



**CITY OF ORANGE
LOCAL IMPLEMENTATION PLAN (LIP)**

**SECTION A-4
LEGAL AUTHORITY**



SECTION A-4, LEGAL AUTHORITY

A-4.0 LEGAL AUTHORITY

A-4.1 Introduction

The MS4 Permit required the implementation of a program to reduce pollutants in storm water discharges from commercial, industrial, and residential areas to the "maximum extent practicable." Central to these programs is the requirement of adequate legal authority to regulate the discharge of pollutants to the municipal separate storm sewer system.

Beginning in 1998 the City adopted Water Quality Ordinance Number 6-98 and provided certification to the Regional Board that it possessed adequate legal authority to carry out the provisions of the area-wide storm water program. Since then, the City has revised and updated its initial water quality ordinance through a general revision in Ordinance 18-04 adopted in 2004, and most recently through an update by Ordinance 6-10 adopted in June of 2010.

A-4.2 Assessment of Water Quality Ordinance

Upon adoption of the Third Term Permit, the City in conjunction with the Principal Permittee and other Permittees, collectively reviewed all applicable ordinances. The specific elements covered were as follows:

- Reviewed the legal authority to enforce the permit requirements;
- Reviewed the grading and erosion control ordinances and recommended model language changes;
- Reviewed the water quality ordinances;
- Reviewed the effectiveness of water quality ordinances on prohibiting discharges;
- Reviewed and revised litter/trash control ordinances; and
- Developed and submitted a model statement for signature by legal counsel verifying adequate legal authority to enforce permits (Section A-4.3.1).

As a result, the City concluded that upon adoption of Water Quality Ordinance 18-04 on September 14, 2004 the City had adequate legal authority in its Municipal Code necessary to implement and enforce the requirements of the permit.

A-4.3 Authority to Control Pollutant Discharges

In 2002 and 2009 the City undertook a review and enacted measures to ensure adequate legal authority within its corporate boundaries to control pollutant discharges. Based on the models provided by the Principal Permittee, the City incorporated the recommended changes to its



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Ordinances. The applicable ordinances are noted below. In addition, on April 26, 2010 the City recertified its ability to control pollutant discharges as stated in Section A-4.3.1.

City authority to control specific discharges to the storm drain system include:

1) *Municipal Code Chapter 7.01 – Water Quality and Storm water Discharges*- prohibits unpermitted discharges to the municipal storm drain system. The Municipal Code is consistently reviewed and amended as needed to comply with the relevant provisions of the DAMP, LIP and Fourth Term Permit. An ordinance to revise the Municipal Code Chapter 7.01 consistent with the new development priority project categories of the Fourth Term Permit was approved by City Council on June 7, 2010. A copy of Chapter 7.01 of the Municipal Code and the ordinance required to revise the Municipal Code are provided in **Exhibit A-4.I**.

2) The *Grading Requirements Ordinance*, (Municipal Code Chapter 16.40), regulates excavation, grading, and establishes administrative requirements for the issuance of permits in accordance with the requirements in the Uniform Building Code. The Grading Requirements Ordinance was amended to comply with the relevant provisions of the 2003 DAMP, LIP, and Third Term Permit. The revised Grading Requirements Ordinance became effective on June 27, 2003 and is provided in **Exhibit A-4.II**. An update to the Grading Code is expected in 2011.

The California Building Code and local building ordinances expressly permit the Building Official to include as a condition of the Building Permit compliance with County Ordinances other than the Building Ordinance. This would include the Water Quality Ordinance and the requirements contained in the DAMP enacted under the Water Quality Ordinance. Therefore, the Building Official has the authority to enforce the water quality requirements contained in the DAMP and LIP relevant to construction activities that have been incorporated as part of a building permit both during the grading phase of construction as well as during construction subsequent to completion of grading.

3) The *Water Quality and Storm Water Discharges Ordinance* includes requirements for litter control, and prohibits the disposal of any waste material on any public or private property.

4) The *Solid Waste Ordinance* and *Industrial Waste Ordinance*, Municipal Code Chapter 8.28 and 13.64, respectively, regulate where solid and liquid wastes, including hazardous and industrial wastes may and may not be deposited or discharged. These Ordinances are included as **Exhibits A-4.III and A-4.IV**, respectively.

5) The *Uniform Fire Code*, which has been adopted into the codified ordinances of the County and the cities, prohibits the discharge of any waste liquid containing crude petroleum or its products "into or upon" any drainage canal or ditch, storm drain, sewer, or upon the ground.

6) The *Animal Regulations Ordinance* (Municipal Code Chapter 6.04) regulates nuisances due to animal excreta. This Ordinance is provided as **Exhibit A-4.V**.



