that can be placed in the landscape areas.**

SECTION 5. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 7. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

Introduced at a regular meeting of the City Council held on December 1, 2009, and passed and adopted by the City Council of the City of El Paso de Robles on the 15th day of December, 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Duane Picanco, Mayor

ATTEST:

Lonnie Dolan, Deputy City Clerk

Exhibit A

Chapter 21.22B

LANDSCAPE and IRRIGATION ORDINANCE

Sections:

- 21.22B.010 Purpose**
- 21.22B.020 Definitions**
- 21.22B.030 Applicability**
- 21.22B.040 Turf Limitations for New Construction and Rehabilitated Landscapes**
- 21.22B.050 Landscape and Irrigation System Design Requirements**

21.22B.010 Purpose

Consistent with California State Law, it is the purpose of this ordinance to: (a) promote the values and benefits of landscapes while recognizing the need to use water resources as efficiently as possible; (b) establish a structure for planning, designing, installing, maintaining, and managing water efficient landscapes in new construction and rehabilitated projects.

21.22B.020 Definitions (Definitions related to the technical information of the Landscape Documentation Package are provided as Attachment 5, of the Landscape and Irrigation Design Guide.):

“Certificate of Completion” means the document required under Section 21.22B.050.B.4.

“Landscape Architect” means a person who holds a license to practice landscape architecture in the State of California as described in the Business and Professions Code, §5615.

“Landscaped area” means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other nonirrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

“Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

“Landscape Documentation Package (LDP)” means the documents required under Section 21.22B.050.B.3.

“Landscape project” means total area of landscape in a project as defined in “landscape area” for the purposes of this ordinance.

“Multi-family Residential” means two or more attached residential units. Landscape areas for multiple detached units on one parcel will be considered single family units for the purposes of this Ordinance.

“New construction” means, for the purposes of this ordinance, a new building with a landscape or other new landscape, such as a park, playground or greenbelt without an associated building.

“Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

“Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

“Project applicant” means the individual or entity submitting a Landscape Documentation Package required under Section 21.22B.050.B.3, to request a permit, plan check or design review from the local agency. A project applicant may be the property owner or his or her designee.

“Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review.

“Runoff” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

“Single Family Residential” one home on one lot, or multiple detached units on one lot (not attached).

“Soil moisture sensing device” or “soil moisture sensor: means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

“Turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

“Valve” means a device used to control the flow of water in the irrigation system.

“Water conserving plant species” means a plant species identified as having a low plant factor.

21.22B.030 Applicability

The requirements within this Chapter apply to new construction and rehabilitated landscapes for commercial, industrial and residential projects that are subject to the development review process and/or a building permit.

A. Development Review Process

In conjunction with the submittal of a project for development review (tentative parcel map, tentative tract, development plan or conditional use permit), conceptual landscape plans shall be provided that demonstrate that the design of the landscaping complies with the standards

within this Ordinance. These plans shall be reviewed by City Staff during the development review process.

B. Building Permit

In conjunction with the submittal of a project for building plan check, final landscape and irrigation plans, in compliance with this Ordinance, shall be submitted with the project. After a plan check review by the Planning and/or Public Works Departments for compliance with this Ordinance, a Building Permit may be issued. Fees consistent with the fees established for building plan check will be applied for staff review of the landscape and irrigation plan.

C. Certificate of Completion

Once the landscape and irrigation plans and necessary documentation has been provided in substantial compliance with the LDP, a Certificate of Completion may be issued. A Certificate of Completion shall be issued prior to the project receiving a Certificate of Occupancy by the Building Division.

D. Landscape and Irrigation Installation

For both projects less than or greater than 1 acre, the landscape and irrigation shall be installed per the approved plans prior to the issuance of a Certificate of Occupancy or “final” of the building/project.

E. Landscape Bond

For projects that have a landscape area of 1-acre or greater and require a LDP, a bond may be posted which would allow a building to be finaled and a Certificate of Occupancy to be issued prior to the site landscape and irrigation being completed. The bond shall be based on an estimate for labor and materials to complete the landscape and irrigation project per the approved plans, plus an additional 25-percent. The applicant shall fill out the Landscape Bond Security Bond Agreement along with the necessary bonding information, to the Public Works Department for review and approval to determine the specific bond amount.

For projects that have a landscape area of less than 1-acre which does not require the LDP, the Community Development Director or his or her designee may approve a bond to be posted which would allow a building to be finaled and a Certificate of Occupancy to be issued prior to the site landscape and irrigation being completed.

21.22B.040 Turf Limitations for New Construction and Rehabilitated Landscapes.

A. All new construction projects (residential, commercial, industrial) shall comply with the following limitations:

1. Turf areas less than 8 ft. in width in any direction are prohibited, unless subsurface irrigation is used and maximum turf areas do not exceed the percentages outlined in this ordinance.
2. Turf shall be prohibited within the public right-of-way, including parkways.

