

ORDINANCE 560

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-2.809 OF THE LOS ALTOS HILLS MUNICIPAL CODE REGARDING WATER EFFICIENT LANDSCAPING

WHEREAS, California State Assembly Bill AB 1881 was enacted into law requiring every city and county to adopt the state’s model water efficient landscape ordinance (“Model Ordinance”) or an equivalent local water efficient landscape ordinance which is at least as effective as the Model Ordinance by January 1, 2010; and

WHEREAS, it is in the interests of the health, safety, and welfare of the residents of the Town of Los Altos Hills to develop and implement water efficient landscape guidelines and regulations based on the existing limitations on local water supplies and the local climate area; and

WHEREAS, on October 16, 2010, the City Council of the Town of Los Altos Hills adopted a local water efficient landscape ordinance (WELO) to meet the requirements and guidelines of the Model Ordinance and address the unique physical characteristics within the Town while ensuring that the local WELO was at least as effective as the Model Ordinance; and

WHEREAS, due to the ongoing drought conditions in the state, the Governor signed Drought Executive Order B-29-15 on April 1, 2015, mandating an update of the state’s Model Ordinance with the final version approved by the California Department of Water Resources on July 15, 2015 and implementation to begin throughout the state on December 1, 2015; and

WHEREAS, on August 20, 2015, the City Council of the Town of Los Altos Hills directed staff to amend the Town’s existing water efficient landscaping regulations to comply with the new regulations in the updated Model Ordinance; and

WHEREAS, the Planning Commission, at its October 1, 2015 and October 22, 2015 public hearings, reviewed the draft WELO and recommended that the City Council adopt the ordinance with revisions; and

WHEREAS, the Town of Los Altos Hills has amended its local WELO resulting in regulations that are at least as effective as the state’s Model Ordinance; and

WHEREAS, the City Council of the Town of Los Altos Hills finds that this project is exempt from California Environmental Quality Act (CEQA) pursuant to "general exemptions" described in Section 15061(b)(3) of the CEQA Guidelines, since the ordinance would not have any significant effects on the environment.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does hereby **ORDAIN** as follows:

Section 10-2.809, Water Efficient Landscaping, is hereby amended as follows:

10-2.809 Water Efficient Landscaping.

(a) Application.

The provisions of the Water Efficient Landscape Ordinance (WELO) shall apply to the following:

- (1) All new development projects requiring a Site Development Permit; and
- (2) Rehabilitated landscape projects with an aggregated irrigated landscape area equal to or greater than 2,500 square feet requiring a building or site development permit; and
- (3) Existing landscapes limited to subsections (s) and (t).

Any project with an aggregate landscape area of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in the Prescriptive Compliance Option located within the Town's Landscape Design Guidelines and Plan Submittal Requirements (herein after referred to as *Landscape Guidelines*).

For projects using treated or untreated graywater or rainwater captured on-site, any lot or parcel within the project that has less than 2,500 square feet of landscaping and meets the lot or parcel's landscape water requirement (Estimated Total Water Use) entirely with treated or untreated graywater or through stored rainwater captured on-site shall only be subject to the irrigation requirements located within the Town's *Landscape Guidelines*.

This ordinance shall not apply to:

- (1) Registered local, State or Federal historical sites where landscaping establishes an historical landscape style, as determined by any applicable public board or commission responsible for architectural review or historic preservation;
- (2) Ecological restoration or mined-land reclamation projects that do not require a permanent irrigation system; or
- (3) Community gardens or plant collections, as part of botanical gardens and arboretums open to the public.

(b) Definitions.

The following definitions are established for the purpose of this article. A complete list of WELO definitions is included in the Town's *Landscape Guidelines*. The meaning and construction of words and phrases is as follows:

Applied water means the water supplied by the irrigation system to the landscape.

Certified professional means a certified irrigation designer, certified landscape irrigation auditor, licensed landscape architect, licensed landscape contractor, licensed professional engineer, or any other person authorized by the state to design a landscape, an irrigation system, or authorized to complete a water budget.

Distribution uniformity means the measure of the uniformity of irrigation water over a defined area.

Ecological restoration project means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

Established landscape means the point at which plants in the landscape area have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

Estimated Total Water Use (ETWU) means the total water used for the landscape as calculated in subsection (d) of this section, “Water Efficient Landscape Worksheet.”