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7) The *Zoning Ordinance* (Municipal Code Chapter 17), which requires CEQA review and impact assessment for applicable projects. This portion of the Zoning Ordinance is provided as **Exhibit A-4.VI**.

The detection, elimination and enforcement activities undertaken by the City are described further in DAMP Section 10.0 and Section A-10.0. In addition to prohibiting unpermitted discharges, the Water Quality Ordinance also provides the legal authority for requiring BMPs in new development and significant redevelopment found in DAMP Section 7.0.

A-4.3.1 Statement of Legal Authority

As required by the Fourth Term Permit Section VI.4, a Statement of Legal Authority (**Exhibit A-4.VII**) signed by legal counsel, was completed to certify that the City of Orange has the legal authority to implement and enforce the requirements in 40 CFR 122.26(d)(2)(i)(A-F) and the permit.

Exhibit A-4-I
Municipal Code Title 7
Ordinance 6-10

Title 7 ENVIRONMENT

Chapters:

7.01 Water Quality and Stormwater Discharges

Chapter 7.01 WATER QUALITY AND STORMWATER DISCHARGES

Sections:

7.01.010 Authority.
7.01.020 Purpose and Intent.
7.01.030 Definitions.
7.01.040 Prohibition on Illicit Connections and Prohibited Discharges.
7.01.050 Controls for Water Quality Management.
7.01.060 Water Quality Management Plan (WQMP) Requirements.
7.01.070 Best Management Practice (BMP) Requirements.
7.01.080 Inspections.
7.01.090 Enforcement.
7.01.100 Interagency Cooperation.
7.01.110 Miscellaneous Compliance Disclaimer.

7.01.010 Authority.

The United States Congress passed the Clean Water Act (33 USC Section 1251 et seq.,) (Clean Water Act) mandating that cities obtain permits to effectively prohibit non-stormwater discharges into the storm sewers and require controls to reduce the discharge of pollutants to the maximum extent practicable. This permitting authority has been delegated by the United States Environmental Protection Agency (EPA) to the State of California, which has authorized the State Water Resources Control Board and its local regulatory agencies, the Regional Water Quality Control Boards, to control non-point source discharges to California's waterways.

The Santa Ana Regional Water Quality Control Board (Regional Board) addresses this obligation to implement the Clean Water Act by periodically issuing waste discharge requirements for the County of Orange, Orange County Flood Control District and the incorporated cities of Orange County within Regional Board jurisdiction. These waste discharge requirements shall be referred to herein as the National Pollution Discharge Elimination System (NPDES) Permit. The City is named as a co-permittee under the NPDES Permit and must comply with the requirements set forth in the NPDES Permit.

(Ord. 18-04)

7.01.020 Purpose and Intent.

The purpose of this chapter is to establish uniform standards for the improvement of water quality, to comply with the federal requirements for the control of urban pollutants to stormwater runoff, which enters the network of storm drains throughout Orange County, and to regulate discharges of stormwater to the storm drain system within the City.

(Ord. 18-04)

7.01.030 Definitions.

Unless otherwise stated, the following definitions shall apply to this chapter:

- A. ACCELERATED EROSION means the rate and amount of erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind or chemicals.
- B. BASIN PLAN means the Water Quality Control Plan for the Santa Ana Basin adopted by the

Santa Ana Regional Water Quality Control Board in September 1994 and any subsequent amendments.

C. **BEST MANAGEMENT PRACTICES (BMPs)** means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, operation and maintenance procedures and other management practices or devices to prevent or reduce to the maximum extent practicable (MEP) the discharge of pollutants directly or indirectly to stormwater, receiving waters or the stormwater drainage system. BMPs may be structural or non-structural, and include, but are not limited to, site design, source control, treatment control, and natural design methods. BMPs may include any type of pollution prevention and control measure that can help to achieve compliance with this chapter.

D. **CO-PERMITTEE** means the County of Orange, the Orange County Flood Control District, and/or any one of the other municipalities within the County of Orange, including the City, which are responsible for compliance with the terms of the NPDES Permit.

E. **DAMP** means the Orange County Drainage Area Management Plan, including all appendices, as the same may be amended from time to time.

F. **DEVELOPMENT PROJECT GUIDANCE** means DAMP Chapter VII and the Appendix thereto, entitled New Development/Significant Redevelopment, as the same may be amended from time to time.

G. **DISCHARGE** means any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance.

H. **ENFORCING ATTORNEY** means the City Attorney or the District Attorney.

I. **HEARING OFFICER** means the Public Works Director or his/her designee, who shall preside at the administrative hearings authorized by this chapter and issue final decisions on the matters raised therein.

