

ORDINANCE NO. 3398

AN ORDINANCE AMENDING TITLE 22 AND TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE AND BUILDING ORDINANCE, BY AMENDING SECTION 22.30.204 AGRICULTURAL OFFSET REQUIREMENTS AND SECTION 19.07.042 WATER CONSERVATION PROVISIONS

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: Section 22.30.204 of Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Chapter 22.30.204 – New or Expanded Irrigated Crop Production Overlying the Paso Robles Groundwater Basin, Excluding the Atascadero Sub-basin.

Prior to New or Expanded Irrigated Crop Production overlying the Paso Robles Groundwater Basin (PRGWB), excluding the Atascadero Sub-basin, the following requirements apply where designated by Section 22.06.030 (Allowable Land Uses and Permit Requirements) as being subject to the provisions of this Section. The provisions of this chapter must be complied with prior to initiation or the establishment of New or Expanded Irrigated Crop Production and prior to the issuance of a permit pursuant to Title 8 of the County Code to construct, repair, or modify a water well (bore hole, casing, or packing) or water system proposed to serve any New or Expanded Irrigated Crop Production on land overlying the PRGWB (excluding the Atascadero Sub-basin). All New or Expanded Irrigated Crop Production overlying the PRGWB (excluding the Atascadero Sub-basin) shall be required to obtain an Agricultural Offset Clearance. The offset clearance shall be the equivalent of a Zoning Clearance. The Agricultural Offset Clearance is subject to the provisions of Chapter 22.64 that are applicable to Zoning Clearances except for land use permit time limits (Section 22.64.060) and extensions of time (Section 22.64.070). The purpose of the Agricultural Offset Clearance is to allow for new or conversion of existing irrigated crop production overlying the PRGWB (excluding the Atascadero Sub-basin) while protecting the critical resource of groundwater by requiring water use to be offset at a 1:1 ratio for qualifying crops.

- A. Where Applicable.** The provisions of this chapter apply to sites which overlie the PRGWB, excluding the Atascadero sub-basin, as defined by Figure 30-1. All sites shall overlie the PRGWB (excluding the Atascadero sub-basin), as shown in Figure 30-1. In no case shall a request for an agricultural offset clearance be granted for a site outside the PRGWB (excluding the Atascadero Sub-basin).

