



## SUSTAINABILITY DIVISION

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: September 21, 2021

#### **Subject**

Consider waiving planning permit fees for landscape conversion projects participating in the City's Climate Victory Garden Pilot Program or in Santa Clara Valley Water District's Landscape Rebate Program

#### **Recommended Action**

Adopt Resolution No. \_\_\_\_\_ that allows planning permit fees to be waived for Climate Victory Garden Pilot projects and Santa Clara Valley Water District Landscape Rebate Program projects

#### **Background**

In California, outdoor water use is the largest portion of residential water use, especially in hotter inland areas and cities with larger lots. As part of the FY 2018-2019 and FY 2019-2020 City Work Program, the City Council set in motion a pilot program to streamline water conservation projects by reducing barriers that property owners face to convert their water-intensive grass to a drought-tolerant garden that is more appropriate for California's dry summers.

This pilot program was launched as the [Climate Victory Gardens Program](#)<sup>1</sup> in October 2020 and offers full-service project management services to help residents, HOAs, and property management organizations with the landscape retrofit design and installation process. The pilot was designed to complement the existing Landscape Rebate Program offered by Santa Clara Valley Water District. As of August 2021, 30 landscape consultations have been delivered with 26 active conversion projects and another 47 projects on the waitlist. Of the projects active in the program, 13 have been constructed, converting 10,694 ft<sup>2</sup> of turf, saving approximately 213,880 gallons of water annually.

#### **Discussion**

Throughout the duration of this program, a key lesson learned is that permitting fees are a barrier to turf conversions for larger sites. These larger sites are critical to the cost

---

<sup>1</sup> [cupertino.org/climategarden](https://cupertino.org/climategarden)

effectiveness of the program as each site has a relatively fixed administrative cost, but the more landscape that is converted results in increased water savings. Non-residential, mixed-use residential, and multi-family residential projects are required to have review and approval of any changes to landscaping and site improvements pursuant to Municipal Code Sections [14.15.020](#)<sup>2</sup>, [19.12.030](#)<sup>3</sup>, and [19.168.020](#)<sup>4</sup>. Due to this, larger projects seeking to conserve water by converting irrigated turf to drought-tolerant plantings would be subject to one of the following review processes and fees as set by the fee schedule:

Process	Fee	Notes
Minor Architectural Site Approval	\$13,223	If landscape change is considered significant in a development located in a zone that requires review.
Director's Minor Modification	\$4,710	If landscape change is considered minor in a development located in a zone that requires review.

\*These planning fees are set by City Council resolution but may be waived by the City Council.

The fees may negatively impact the ability of the Climate Gardens Program to deliver reductions in water conversation goals. For example, there is a 40-acre HOA interested in converting roughly 13,000 ft<sup>2</sup> of turf landscape and is willing to make the necessary investment of up to \$66,750 for the lawn conversion. However, they were not anticipating the required fee for the Director's Minor Modification Permit (DIR) which represents about a 7% increase in the cost of the work. These additional fees have caused them to be unable to move forward with the project. Other large projects which may consider landscape conversion include a fire station and a church property.

Granting fee waivers for qualifying landscape projects can incentivize the larger projects to invest in lawn conversion, resulting in thousands of gallons saved annually, while still allowing the appropriate planning review. In some cases, a turf removal project may conflict with existing planning entitlements. For example, the Heart of the City/N. De Anza Blvd Landscape Easement may specify certain areas as turf. Also, some multi-family developments have approved Private Open Space which may require a certain amount of turfed area because they received a credit for parkland dedication. Therefore, planning review would still be required to determine whether the proposed changes would impact the previously approved project.

These planning fees are based on the expenditure of staff time for review and do not include pass-through costs. Waiving the fees would not result in additional costs to the General Fund as staff time is already fully accounted for. However, there would be a reduction in outside revenue collected in account 100-71-701 450-401. If planning fees are

<sup>2</sup> [https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino\\_ca/0-0-0-88495](https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-88495)

<sup>3</sup> [https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino\\_ca/0-0-0-93582](https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-93582)

<sup>4</sup> [https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino\\_ca/0-0-0-96153](https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-96153)

waived, it is recommended that the General Fund revenues reimburse this program for any lost revenue for transparency and compliance with California Proposition 26. To accomplish this, a true-up will be presented for City Council's consideration during the quarterly budget adjustments and will be based on the amount of fees waived during that quarter. Council is not being asked to take any action on the true-up at this time.

### **Sustainability Impact**

Drought-tolerant gardens, especially at larger and prominent properties, save water but also increase the ecological benefits offered by more diverse landscapes. Studies show that most turf removal projects replace a single species of turf grass with between 6-20 distinct species of plants, resulting in a more beneficial habitat for local pollinators, birds, and other wildlife. Well-designed urban landscapes can also help infiltrate water and reduce stormwater runoff.

### **Fiscal Impact**

If fee waivers are granted, it is estimated to be \$4,710 in waived fees per project if the landscape change is considered minor in a development located in a zone that requires review, or \$13,223 if turf removal is considered significant in a development located in a zone that requires review. It is anticipated that most of the projects that request a waiver will be considered minor landscape changes. These fees are based on the expenditure of staff time for review and do not include pass-through costs. Waiving the fees would not directly result in additional costs to the General Fund as staff time is already fully accounted for. However, there would be a reduction in outside revenue collected in the Planning Division's account 100-71-701 450-401. If these fees are waived, it is recommended that the General Fund reimburse this program for any lost revenue for transparency and compliance with California Proposition 26. To accomplish this, a true-up will be presented for City Council's consideration during the quarterly budget adjustments and will be based on the amount of fees waived during that quarter.

---

Prepared by: Andre Duurvoort, Sustainability Manager

Reviewed by: Dianne Thompson, Assistant City Manager

Katy Nomura, Deputy City Manager

Approved for Submission by: Greg Larson, Interim City Manager

Attachments:

A – Draft Resolution Waiving Planning Permit Fees for Qualifying Landscape Conversion Projects