J. **ILLICIT CONNECTION** means any man-made physical connection to the stormwater drainage system which has not been authorized by the agency with jurisdiction over the system at the location at which the physical connection is made, or any such authorized connection which conveys prohibited discharges or any pollutant to the stormwater drainage system.

K. **IMPAIRED WATER BODY** means a water body that is listed by the California State Water Resources Control Board as impaired by a particular pollutant or pollutants, pursuant to Section 303 (d) of the Clean Water Act.

L. **IMPERVIOUS SURFACE AREA** means the ground area covered or sheltered by an impervious surface, measured in plan view (i.e., as if directly above). For example, the impervious surface area for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

M. **IMPERVIOUS SURFACES or Covers** means a constructed or modified surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks and driveways.

N. **INSPECTOR** means authorized City inspectors who are assigned to investigate compliance with, detect violations of and/or take actions pursuant to this chapter.

O. **LIP** means the City Local Implementation Plan, including all appendices, together with any amendments or revisions, which is the document detailing the City's implementation of the DAMP.

P. **MAXIMUM EXTENT PRACTICABLE** means the acceptability standard for best management practices (BMPs) established by Congress in Clean Water Act Section 402(p)(3)(B)(iii) that dischargers of stormwater must meet. Maximum extent practicable means using the most effective set of BMPs that can be implemented and still remain practicable. A BMP is effective if it prevents, reduces or removes pollutants that would otherwise be present in the runoff due to human activity. A BMP is practicable if it complies with stormwater and other regulations; is compatible with the area's land use, character, facilities and activities; is technically feasible (considering area soil, geography, water resources, and other resources available); is economically feasible; and provides benefits that are reasonable in relation to costs. Maximum extent practicable generally emphasizes pollution

prevention and source control BMPs (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense).

Q. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT means the currently applicable municipal discharge permit[s] issued by the Santa Ana Regional Water Quality Control Board, which establishes waste discharge requirements applicable to stormwater and urban runoff in the City.

R. NEW DEVELOPMENT means all public and private residential (whether single-family, multi-unit or planned unit development), industrial, commercial, retail, and other nonresidential construction projects, or grading for future construction, for which either a discretionary land use approval, grading permit, building permit or nonresidential plumbing permit is required.

S. NON-PROHIBITED DISCHARGE means those discharges not prohibited by this chapter, and include only the following: (i) non-stormwater discharges authorized by a separate NPDES Permit (other than the NPDES Permit for discharges from the municipal stormwater drainage system) provided compliance with all permit conditions is maintained; (ii) discharges from fire fighting activities; and (iii) the following non-stormwater discharges pursuant to 40 CFR 122.26(d)(2)(iv)(B) (1) and listed in the NPDES Permit, unless any of the following are identified as a significant source of pollutants to waters of the United States:

1. Discharges composed entirely of stormwater;
2. Potable water line flushing and other potable water sources;
3. Air conditioning condensate;
4. Landscape irrigation, lawn garden watering and other irrigation sources;
5. Passive foundation drains;
6. Passive footing drains;
7. Water from crawl space pumps;
8. Dechlorinated swimming pool discharges;
9. Non-commercial vehicle washing;
10. Diverted stream flows;
11. Rising ground waters and natural springs;
12. Ground water infiltration as defined in 40 CFR 35.2005 (20) and uncontaminated pumped groundwater;
13. Flows from riparian habitats and wetlands;
14. Emergency fire fighting flows (i.e. flows necessary for the protection of life and property);
15. Waters not otherwise containing wastes as defined in California Water Code Section 13050(d); and
16. Other types of discharges identified and recommended by the permittees and approved by the Regional Board.

T. NON-RESIDENTIAL PLUMBING PERMIT means a plumbing permit authorizing the construction and/or installation of facilities for the conveyance of liquids other than stormwater, potable water, reclaimed water or domestic sewage.

U. NON-STORMWATER means all discharges to and from a stormwater drainage system that do not originate from precipitation events (i.e. all discharges from a stormwater drainage system other than stormwater).