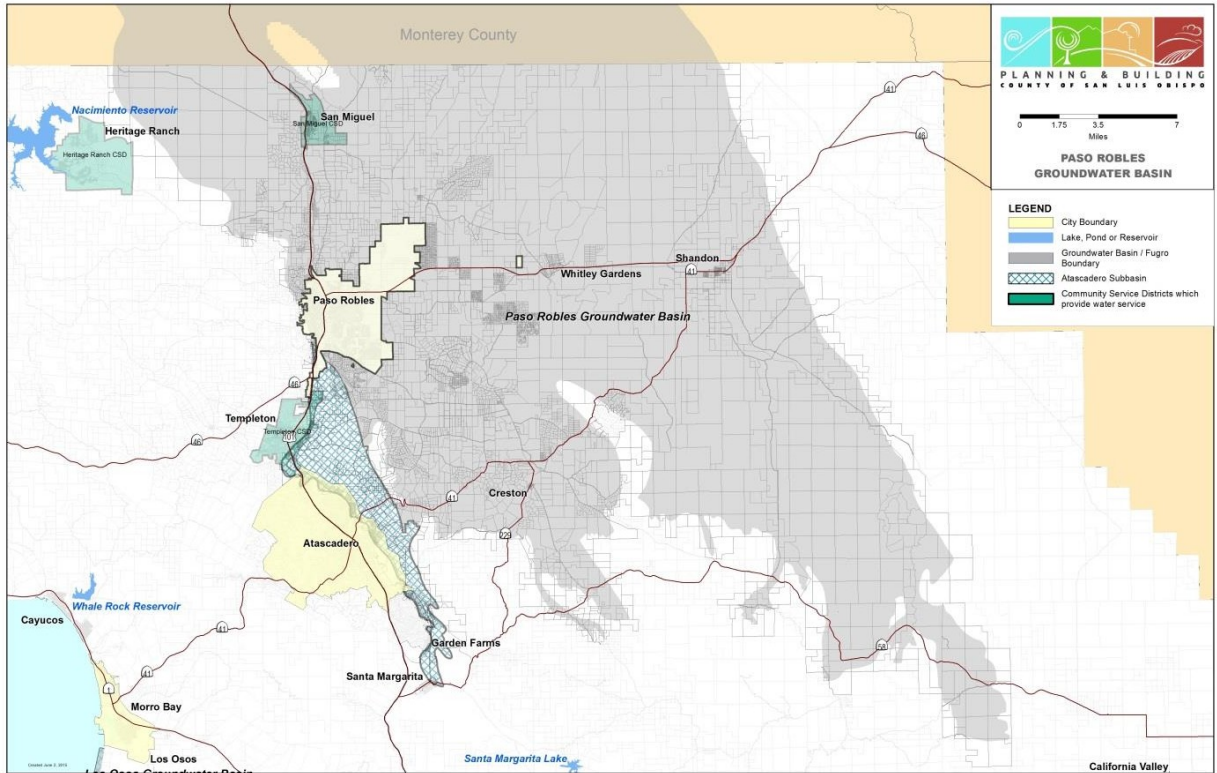


Figure 30-1: Paso Robles Groundwater Basin (Excluding the Atascadero Sub-basin)

B. Exemptions. Consideration of an exemption is subject to section 22.30.204 F (Application Contents). The Agricultural Offset Clearance requirements as outlined in this section do not apply to the following activities, unless specified below:

1. Sites with existing irrigated annual or rotational crop production, where satisfactory evidence is shown that those crops have been planted within the last five years.
2. Replanting of a site with the same crop type, as identified in Tables 2 and 3 below, where satisfactory evidence is shown that those crops have been planted within the last five years. Replanting must not exceed the acreage of the crop production being replaced.
3. Expanded irrigated crop production on sites with crop types that involve implementation of new water efficiency technologies, where satisfactory evidence, as defined by resolution adopted by Board of Supervisors, is shown that crops have been planted within the last five years, and shall not exceed the average water use of the existing crop production, as identified in Tables 2 and 3.
4. Sites that were granted a vested right to plant new or expanded irrigated crop production under the provisions of the Paso Robles Groundwater Basin Urgency Ordinance, where satisfactory evidence is shown that the vested crops have been planted within 2 years from the date of the expiration of the Paso Robles Groundwater Basin Urgency Ordinance (Ordinance Nos. 3246 and 3247).
5. For the purpose of new crop production overlying the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin), as defined by Figure 30-1, sites that do not have

any existing crop production and are not within the area of severe decline (50 feet or greater Spring Groundwater Elevation Change 1997-2013) as shown in Figure 30-2, may be eligible for a one-time only de minimis exemption. The one-time only de minimis exemption is limited to the establishment of crop production representing a new total of no more than 5.0 AF per year per site. If a one-time only de minimis exemption is granted, the resulting crop production cannot be used as a source of Agricultural Offset Clearance credits in any future application.

C. Agricultural Offset Clearance Fees. Fees for an Agricultural Offset Clearance are set forth in the County Fee Ordinance.