Evapotranspiration (ET) rate means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

ET Adjustment Factor (ETAF) means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. The ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.

Graywater means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

Hydrozone means a portion of the landscaped area having plants with similar water needs and rooting depth. A hydrozone may be irrigated or non-irrigated.

Invasive plant species means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

Irrigation audit means an in-depth evaluation of the performance of an irrigation system conducted by a certified professional. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association’s Landscape Irrigation Auditor Certification program or other U.S. Environmental Protection Agency “Watersense” labeled auditing program.

Irrigation efficiency (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this ordinance are 0.75 for overhead spray devices and 0.81 for drip systems.

Irrigation survey means an evaluation of an irrigation system that is less detailed than an irrigation audit and includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

Landscape area (LA) means all the irrigated planting areas, turf areas and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation.

Landscape project means the total area comprising the proposed irrigated landscape area, as defined in this article.

Landscape water meter means an inline device installed at the irrigation supply point that measures the flow of the water into the irrigation system and is connected to a totalizer to record water use.

Local water purveyor means any entity, including a public agency, city, county, district or private water company that provides retail water service.

New construction means the construction of a new building or structure containing a landscape or other new land improvement, such as a park, playground, or greenbelt without an associated building.

Non-residential landscape means landscapes in commercial, institutional, and public settings that may have areas designated for recreation or public assembly.

Overspray means the irrigation water which is delivered beyond the target area.

Parcel water budget (PWB) means the upper limit of annual applied water purchased from the local water purveyor for the parcel as specified in subsection (c) of this section, "Parcel Water Budget."

Permit means an authorizing document issued by local agencies for the installation of new or rehabilitated landscapes.

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

Plant factor or plant water use factor is a factor, when multiplied by ETo, estimates the amount of water needed by plants. The plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for

moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0.

Project applicant means the individual or entity requesting a permit or plan check from the Town. A project applicant may be the property owner or designee.

Reference evapotranspiration or ETo means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month or year and is an estimate of the evapotranspiration of a large field of four to seven inch tall, cool season grass that is well watered. The ETo for Los Altos Hills, based on the state's reference evapotranspiration table, is 43.0.

Rehabilitated landscape means any re-landscaping project that requires a building or site development permit.

Runoff means water which is not absorbed by the soil or landscape to which it is applied and flows from the irrigated landscape area.

Special landscape area (SLA) means an area of the landscape dedicated solely to edible plants, recreation areas, areas irrigated with recycled water, or water features using recycled water.

Turf means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

Water conserving plant species means a plant species identified as having a very low or low plant factor.

Water feature means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features are included in the high water use hydrozone of the landscape area. Constructed wetlands that are not irrigated and stormwater retention basins are not water features.

WUCOLS means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources in 2014.

- (c) **Parcel Water Budget.** All properties shall calculate a Parcel Water Budget (PWB) upon submittal of a Site Development Permit. The PWB is calculated using the following equation:

$$\text{PWB} = [(1.0\text{-slope}) (0.8) (43.0) (0.62) [0.55 \times (\text{An-MDA}) + (0.45 \times \text{SLA})] / 748] + 120$$

Where:

- PWB = Parcel water budget (units per year)
 Slope = Average slope of the parcel or lot as a percentage of 1.0 to the nearest hundredth
 0.8 = Water conservation factor
 43.0 = Reference evapotranspiration (ET_o) in Los Altos Hills, in inches/year
 0.62 = Conversion factor (to gallons)
 0.55 = ET adjustment factor (ETAF)
 An = Net lot area (square feet)
 MDA = Maximum development area. The maximum development area (in square feet) allowed for the property.
 0.45 = Additional water allowance for SLA
 SLA = Special landscape area (square feet)
 748 = Number of gallons in a unit (100 cubic feet) of water
 120 = Number of units for indoor water use per property per year, or as may be modified by the Planning Director upon a demonstration of difficulty or unnecessary hardship pursuant to subsection (v). **Note: Not applicable if a landscape/outdoor use meter is installed.**

Example PWB calculation: 1-acre (43,560 sq. ft.) lot with 14% slope and 12,339 sq. ft. of MDA and no Special Landscape Area:

$$\text{PWB} = [(1.0\text{-}14) (0.8) (43.0) (0.62) [0.55 \times (43,560\text{-}12,339) + (0.45 \times 0)] / 748] + 120 = 541 \text{ units/year}$$

The following sections shall apply to all new landscape areas equal to or greater than 500 square feet or for rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet.