V. PERSON means any natural person as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative.

W. POLLUTANT means any agent introduced to stormwater or non-stormwater that may cause or contribute to the degradation of receiving water quality such that public health, the environment, or beneficial uses of receiving waters may be affected. The term may include, but is not limited to:

1. Artificial materials (such as floatable plastics, wood products or metal shavings);
2. Household waste (such as trash, paper, and plastics; cleaning chemicals; yard wastes; animal fecal materials; used oil and fluids from vehicles, lawn mowers and other common household equipment);
3. Metals and non-metals, including compounds of metals and non-metals, (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic), with characteristics which cause an adverse effect on living organisms;
4. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
5. Animal wastes (such as discharge from confinement facilities, kennels, pens and recreational facilities, including, stables, show facilities, or polo fields);
6. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
7. Waste materials and wastewater generated on construction sites and by construction activities (such as painting and staining; use of sealants and glues; use of lime; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; application of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing; concrete pouring and cleanup; use of concrete detergents; steam cleaning or sand blasting; use of chemical degreasing or diluting agents; and use of super chlorinated water for potable water line flushing);
8. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
9. Materials which contain base/neutral or acid extractable organic compounds;
10. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act; and
11. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial uses of the receiving waters, flora or fauna of the State.

X. PRIORITY DEVELOPMENT PROJECT means any of the following development categories as defined in the NPDES Permit:

1. All significant redevelopment as defined herein;
2. Home subdivisions of ten units or more. This includes single-family residences, multi-family residence, condominiums, apartments, etc.;
3. Industrial/commercial developments of one hundred thousand (100,000) square feet or more. Commercial developments include non-residential developments such as hospitals, educational institutions, recreational facilities, mini-malls, hotels, office buildings, warehouses, and light industrial facilities;
4. Automotive repair shops (with SIC codes 5013, 5014, 5541, 7532-7534, 7536-7539);
5. Restaurants where the land area of development is five thousand (5,000) square feet or more;
6. Hillside developments of ten thousand (10,000) square feet or more which are located on areas with known erosive soil conditions or where the natural slope is twenty-five (25) percent or more;
7. Developments of two thousand five hundred (2,500) square feet of impervious surface or more adjacent to (within two hundred (200) feet) or discharging directly into environmentally

sensitive areas such as areas designated in the Ocean Plan as areas of special biological significance or water bodies listed on the CWA Section 303(d) list of impaired waters;

8. Parking lots of five thousand (5,000) square feet or more exposed to stormwater. Parking lot is defined as land area or facility for the temporary storage of motor vehicles.

Y. PROHIBITED DISCHARGE means any discharge to or from the stormwater drainage system or to a receiving water that is not composed entirely of stormwater. This includes, but is not limited to, discharges of non-stormwater that are not defined as non-prohibited discharges, any discharge from an illicit connection, or any discharge which causes or contributes to the exceedance of basin plan receiving water quality objectives. Discharges pursuant to a separate NPDES Permit (other than the NPDES Permit for discharges from the municipal stormwater drainage system) are prohibited unless compliance with all applicable permit conditions is maintained.

Z. RECEIVING WATER means all waters as defined in the NPDES Permit, including, but not limited to, natural streams, creeks, rivers, lakes, bays, the Pacific Ocean and ground water.

AA. SIGNIFICANT REDEVELOPMENT means the creation or addition of five thousand (5,000) square feet or more of impervious surface area on an existing developed site. Significant redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where significant redevelopment results in an increase of less than fifty (50) percent of the impervious surface area of a previously existing development, and the existing development was not subject to WQMP requirements, the design sizing criteria for structural BMP facilities applies only to the addition, and not to the entire development.

BB. STATE GENERAL PERMIT means the State General Industrial Stormwater Permit, the State General Construction Permit or any other State general permit that has been or will be adopted and the terms and requirements of any such permit. In the event the EPA revokes the in-lieu permitting authority of the State Water Resources Control Board, then the term State general permit shall also refer to any EPA administered stormwater control program for industrial and construction activities.

CC. STORMWATER means surface runoff and drainage associated with storm events and snow melt, and is that portion of precipitation that flows across a surface to the stormwater drainage system or receiving waters. Examples include, but are not limited to: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the soil (runoff from a pervious surface); and the water that flows into streams when snow on the ground begins to melt.

DD. STORMWATER DRAINAGE SYSTEM means street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of or tributary to the County-wide stormwater runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee, and used for the purpose of collecting, storing, transporting, or disposing of stormwater.

EE. URBAN RUNOFF means all flows in the stormwater drainage system and consist of stormwater and non-stormwater flows.

FF. WATER QUALITY MANAGEMENT PLAN (WQMP) means a water quality plan that is designed to minimize pollutant discharges and accelerated erosion and sediment runoff during development construction and operation activities. Another synonymous term for such a water quality plan is Standard Urban Runoff Mitigation Plan (SURMP).

(Ord. 18-04)

7.01.040 Prohibition on Illicit Connections and Prohibited Discharges.

A. No person shall:

1. Construct, maintain, operate and/or utilize any illicit connection;

2. Cause, allow or facilitate any prohibited discharge;
3. Act, cause, permit or suffer any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection, or cause, allow or facilitate any prohibited discharge.

