



# COUNTY OF HUMBOLDT

For the meeting of: 1/10/2023

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File #: 22-1657

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Departmental

**SUBJECT:**

Introduction of Ordinance No. \_\_\_\_\_, an Ordinance of the Board of Supervisors of the County of Humboldt Amending Chapter 1 to Division 3 Of Title III of the Humboldt County Code, Incorporating by Reference Model Water Efficient Landscape Requirements, which Amends the Humboldt County Code, Section 331-11 - Incorporation of Uniform Codes by Reference, Incorporating by Reference the Model Water Efficient Landscape Ordinance (MWELo), Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Introduce the attached ordinance by title and waive the first reading;
2. Set the ordinance for adoption at least 1 week from today's meeting;
3. Find this ordinance is exempt from CEQA (California Public Resources Code Section 21000 et seq.) review under a Class 7 Categorical Exemption, pursuant to CEQA Guidelines Section 15307 (14 Cal. Code Regs., § 15307) which exempts actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource, where the regulatory process involves procedures for protection of the environment, because adoption of the updated MWELo assures the protection of water resources;
4. Direct the Clerk of the Board to publish the required pre-adoption summary of the ordinance and to post a certified copy of the full text of the proposed ordinance in the office of the Clerk of the Board, both the publication and posting to be done at least 5 days prior to the Board meeting at which the Ordinance will be adopted [Government Code Section 25124 (b)(1)];
5. Direct the Clerk of the Board, within 15 days after the adoption of the ordinance, to publish a post-adoption summary of the Ordinance with the names of the Supervisors voting for and against the ordinance [Government Code Section 25124 (b)(1)].

**SOURCE OF FUNDING:**

General Fund contribution to the Long-Range Planning unit, 1100-282.

**DISCUSSION:**

Adoption of the proposed ordinance will bring County Code and practice into compliance with state regulations. The State of California created the Model Water Efficient Landscape Ordinance (MWELo), to reduce water waste associated with irrigation of outdoor landscaping. The MWELo was modified in 2015 to include a requirement for annual reporting. The law directs cities and counties to ensure MWELo compliance on development projects with landscaped areas of 500 square feet or more. This applies to residential, commercial, industrial, and institutional projects that require a permit, plan check, or design review. All counties and cities are responsible for adopting and implementing the ordinance.

This ordinance proposed for Humboldt County incorporates the MWELo by reference in the Building Regulations of the Humboldt County Code, amending Chapter 1 of Division 3 of Title III of the Humboldt County Code by replacing subsection (o) and inserting a new subsection (p) to section 331-11.

**Where MWELo Applies**

The MWELo applies to new construction landscape projects with aggregate landscape area equal to or greater than 500 square feet, or rehabilitated landscape projects equal to or greater than 2,500 square feet, that require a building or landscape permit, plan check, or design review. (23 C.C.R. section 490.1 (a)). “Landscape area” means all the planting areas, turf areas, and water features in a landscape design plan, but 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 non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation). (23 C.C.R. section 490(ii)).

The ordinance does not apply to landscape areas less than 500 square feet; registered local, state or federal historical sites; ecological restoration projects that do not require a permanent irrigation system; or existing plant collections that are part of botanical gardens or arboretums open to the public. (23 C.C.R. section 490.1(a) and (e)).

**Permit Requirements**

MWELo is implemented through issuance of a building or landscape permit, plan check, or design review for a project where MWELo applies, as listed above. The Planning and Building Department does not issue permits for landscaping.

**Two Paths to Applicant Compliance Depending on the Project Size and Water Source**

A short, prescriptive compliance option, Appendix D of MWELo, is available for compliance in two instances:

1. Small landscape projects from 500 to less than 2500 square feet can use Appendix D;
2. Projects using treated or untreated graywater or stored rainwater captured on-site to satisfy the Estimated Total Water Usage (ETWU) as defined in the ordinance; in this case performance compliance is optional, and the project only needs to meet irrigation system requirements in

Appendix D(b)(5). (23 C.C.R. section 490.1(d)).

This simpler option specifies requirements as part of a landscaping plan that includes (1) an abbreviated Landscape Documentation Package; (2) incorporation of compost at a rate of 4 cubic yards per 1000 square feet; (3) incorporation of certain low water plants and mulch; (4) limits on turf area and location; and (5) irrigation that conforms to given requirements. (MWELo, Appendix D - Prescriptive Compliance Option).

Projects covering 2500 square feet or more must comply fully with MWELo by submitting performance information including a Water Efficient Landscape Worksheet; soil report; landscape, irrigation, and grading design plans; and a certificate of completion. (23 C.C.R. section 492.3).

### **Implementation tools**

Implementation of MWELo is achieved by the county through:

- Public education regarding water efficient landscapes (section 492.17);
- Providing applicants with the Landscape Documentation Package (section 492.1); and
- Reporting annually the number and types of projects; total area subject to the ordinance; total number of housing starts, commercial projects, and landscape retrofits; description of the review procedure; details of enforcement; and other data listed in section 495 of the MWELo.

The public education element will be achieved by providing required information to applicants through web materials, staff contact, and fact sheets.

The Landscape Documentation Package for the abbreviated, Appendix D compliance path will be incorporated in existing application forms for building, plan check, or design review permits, along with an information section and signature block. For projects requiring full compliance with MWELo, more robust information and application materials will be required, as set forth in 23 C.C.R. sections 492.3 to 492.9.

Annual reports submitted to the Department of Water Resources must include the number and types of projects, and the total area subject to the ordinance during the reporting period; the numbers of new housing starts, commercial projects, and landscape retrofits during the reporting period; and descriptions of review and compliance procedures, enforcement measures, challenges to enforcement, and educational or other needs. This information will be collected during the permit process.

### **FINANCIAL IMPACT:**

Staff costs for preparation and review of the ordinance total approximately \$1,200 at the time this report was drafted. The salary funding for this work is included in the General Fund contribution to the Long Range Planning unit, 1100-282. The ordinance will allow the county to add a permit application fee to create revenue to offset expenses related to staff work needed to process permits and an annual report.

### **STRATEGIC FRAMEWORK:**

This action supports your Board's Strategic Framework by enforcing laws and regulations to protect

residents.

OTHER AGENCY INVOLVEMENT:

California Department of Water Resources, Department of Environmental Health.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion.

ATTACHMENTS:

1. Ordinance No. \_\_\_\_\_, An Ordinance of the Board of Supervisors of the County of Humboldt Amending Chapter 1 to Division 3 Of Title III of the Humboldt County Code, Incorporating by Reference Model Water Efficient Landscape Requirements, which amends the Humboldt County Code, which replaces subsection (o) and inserts a new subsection (p) of section 331-11 of Humboldt County Code.
2. Model Water Efficient Landscape Ordinance (MWELO), Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations
3. Summaries for Publication before and after adoption of the ordinance

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A