3. Developments shall be graded to maximize the on-site distribution of runoff to planted areas.
4. For non-turf areas, drip irrigation methods and low water use plants are recommended.
5. Covenants, Conditions and Restrictions (CCRs) shall not require turf landscaping nor have the effect of prohibiting low-water use landscaping and shall include by reference and/or attachment a copy of Chapter 21.22B, City of Paso Robles Landscape Ordinance.

B. Commercial and Industrial projects:

1. The area planted in turf grass and irrigated with spray irrigation shall be limited to 10 percent of the development's landscaped area.
2. Exceptions: This section does not apply to Cemeteries, plant collections as part of botanical gardens and arboretums open to the public, City parks, and school sports fields.

C. Single Family Residences

1. Turf grass installed with spray irrigation in residential front yards shall be limited to 25 percent of the landscapable area.
2. The common areas in residential subdivisions planted in turf (including landscape and lighting district areas) shall be limited to 10 percent of the landscaped area. (Excluding active play areas such as ball fields, playgrounds, and picnic areas).

D. Model Homes

1. Turf grass shall be prohibited in the front yards of model homes, and shall be limited to 50 percent of the landscaped area in back and side yards.
2. Model homes shall be used to educate future home owners about water efficient landscape and irrigation techniques. Education features for Model homes shall include:
 - (a) The installation of interpretive landscape information signs that describe the principles of water efficient landscapes including features such as hydrozones, appropriate irrigation equipment and others techniques that contribute to the overall water efficient irrigation theme.
 - (b) Information shall be provided to new home owners that include techniques on designing, installing, managing, and maintaining water efficient landscapes.

E. Multi-family Residential Projects

1. Turf grass shall be limited to 20 percent of the landscaped area. The 20 percent limitation shall be exclusive of areas designed as active play surfaces (e.g. ballfields, playgrounds, picnic areas).

F. Rehabilitated Landscapes

1. Rehabilitated landscapes shall comply with the turf limitations outlined in Sections A-E above, as appropriate to the property type.

21.22B.050 Landscape and Irrigation System Design and Information Requirements

A. All project landscaping and irrigation plans/designs shall comply with the following standards:

1. Utilize rain sensors, either integral or auxiliary, that suspend irrigation during and after rainfall events, shall be required on all irrigation control systems.
2. Prohibit turf on slopes greater than 20% where the toe of the slope is adjacent to an impermeable hardscape. (where 20% means 1 foot of vertical elevation change for every 5 feet of horizontal length rise divided by run X 100 = slope percent).
3. Water features shall use recirculating water systems.
4. Prohibit overhead spray irrigation within 24 inches of a non-permeable surfaces such as but not limited to concrete sidewalks and driveways. Subsurface irrigation may be used as long as other requirements of this ordinance are met. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low-flow non-spray type of systems. The setback area may be planted or non-planted. The surfacing of the setback may be mulch, gravel, cobbles, or other porous material. These restrictions may be modified if the landscape area is adjacent to permeable surfacing, and no runoff occurs or the adjacent non permeable surface drains entirely to landscaped areas.
5. Irrigation systems shall be designed and constructed to achieve a minimum efficiency of 71 percent.
6. Apply a minimum two inch (2") layer of mulch on all exposed soil surface of planting areas.
7. The architectural guidelines and Covenants, Conditions, and Restrictions of common interest developments shall not have the effect of prohibiting the use of low-water use plants or requiring turf grass in landscaped areas.

B. Projects that have a landscape area equal to or greater than 1 acre need to submit the flowing information:

Please note that the landscape area for new residential subdivisions will be calculated on an individual lot basis as each lot develops, not a total of landscape areas prior to subdivision. Therefore, generally a residential subdivision will not require an LDP for individual lot landscaping, however if there are common areas, or areas within a Landscape and Lighting District that have landscape areas 1 acre or greater, there will be a requirement for an LDP for those areas to be completed prior to the recordation of the final map.

1. All of the items identified in Section A above.
2. Weather-based irrigation controllers, soil moisture-based controllers, or other self-adjusting irrigation controllers shall be required for irrigation scheduling.
3. The following documents and plans need to be submitted prior to the issuance of a Building Permit for the associated project (Please refer to the Landscape & Irrigation Design Guide for specific forms and criteria):

Compliance with Landscape Documentation Package which includes completion of the following items:

- Project Information
- Water Efficient Landscape Worksheet
- Soil Management Report
- Landscape Design Plan
- Irrigation Design Plan
- Grading Design Plan

4. The following documents and plans need to be completed and the landscape and irrigation project shall be installed prior to the issuance of a Certificate of Occupancy for the associated project (Please refer to the Landscape & Irrigation Design Guide for specific forms and criteria):

Certificate of Completion which includes documentation of the following items:

- Irrigation Scheduling
- Landscape and Irrigation Maintenance Schedule
- Irrigation Audit, Irrigation Survey and Irrigation Water Use Analysis
- Irrigation Efficiency
- Stormwater Management