D. Permit Requirements.

1. An Agricultural Offset Clearance shall be issued upon satisfactory compliance with section 22.30.204 F, and G.
2. Metering and Monitoring. All new or existing wells that serve sites associated with an Agricultural Offset Clearance application must have a well meter installed and verified prior to final inspection. No new or expanded irrigated agriculture shall occur until final inspection has been completed. The following requirements apply to all issued Agricultural Offset Clearances:
 - a. Within 30 days of installation of a well for which a permit has been issued pursuant to Chapter 8.40 of the County Code, or prior to final inspection, whichever is applicable, meter installation must be verified by the County Public Works Department. The configuration of the installation shall conform to the Water Well Metering Standards and Installation Guidelines set forth by the Department of Public Works and incorporated into the Public Improvement Standards.
 - b. Property owners or a person designated by the property owner must read the water meter and record the water usage on or near the first day of the month. These records must be maintained by the property owner and may be subject to inspection only by code enforcement pursuant to a violation investigation.

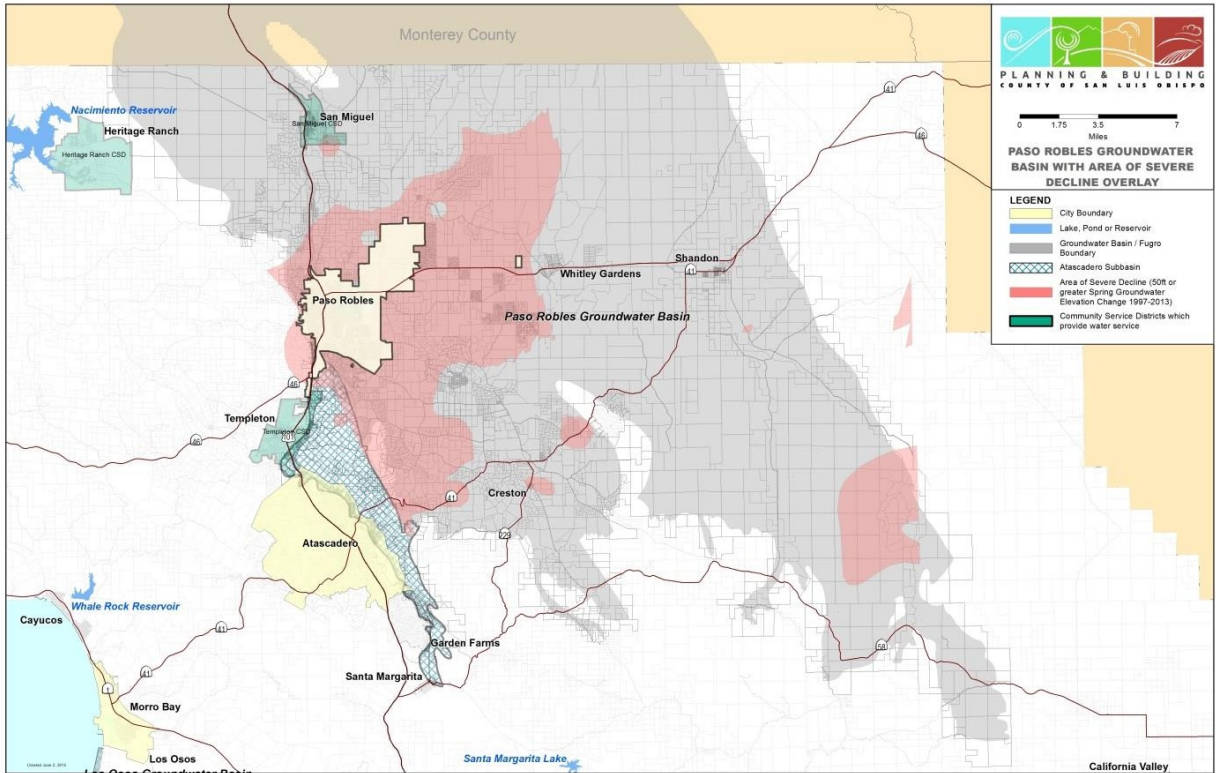


Figure 30-2: Paso Robles Groundwater Basin with Area of Severe Decline

E. Eligible Sites for Participation. For the purpose of an Agricultural Offset Clearance, a site is as defined in section 22.80.030 (Definitions of Land Use). Owners of sites that overlie the PRGWB (excluding the Atascadero Sub-basin) may be granted an Agricultural Offset Clearance, as described below and referenced in Table 1:

1. On-site Offset Clearance means conversion of existing irrigated crop production on the same site. An expansion to the definition of a “site” under Section 22.80.030 may be granted where contiguous parcels are commonly owned or collectively operated.