- (d) **Water Efficient Landscape Worksheet.**

A project applicant shall complete a Water Efficient Landscape Worksheet (Appendix C of the Town's Landscape Design Guidelines) for all new landscape areas of 500 square feet or greater or for rehabilitated landscape projects that are 2,500 square feet or larger. The worksheet shall conform to the requirements in the Town's *Landscape Guidelines*.

(e) Soil Management Report.

A soil management report shall be completed by the project applicant, or his/her designee, and shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(f) Landscape Design, Soil Preparation and Mulching Criteria.

The proposed landscaping shall be carefully designed and planned for the intended function of the project. All landscape designs, soil preparation techniques and mulching practices shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(g) Landscape Plan Requirements.

The landscape plans shall be prepared by, and bear the signature of, a licensed landscape architect, licensed landscape contractor, or any other person authorized by the State of California to design a landscape and irrigation plan. Native species and natural vegetation shall be preserved where feasible and native, water conserving species are recommended. Landscape plans shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(h) Irrigation Design Criteria.

An irrigation system shall meet the requirements listed in this section and the manufacturer's recommendations. Irrigation designs shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(i) Irrigation Plan Requirements.

Irrigation plans shall be included with the landscape plan submittal and shall be prepared by, and bear the signature of, a licensed landscape architect, licensed landscape contractor, or any other person authorized by the State of California to design an irrigation plan. Irrigation plans shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(j) Grading Design Plan.

A Grading Plan, meeting current Town standards and exceeding the state requirements, shall be submitted with each landscape project.

(k) Certificate of Completion.

The certification documentation shall be prepared by the project landscape architect, irrigation designer, or landscape contractor and include the following statement: "The landscape and irrigation system has been installed as specified in the landscape design plan and complies with the criteria of the Water Efficient Landscape Ordinance and the permit." Receipt of the certification documentation will begin the twenty-four (24) month period described in subsection (w) of this section.

The Certificate of Completion shall include the following six (6) elements:

- 1) Project information sheet that contains: date, project name and address, applicant's name, telephone number and address, owner's name, telephone and mailing address;
- 2) Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved Landscape Documentation Package;
 - a) where there have been significant changes made in the field during construction, these "as-built" or record drawings shall be included with the certification;
 - b) A diagram of the irrigation plan showing hydrozones shall be kept with the irrigation controller for subsequent management purposes.
- 3) Irrigation scheduling parameters used to set the controller;
- 4) Landscape and irrigation maintenance schedule;
- 5) Irrigation Audit Report; and
- 6) Soil Analysis Report, if not submitted with Landscape Documentation Package, and documentation verifying implementation of soil report recommendations.

The project applicant shall submit the signed Certificate of Completion to the local agency for review and ensure that copies of the approved Certificate of Completion are submitted to the local water purveyor and property owner or his or her designee.

Upon receipt of the signed Certificate of Completion from the project applicant the Town shall approve or deny the Certificate of Completion. If the Certificate of Completion is denied, the local agency shall provide information to the project applicant regarding reapplication, appeal, or other assistance.

(l) Irrigation Scheduling.

All irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(m) Landscape and Irrigation Maintenance Schedule.

A regular maintenance schedule shall be submitted with the Certificate of Completion and shall conform to the requirements in the Town's adopted *Landscape Guidelines*.

(n) Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

All landscape irrigation audits shall be conducted by a local agency landscape irrigation auditor or a third party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape

For new construction and rehabilitated landscape projects installed after December 1, 2015, the local agency shall administer programs that may include, but not be limited to, irrigation

water use analysis, irrigation audits, and irrigation surveys for compliance with the Parcel Water Budget.

(o) Recycled Water.

The installation of recycled water irrigation systems shall allow for the current and future use of recycled water. All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and State laws. Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

(p) Graywater Systems.