(Ord. 18-04)

7.01.050 Controls for Water Quality Management.

A. New Development and Significant Redevelopment.

1. All new development and significant redevelopment shall be undertaken to ensure that pollutant discharges from development are reduced to the maximum extent practicable, and in accordance with:
 - a. The NPDES Permit, the DAMP and the LIP, including, but not limited to, the development project guidance;
 - b. Any conditions and requirements established by the City's Public Works Department, which are reasonably related to the reduction or elimination of pollutants in stormwater runoff from the project site;
 - c. All priority development projects as defined in this section shall comply with WQMP requirements. Projects that do not qualify as a priority development project but which will require a non-residential plumbing permit or a discretionary action that will include a precise plan of development shall also comply with Section 7.01.060, except as noted in subsections (A)(3) and (5) of this section.
2. Prior to the issuance by the City of a grading permit, building permit or non-residential plumbing permit for any new development or significant redevelopment, the Public Works Director shall review the project plans and impose terms, conditions and requirements on the project in accordance with subsection (A)(1) of this section. If the new development or significant redevelopment will be approved without application for a grading permit, building permit or non-residential plumbing permit, the Public Works Director shall review the project plans and impose terms, conditions and requirements on the project in accordance with subsection (A)(1) of this section prior to the issuance of a discretionary land use approval or, at the City's discretion, prior to recordation of a subdivision map.
3. Notwithstanding subsections (A)(1) and (2) of this section, compliance with the development project guidance shall not be required for construction of (i) one single-family detached residence; or (ii) improvements, for which a building permit is required, to one single-family detached residence unless the Public Works Director determines that the construction may result in the discharge of significant levels of a pollutant into a tributary to the stormwater drainage system.
4. Compliance with the conditions and requirements of the DAMP and LIP shall not exempt any person from the requirement to independently comply with each provision of this chapter.
5. If the Public Works Director determines that the project will have a de minimis impact on the quality of stormwater runoff, then he/she may issue a written waiver of the requirement for compliance with the provisions of the development project guidance.
6. The owner of a new development or significant redevelopment project shall implement and adhere to the terms, conditions and requirements imposed pursuant to subsection (A)(1) of this section on a new development or significant redevelopment project.
7. The Public Works Director may require that the terms, conditions and requirements imposed pursuant to subsection (A)(1) of this section be recorded with the County Recorder's office by the property owner. The signature of the owner of the property shall be sufficient for the recording of these terms, conditions and requirements and a signature on behalf of the City shall not be required for recordation.

B. Cost Recovery. The City shall be reimbursed by the project applicant for all costs and expenses

incurred by the City in the review of new development or significant development projects for compliance with the DAMP and LIP. The Public Works Director may elect to require a deposit of estimated costs and expenses, and the actual costs and expenses shall be deducted from the deposit, and the balance, if any, refunded to the project applicant.

C. Litter Control.

1. No person shall discard any waste material, including, but not limited to, common household rubbish or garbage of any kind (whether generated or accumulated at a residence, business or other location), upon any public or private property, whether occupied, open or vacant, including, but not limited to, any street, sidewalk, alley, right-of-way, open area or point of entry to the stormwater drainage system.
2. Every person occupying or having charge and control of property on which a prohibited disposal of waste materials occurs shall cause the proper collection and disposal of same.
3. A prohibited disposal of waste materials creates a danger to public health, safety and welfare, and otherwise threatens the environment, surface waters and groundwater; therefore, any owner or occupant of property who fails to remove waste material within a reasonable time may be charged with creating a nuisance upon the property.

(Ord. 18-04)

7.01.060 Water Quality Management Plan (WQMP) Requirements.

A Water Quality Management Plan (WQMP) shall be prepared and submitted for all priority development and significant redevelopment projects, and for projects which will require a non-residential plumbing permit or a discretionary action that will include a precise plan of development. The City may require independent review of the submitted WQMP, and the development project proponent shall pay for the cost of the independent review. The WQMP shall include proposed source control and structural best management practices as specified in the NPDES Permit, and the WQMP shall be prepared in conformance with the DAMP and LIP. Structural BMPs shall be required for all priority development projects, and such projects shall be designed so that the structural BMPs comply with the volume or flow design criteria specified in the NPDES Permit.

(Ord. 18-04)

7.01.070 Best Management Practice (BMP) Requirements.

Every person owning property or conducting any activity, operation or facility shall comply with applicable BMPs as identified in the DAMP and LIP in order to prevent, to the maximum extent practicable, pollutants from entering the stormwater drainage system.

(Ord. 18-04)

7.01.080 Inspections.

A. Scope of Inspections.

1. Right to Inspect. Except for emergency abatements, access to public areas and annual inspections as required by the DAMP and/or LIP, prior to commencing any inspection authorized by this section, the Inspector shall obtain either the consent of the owner or occupant of the property or shall obtain an administrative inspection warrant or criminal search warrant. For annual inspections required by the DAMP and/or LIP, the authorized water quality enforcement staff may inspect a property or facility during normal business hours upon twenty-four (24) hours notice to the owner, operator, or person responsible for the day to day activities of such property or facility.
2. Entry to Inspect. The Inspector may enter property to investigate the source of any discharge to any public street, inlet, gutter, storm drain or the stormwater drainage system located within the jurisdiction of the City.

3. **Compliance Assessments.** The Inspector may inspect property for the purpose of verifying compliance with this chapter, including, but not limited to, (i) identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property; (ii) identifying points of discharge of all wastewater, process water systems and Pollutants; (iii) investigating the natural slope at the location, including drainage patterns and man-made conveyance systems; (iv) establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system; and (v) locating any illicit connection or the source of prohibited discharge.
4. **Portable Equipment.** For purposes of verifying compliance with this chapter, the Inspector may inspect any vehicle, truck, trailer, tank truck or other mobile equipment.
5. **Records Review.** The Inspector may inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, State general permits, stormwater pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, or any other source of contribution or potential contribution of pollutants to the stormwater drainage system.
6. **Sample and Test.** The Inspector may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the stormwater drainage system. The Inspector may investigate the integrity of all storm drain and sanitary sewer systems, or other pipelines on the property using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The Inspector may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.
7. **Monitoring.** The Inspector may erect and maintain monitoring devices for the purpose of measuring any discharge or potential source of discharge to the stormwater drainage system.
8. **Test Results.** The owner or occupant of property subject to inspection shall, upon submission of a written request, receive copies of all monitoring and test results conducted by the Inspector.

(Ord. 18-04)

7.01.090 Enforcement.

A. Administrative Remedies.

1. **Notice of Noncompliance.** The Inspector may deliver a notice of noncompliance to the owner or occupant of any property or to any person responsible for an illicit connection or prohibited discharge.
 - a. The notice of noncompliance shall identify the provision(s) of this chapter or the applicable permit which has been violated. The notice of noncompliance shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person.
 - b. The notice of noncompliance shall state a compliance date that must be met by the owner, occupant and/or person; provided, however, that the compliance date may not exceed ninety (90) days unless the Inspector extends the compliance deadline an additional ninety (90) days where good cause exists for the extension.
 - c. The notice of noncompliance may direct the owner or occupant of any property and/or other person responsible for a violation of this chapter to immediately:
 - i. Discontinue any illicit connection or prohibited discharge to the stormwater drainage system;
 - ii. Immediately contain or divert any flow of water off the property, where the flow is

occurring in violation of any provision of this chapter;

iii. Immediately discontinue any other violation of this chapter;

iv. Clean up the area affected by the violation;

v. Immediately cease any activity not in compliance with the conditions or requirements issued pursuant to Section 7.01.050(A)(1), or the terms, conditions and requirements of the applicable permit.

2. **Recovery of Costs.** If the violation is not corrected within the time set in the notice of noncompliance, the Inspector may deliver to the owner or occupant of any property, any permittee or any other person who becomes subject to a notice of noncompliance, an invoice for costs which shall include the cost of the re-inspection. To the extent allowed by State law, an invoice for costs shall be immediately due and payable to the City for the actual costs incurred by the City in re-inspecting the violation.

If any owner or occupant, permittee or any other person subject to an invoice for costs fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this chapter, then the enforcing attorney may institute collection proceedings.

3. **Delivery of Notice.** Any notice of noncompliance or invoice for costs to be delivered pursuant to the requirements of this chapter shall be subject to the following:

a. The notice shall state that the recipient has a right to appeal the matter as set forth in subsection (A)(4) of this section;

b. Delivery shall be deemed complete upon (i) personal service to the recipient; (ii) three days after deposit in the U.S. mail, postage pre-paid for first class delivery; or (iii) facsimile service with confirmation of receipt;

c. Where the recipient of notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the City;

d. Where the owner or occupant of any property cannot be located after the reasonable efforts of the Inspector, a notice of noncompliance or cease and desist order shall be deemed delivered after posting on the property for a period of ten business days.

4. **Administrative Hearing for Notices of Noncompliance.** Except for criminal prosecutions, any person receiving a notice of noncompliance that directs that person to immediately discontinue or divert any flow off property or to pay an invoice for costs, may appeal the matter by requesting an administrative hearing.

a. **Request for Administrative Hearing.** Any person appealing a notice of noncompliance or an invoice for costs under this section, shall file a written request for an administrative hearing with the City Clerk within ten days of receipt of the notice of noncompliance or invoice of costs, accompanied by an administrative hearing fee as established by separate resolution, with a copy of the request for administrative hearing mailed or delivered on the date of filing to the Public Works Director. Failure to timely file the request shall be deemed a waiver and the City's determination on such matter shall be deemed final. If a request is timely filed, a hearing on the matter shall be held within thirty (30) business days of the date of filing of the written request unless, in the reasonable discretion of the Hearing Officer and pursuant to a written request by the appealing party, a continuance of the hearing is granted. The Hearing Officer shall afford each party the right to present testimony and other documentary evidence as necessary for explanation of the case.

b. **Final Decision and Appeal.** The final decision of the Hearing Officer shall issue within ten business days of the conclusion of the hearing and shall be delivered by first-class mail, postage prepaid, to the appealing party. The final decision shall include notice that any legal challenge to the final decision shall be made pursuant to the provisions of Code of Civil Procedure Sections 1094.5 and 1094.6 and shall be commenced within ninety (90) days following issuance of the final decision.

5. **City Abatement.** In the event the owner of property, the operator of a facility, a permittee or any

other person fails to comply with any provision of a compliance schedule issued to such owner, operator, permittee or person pursuant to this chapter, the Inspector may request the enforcing attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to this section.

B. Nuisance. Any condition in violation of this chapter which has the potential to discharge pollutants into storm sewers shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code Section 38771 and the City may undertake any steps permitted under the Orange Municipal Code and State law to abate the condition. In the event the nuisance constitutes an imminent danger to public safety or the environment, the City may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance. To the extent reasonably practicable, notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public health, safety or the environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant. An imminent danger shall include, but is not limited to, exigent circumstances created by the dispersal of pollutants, where the same presents a significant and immediate threat to the public safety or the environment.

Notwithstanding the authority of the City to conduct an emergency abatement action, an administrative hearing may be requested by any property owner or occupant of the property abated and shall follow the emergency abatement action as soon as practicable.

1. Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under State law, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.

2. Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code Sections 38773.1 and 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code Section 38773.1. The enforcing attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accordance with the conditions and requirements of Government Code Section 38773.5.

C. Criminal Penalties.

1. Any person who negligently or knowingly violates any provision of this chapter, undertakes to conceal any violation of this chapter, continues any violation of this chapter after notice thereof, or violates the terms, conditions and requirements of any permit issued pursuant to this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a period of not more than six months, or both. At his or her discretion, the enforcing attorney may treat the violation as an infraction and in such case, the violation shall be punishable by a fine of not more than one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation, and a fine not exceeding five hundred dollars (\$500) for each additional violation occurring within one year.

2. Consecutive Violations. Each day in which a violation occurs and each separate failure to comply with either a separate provision of this chapter, notice of non-compliance or a permit issued pursuant to this chapter, shall constitute a separate violation of this chapter punishable by fines or sentences issued in accordance herewith.

D. Non-exclusive Remedies. Each and every remedy available for the enforcement of this chapter shall be non-exclusive and it is within the discretion of the Inspector or enforcing attorney to seek cumulative remedies.

E. Citations.

1. Pursuant to Penal Code § 836.5, the Inspector shall have the authority to cause the arrest of any person committing a violation of this chapter. The person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code Sections 853.5, 853.6, and 853.9, unless the person demands to be taken before a magistrate. Following issuance of any citation, the

Inspector shall refer the matter to the enforcing attorney.

2. Each citation to appear shall state the name and address of the violator, the provisions of this chapter violated, and the time and place of appearance before the court, which shall be at least ten business days after the date of violation. The person cited shall sign the citation giving his or her written promise to appear as stated therein. If the person cited fails to appear, the enforcing attorney may request issuance of a warrant for the arrest of the person cited.

F. Violations of Other Laws. Any person acting in violation of this chapter also may be acting in violation of the Clean Water Act or the State Porter-Cologne Act and other laws and also may be subject to sanctions including civil liability. Accordingly, the enforcing attorney is authorized to file a citizen suit pursuant to Clean Water Act Section 505(a), seeking penalties, damages, and orders compelling compliance, and other appropriate relief. The enforcing attorney may notify EPA Region IX, the Santa Ana Regional Water Quality Control Board, or any other appropriate state or local agency, of any alleged violation of this chapter.