Table 1 – Agricultural Offset Clearance Requirements

Agricultural Offset Clearance Requirements
<ul style="list-style-type: none"> • New crop production on site of crop being replaced • New crop production cannot exceed water demand of previous crop(s) • New crop production may exceed acreage of previous crop • Existing and proposed commodities of crop production must be declared • Recorded Disclosure Form • Site inspections • Well meter installation prior to final inspection

F. Application Contents. In addition to meeting the application contents of section 22.62.030 (Zoning Clearance), a request for an Agricultural Offset Clearance shall include all of the following:

1. Vicinity of site(s) participating in the requested Agricultural Offset Clearance, including all parcels currently under crop production, and adjacent parcels with same ownership.
2. Identification of specific locations and acreage of current crop type(s).
3. Identification of specific locations and acreage of proposed crop type(s).
4. A current title report or lot book guarantee for all parcels participating in the requested Agricultural Offset Clearance.

G. Agricultural Offset Clearance Review and Approval. The criteria of this subsection shall be used in determining if a site is eligible for participation in an Agricultural Offset Clearance. An Agricultural Offset Clearance may be granted only when the following criteria have been met:

1. Proposed sites included in the request for an Agricultural Offset Clearance overlie the PRGWB (excluding the Atascadero Sub-basin).
2. Proposed sites will maintain an eligible use in compliance with the provisions of any existing Williamson Act contract for the property and County of San Luis Obispo Rules of Procedure to Implement the California Land Conservation Act of 1965.
3. Water demand shall be determined based on the crop type as follows:
 - a. Crops shown in Table 2 and Table 3. Water demand for the proposed irrigated crop production is equal to or less than the crop production it is replacing, such that an offset at a 1:1 ratio is achieved. Water demand shall be derived from the crop-specific applied water figures as specified in Table 2 and Table 3 below.
 - b. Crops not shown in Table 2 and Table 3. Water duty factors for existing and new irrigated crops that do not fall into one of the crop groups listed in Table 2 and Table 3 will be assigned a water duty factor by a joint committee of representatives from the Department of Planning and Building, Department of Public Works, and the Department of Agriculture/Weights and Measures, in consultation with UC Cooperative Extension.
 - c. Supplementally Irrigated Dry Cropland. The following criteria shall be used to determine a water duty factor:

(1). A minimum water duty factor of 0.1 AF/Ac/Yr will be granted upon validation of the use of supplemental irrigation of an average of 0.1 AF/Ac/Yr over the five-year period preceding the application date. To qualify for a water duty factor of 0.1 AF/Ac/Yr, the applicant shall validate the practice of supplemental irrigation of Dry Cropland by providing aerial imagery showing planting and irrigation patterns and provide proof of the presence of infrastructure capable of supporting regular supplemental irrigation, and provide annual estimates of water usage with substantiating and verifiable water usage data including but not limited to monthly utility bills for irrigation wells during the irrigation period and pump test reports for each agricultural well for the 5 years preceding the application date.

(2). Applications claiming greater historic supplemental irrigation of Dry Cropland will be evaluated on a case-by-case basis for a water duty factor greater than 0.1 AF/Ac/Yr. This factor will be established based on the 5-year average water use for the 5 years preceding the application date. The applicant shall submit annual estimates of water usage with substantiating and verifiable water usage data including but not limited to monthly utility bills for irrigation wells during the irrigation period and pump test reports for each agricultural well. Based on review and confirmation of the submitted information and other sources of available information such as aerial imagery, Dry Cropland water duty factors will be assigned a water duty factor by a joint committee of representatives from the Department of Planning and Building, Department of Public Works, and the Department of Agriculture/Weights and Measures, in consultation with UC Cooperative Extension.