Graywater systems promote the efficient use of water and are encouraged to assist in on-site landscape irrigation. All graywater systems shall conform to the California Plumbing Code (Title 24, Part 5, Chapter 16) and any applicable local ordinance standards. Refer to subsection (a) for the applicability of this ordinance to landscape areas less than 2,500 square feet with the Estimated Total Water Use met entirely by graywater.

(q) Stormwater Management, Well Water and Rainwater Retention.

Implement stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site rainwater retention and infiltration. Encourage the use of stormwater for landscape irrigation. Well water and retained water does not count toward the PWB.

(r) Public Education.

- 1) The Town shall provide information to all planning and building department applicants regarding the design, installation, management, and maintenance of water efficient landscapes.
- 2) Starting on January 1, 2012, the Town may, in conjunction with water purveyors, develop and administer a voluntary program to audit water usage for existing landscapes. (§ 1, Ord. 520, eff. October 16, 2010)

(s) Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

This section shall apply to all existing landscapes using water from a local purveyor that were installed before December 1, 2015 and are over one acre in size.

- 1) For all landscapes that have a water meter, the local agency shall administer programs that may include, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the Parcel Water Budget for existing landscapes.
- 2) For all landscapes that do not have a meter, the local agency shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to

evaluate water use and provide recommendations as necessary in order to prevent water waste.

- 3) All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

(t) Water Waste Prevention.

Runoff is prohibited from leaving the target landscape area due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures.

Restrictions regarding overspray and runoff may be modified if:

- 1) the landscape area is adjacent to permeable surfacing and no runoff occurs; or
- 2) the adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping.

(u) Reporting.

The Planning Department shall report to the Department of Water Resources by December 31, 2015 and then report annually by January 31st of each subsequent year.

The report shall address the following:

- 1) State that the Town is adopting a single agency ordinance and the date of adoption or anticipated date of adoption;
- 2) State that the Town is using a locally modified Water Efficient Landscape Ordinance (WELO), explain any differences between the Town's WELO and the state's Model Water Efficient Landscape Ordinance (MWELo), identify that the Town's WELO is it at least as efficient as MWELo, and specify any exemptions;
- 3) State the entity responsible for implementing the ordinance. State number and types of projects subject to the ordinance during the specified reporting period;
- 4) State the total area (in square feet or acres) subject to the ordinance over the reporting period, if available;
- 5) Provide the number of new housing starts, new commercial projects, and landscape retrofits during the reporting period;
- 6) Describe the procedure for review of projects subject to the ordinance;
- 7) Describe actions taken to verify compliance;
- 8) Describe enforcement measures;
- 9) Explain challenges to implementing and enforcing the ordinance; and
- 10) Describe educational and other needs to properly apply the ordinance.

(v) Exceptions.

The Planning Director shall have the discretion to grant exceptions to the one hundred twenty (120) unit allocation for yearly indoor water use in cases where, due to exceptional conditions involved, a literal enforcement of the provisions of this chapter would result in practical difficulties or unnecessary hardships; provided, however, no such exceptions shall be granted

unless the Planning Director shall find that the granting of such exception will not be contrary to the intent of the provisions of this chapter.

(w) Deposit Required—Forfeiture of Deposit.

Anyone who is subject to the requirements of this article shall submit a deposit or other security deemed satisfactory by the Planning Director. Two (2) years after the certificate of completion is filed with the Town for any landscaping project subject to the provisions herein, the property owner shall furnish to the Town the second year (months thirteen (13) through twenty-four (24) following receipt of the certificate of completion) of water use and billing data from the subject property's water purveyor. If the site water usage exceeds the calculated PWB, the deposit shall be held for an additional twelve (12) months. At the end of the additional twelve (12) month period, the property owner shall provide the Town with the previous twelve (12) months (month twenty-five (25) through thirty-six (36)) of water use and billing data from the subject property's water purveyor. If the water usage still exceeds the estimated PWB, the deposit shall be forfeited to the Town, in full. All Town staff time and materials expended to ensure compliance with this section will be deducted from the deposit. Any remaining amounts from a forfeited deposit shall be utilized to further the purposes of this section.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does hereby further ORDAIN as follows:

- 1. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.
- 2. Effective Date; Publication.** This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney