

ORDINANCE NO. 3545 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**AMEND M.C.C. SECTIONS 38-11 AND 38-138 - 38-147 TO DELETE WATER
EFFICIENT LANDSCAPING REGULATIONS AND DEFER INSTEAD TO
REGIONAL AND STATE REGULATIONS**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, in 2009 the State of California adopted new legislation that required the DWR to create a Model Water Efficient Landscape Ordinance (MWELo) for adopting and implementation at the local level to regulate the limited supply of state waters and ever increasing water demands;

WHEREAS, using MWELo developed by DWR as a base, staff proposed and Council adopted the new regulations into Monterey City Code in 2010, amending Monterey City Code Chapter 38 (Zoning) by adding Article 20A Landscaping Regulations and new definitions to Article 3 Definitions;

WHEREAS, due to continued water supply concerns, Governor Brown issued a Drought Executive Order of April 1, 2015 directing the DWR to update the State MWELo through expedited regulation; consequently on July 15, 2015, the California Water Commission approved the revised MWELo that prescribes more protective regulation of outdoor water use for landscapes. The effective date of the updated MWELo was December 1, 2015;

WHEREAS, the proposed ordinance amendment requires the City to implement this State requirement by repealing existing local regulations and deferring to State law and MPWMD Rules that regulate WELo locally;

WHEREAS, the City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15305) because the project involves minor changes to land use regulations that will not result in physical changes to the environment; furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to an environmental resource of hazardous or critical concern will directly result.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is

significant. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to cumulative impacts will directly result.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to unusual environmental circumstances will directly result.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report (EIR). The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to state scenic highways will directly result.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to hazardous waste sites pursuant to Government Code Section 65962.5 will directly result.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. As The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to historical resources will directly result; and,

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 38, Section 38-11 is hereby amended to delete the following:

Applied Water: The portion of water supplied by the irrigation system to the landscape.

Automatic Irrigation Controller: An automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

Backflow Prevention Device: A safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

Certificate of Completion: The document required under Section 38-144.

Certified Irrigation Designer: A person certified to design irrigation systems by an accredited academic institution, a professional trade organization, or other program such as the U.S. Environmental Protection Agency's WaterSense irrigation designer certification program, and the Irrigation Association's Certified Irrigation Designer program.

Certified Landscape Irrigation Auditor: A person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such

as the U.S. Environmental Protection Agency's WaterSense irrigation auditor certification program and the Irrigation Association's Certified Landscape Irrigation Auditor program.

Check Valve or "Anti-Drain Valve": A valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

Common Interest Developments: Community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351. (Ord. 3444 § 2, 2010)

Conversion Factor (0.62): The number that converts acre-inches per acre per year to gallons per square foot per year.

Drip Irrigation: Any nonspray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

Ecological Restoration Project: A project where the site is intentionally altered to establish a defined, indigenous, and historic ecosystem.

Effective Precipitation or Usable Rainfall (Eppt): The portion of total precipitation that becomes available for plant growth.

Emitter: A drip irrigation emission device that delivers water slowly from the system to the soil.
Established Landscape: The point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

Establishment Period of the Plants: The first year after installing the plant in the landscape, or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth.

Estimated Total Water Use (ETWU): The total water used for the landscape as described in the water efficient water use worksheet.

ET Adjustment Factor (ETAF): A factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency -- two major influences upon the amount of water that needs to be applied to the landscape. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ETAF is $(0.7) = (0.5/0.71)$. ETAF for a SLA shall not exceed 1.0. ETAF for existing nonrehabilitated landscapes is 0.8.

Evapotranspiration Rate: The quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

Flow Rate: The rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

Hardscapes: Any durable material (pervious and nonpervious).

Homeowner-Provided Landscaping: Any landscaping either installed by a private individual for a single-family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of Article 20A of this chapter, is a person who occupies the dwelling he or she owns. This excludes speculative homes, which are not owner-occupied dwellings.

Hydrozone: A portion of the landscaped area having plants with similar water needs. A hydrozone may be irrigated or nonirrigated.

Infiltration Rate: The rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

Invasive Plant Species: Species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. "Noxious weeds" means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a regional district noxious weed control list. Lists of invasive plants are maintained at the California Invasive Plant Inventory and United States Department of Agriculture (USDA) invasive and noxious weeds database.

Irrigation Audit: An in-depth evaluation of the performance of an irrigation system conducted by a certified landscape irrigation auditor. 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.

Irrigation Efficiency (IE): The measurement of the amount of water beneficially used divided by the amount of water applied. IE is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average IE for purposes of Article 20A of this chapter is 0.71. Greater IE can be expected from well designed and maintained systems.

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

Irrigation Water Use Analysis: An analysis of water use data based on meter readings and billing data.

Landscape Architect: A person who holds a license to practice landscape architecture in the state of California per Business and Professions Code Section 5615.

Landscape Area: All the planting areas, turf areas, and water features in a landscape design plan subject to the MAWA 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 nonpervious hardscapes, and other nonirrigated areas designated for nondevelopment (e.g., open spaces and existing native vegetation).

Landscape Contractor: A person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

Landscape Documentation Package: The documents required for City review for consistency with Article 20A of this chapter.

Landscape Project: Total area of landscape in a project as defined in “landscape area” for the purposes of Article 20A of this chapter, meeting requirements under Section 38-139.

Lateral Line: The water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

Local Agency: A city or county, including a charter city or charter county, that is responsible for adopting and implementing Article 20A of this chapter. The local agency is also responsible for the enforcement of Article 20A of this chapter, including but not limited to approval of a permit and plan check or design review of a project.

Local Water Purveyor: Any entity, including a public agency, City, County, or private water company, that provides retail water service.

Low Volume Irrigation: The application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

Main Line: The pressurized pipeline that delivers water from the water source to the valve or outlet.

Maximum Applied Water Allowance (MAWA): The upper limit of annual applied water for the established landscaped area as specified in the water efficient landscape worksheet. It is based upon the area’s reference evapotranspiration, the ETAF, and the size of the landscape area. The estimated total water use shall not exceed the MAWA. SLA, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0.

Microclimate: The climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

Mined-Land Reclamation Project: Any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

Mulch: Any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

New Construction: For the purposes of Article 20A of this chapter, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

Nonresidential: This project classification refers to commercial projects as well as residential projects consisting of three or more units as defined in the California Building Code.

Operating Pressure: The pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

Overhead Sprinkler Irrigation Systems: Systems that deliver water through the air (e.g., spray heads and rotors).

Overspray: The irrigation water which is delivered beyond the target area.

Permit: An authorizing document issued by local agencies for new construction or rehabilitated landscapes.

Pervious: 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: A factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of Article 20A of this chapter, the plant factor range for low water use plants is 0 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. Plant factors cited in Article 20A of this chapter are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

Precipitation Rate: The rate of application of water measured in inches per hour.

Project Applicant: The individual or entity submitting a landscape documentation package 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.

Rain Sensor or Rain Sensing Shutoff Device: A component which automatically suspends an irrigation event when it rains.

Record Drawing or As-Builts: A set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

Recreational Area: Areas dedicated to active play such as parks, sports fields, and golf courses where turf provides a playing surface.

Recycled Water, Reclaimed Water, or Treated Sewage Effluent Water: Treated or recycled waste water of a quality suitable for nonpotable uses such as landscape irrigation and water features. This water is not intended for human consumption.

Reference Evapotranspiration or ETo: A standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year as represented in the water efficient landscape worksheet and is an estimate of the evapotranspiration of a large field of four- to seven-inch-tall, cool-season grass that is well

watered. Reference evapotranspiration is used as the basis of determining the MAWA so that regional differences in climate can be accommodated.

Rehabilitated Landscape: Any re-landscaping project that requires a permit, plan check, or design review, meets the requirements of Section 38-139, and the modified landscape area is equal to or greater than 2,500 square feet, is 50% of the total landscape area, and the modifications are completed within one year.

Residential: This project classification refers to single-family dwellings and two-unit duplexes.

Runoff: 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.

Soil Moisture Sensing Device or Soil Moisture Sensor: A device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

Soil Texture: The classification of soil based on its percentage of sand, silt, and clay.

Special Landscape Area (SLA): An area of the landscape dedicated solely to edible plants, areas irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

Sprinkler Head: A device that delivers water through a nozzle.

Static Water Pressure: The pipeline or municipal water supply pressure when water is not flowing.

Station: An area served by one valve or by a set of valves that operate simultaneously.

Swing Joint: An irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.

Turf: 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.

Valve: A device used to control the flow of water in the irrigation system.

Water Conserving Plant Species: A plant species identified as having a low plant factor.

Water Feature: 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 is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

Watering Window: The time of day irrigation is allowed.

WUCOLS: The Water Use Classification of Landscape Species published by the University of California Cooperative Extension, the Department of Water Resources and the Bureau of Reclamation, 2000.

SECTION 11: Monterey City Code, Chapter 38, Section 38-138 is hereby amended to read as follows:

“38-138 Application of State and District Regulations

The City hereby adopts and incorporates in this Chapter by reference 23 California Code of Regulations section 490 et seq. (Model Water Efficient Landscape Ordinance) , and any amendments thereto; Monterey Peninsula Water Management District Rule 142 (Water Efficiency Standards) and Rule 143 (Water Efficiency Standards for existing non-residential uses), and any amendments thereto.”

SECTION 12: Monterey City Code, Chapter 38 Sections 38-139 - 38-147 are hereby deleted.

SECTION 13: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 14: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 16th day of August, 2016, by the following vote:

AYES:	5	COUNCILMEMBERS:	Barrett, Downey, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:





Mayor of said City