4. A disclosure notice has been recorded in the Office of the County Clerk Recorder on all parcels associated with an Agricultural Offset Clearance prior to any planting authorized under an Ag Offset Clearance.
5. Any plantings approved under an Agricultural Offset Clearance will be completed prior to the termination of this ordinance.

Table 2 – Crop Group and Commodities Used for the Agricultural Demand Analysis

Crop Group	Primary Commodities
Alfalfa	Alfalfa
Nursery	Christmas trees, miscellaneous nursery plants, flowers
Pasture	Miscellaneous grasses, mixed pastures
Citrus	Avocados, grapefruits, lemons, oranges, olives, kiwis, pomegranates (non-deciduous)
Deciduous	Apples, apricots, berries, peaches, nectarines, plums, figs, pistachios, persimmons, pears, quinces

Strawberries	Strawberries
Vegetables	Artichokes, beans, miscellaneous vegetables, mushrooms, onions, peas, peppers, tomatoes

CBD Hemp	Field Grown CBD Hemp
Vineyard	Wine grapes, table grapes
Supplementally Irrigated Dry Cropland*	Barley, wheat, oat, grain/forage hay, safflower
<p>Source: Table 3 of the Agricultural Water Offset Program, Paso Robles Groundwater Basin, October 2014.</p> <p>*San Luis Obispo County General Plan Agriculture Element</p>	

Table 3 – Existing Crop-Specific Applied Water by Crop Type

Crop Group	Applied Water (AF/Ac/Yr)
Alfalfa	4.5
Citrus	2.3
Deciduous	3.5
Strawberries	2.3 ⁽¹⁾
Nursery	2.5
Pasture	4.8
Vegetables	1.9
CBD Hemp	1.5 ⁽²⁾
Vineyard	1.25 ⁽¹⁾
Supplementally Irrigated Dry Cropland	0.1 ⁽³⁾
<p>1. Information obtained from RCD Program, UCCE, UC Davis (Strawberries 2011 data)</p> <p>2. Information obtained from UCCE, San Luis Obispo County Cooperative Extension, April 2019</p> <p>3. Supplementally irrigated Dry Cropland application requirements outlined per Section G.3.C above.</p> <p>Source: Table 9 of the Agricultural Water Offset Program, Paso Robles Groundwater Basin, October 2014.</p>	

H. Termination. The provisions of this section for the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin) shall expire on January 1st, 2022.

SECTION 2: Section 19.07.042(4) of Title 19 of the San Luis Obispo County Code, is hereby amended to read as follows:

D. Termination. The provisions of this section for the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin) shall expire on January 1st, 2022.

SECTION 3: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 5: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 6: This Ordinance was evaluated in and is consistent with the Certified Final Supplemental Environmental Impact Report for the Countywide Water Conservation Program (SCH# 2014081056) per Section 15162 of the California Environmental Quality Act guidelines. The proposed amendments are consistent with the FSEIR because the changes will not increase water demand within the PRGWB and will require water use to be offset 1:1 for qualifying crops.

SECTION 7: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

RECOMMENDED at a special meeting of the San Luis Obispo County Planning Commission held on the 12th day of September, 2019, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 5th day of November, 2019, by the following roll call to vote, to wit:

AYES: Chairperson Debbie Arnold, Supervisors John Peschong, Bruce S. Gibson, Adam Hill and Lynn Compton

NOES: None

ABSENT: None

ABSTAINING: None

Debbie Arnold

Chairperson of the Board of Supervisors
County of San Luis Obispo, State of California

ATTEST:

WADE HORTON

Ex-Officio Clerk of the Board of Supervisors
County of San Luis Obispo, State of California

By: T'Ana Christensen
Deputy Clerk