G. Injunctions. The enforcing attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this chapter.

1. Order for Reimbursement. Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to restoration of the environment and all other expenses as authorized by law.

H. Other Civil Remedies.

1. The enforcing attorney may file an action for civil damages in a court of competent jurisdiction seeking recovery of (i) all costs incurred in enforcement of this chapter, including, but not limited to, costs relating to investigation, sampling, monitoring, inspection, administrative expenses, all other expenses as authorized by law, and consequential damages; (ii) all costs incurred in mitigating harm to the environment or reducing the threat to human health; and (iii) damages for irreparable harm to the environment.

2. The remedies available to the City pursuant to the provisions of this chapter shall not limit the right of the City to seek any other remedy that may be available by law.

(Ord. 18-04)

7.01.100 Interagency Cooperation.

The City intends to cooperate with other agencies with jurisdiction over stormwater discharges to ensure that the regulatory purposes underlying stormwater regulations promulgated pursuant to the Clean Water Act are met. The City may, to the extent authorized by law, elect to contract for the services of any public agency or private enterprise to carry out the planning approvals, inspections, permits and enforcement authorized by this chapter.

(Ord. 18-04)

7.01.110 Miscellaneous Compliance Disclaimer.

Full compliance by any person or entity with the provisions of this chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements, which may be required for the control of the discharge of pollutants into stormwater and/or the protection of stormwater quality.

(Ord. 18-04)

ORDINANCE NO. 6-10

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ORANGE AMENDING
CHAPTER 7.01 OF TITLE 7 OF THE ORANGE
MUNICIPAL CODE PERTAINING TO WATER
QUALITY AND STORMWATER DISCHARGES.**

WHEREAS, the Federal Water Pollution Control Act (commonly known as the Clean Water Act or "CWA"), 33 U.S.C. § 1251 et seq., as amended, prohibits the discharge of any "Pollutant" (as defined in the CWA) to Waters of the United States from a point source, unless the discharge is authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES"); and

WHEREAS, pursuant to the CWA, the United States Environmental Protection Agency ("US EPA") has defined the term "Municipal separate storm sewer system" ("MS4") to mean a conveyance, or system of conveyances, including roads with drainage systems, municipal streets, curbs, gutters, catch basins, and storm drains owned or operated by a city, used for collecting Storm Water; and

WHEREAS, CWA § 402(p), 33 U.S.C. § 1342(p), requires that the City obtain an NPDES permit for the discharge of Pollutants from the City's MS4; and

WHEREAS, CWA § 402(p), 33 U.S.C. § 1342(p), further provides that NPDES permits shall require controls to reduce the discharge of Pollutants from the MS4 to the Maximum Extent Practicable, including management practices and such other provisions as may be appropriate for the control of Pollutants; and requires the City to effectively prohibit Non-Storm Water discharges to the MS4; and

WHEREAS, in implementation of CWA § 402(p), US EPA has adopted various regulations at several places in Title 40 of the Code of Federal Regulations ("CFR") to address compliance and implementation of the CWA; and

WHEREAS, on May 22, 2009 the Santa Ana Regional Water Quality Control Board ("SARWQCB") adopted a new NPDES Municipal Storm Water Permit entitled *WASTE DISCHARGE REQUIREMENTS ORDER NO. R8-2009-0030 [NPDES NO. CAS618030] FOR THE COUNTY OF ORANGE, ORANGE COUNTY FLOOD CONTROL DISTRICT, AND THE INCORPORATED CITIES OF ORANGE COUNTY WITHIN THE SANTA ANA REGION, AREAWIDE URBAN STORM WATER RUNOFF, ORANGE COUNTY* (the "NPDES" Order), to cities in Orange County, including the City of Orange; and

WHEREAS, the NPDES Order and US EPA regulations implementing the CWA, require the City to demonstrate that it has adequate legal authority, through ordinance or other authority, to prohibit Illicit Discharges and to otherwise require compliance with the NPDES Order; and

WHEREAS, under the California Constitution and California statutory law, the City has the authority to define public nuisances and to protect the public health and safety of the residents of and visitors to the City, and the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:

SECTION I:

Section 7.01.030.B. shall be amended to provide as follows:

“B. Basin Plan shall mean the Water Quality Control Plan for the Santa Ana Basin adopted by the Santa Ana Regional Water Quality Control Board in March 1994 and any subsequent updates and amendments.”

Section 7.01.030 shall be amended by deleting S.2 and renumbering all other listed non-prohibited discharges accordingly.

Section 7.01.030.X shall be amended as follows:

Subsection X.2 shall be deleted and replaced with the following:

“2. New developments that create ten thousand (10,000) square feet or more of impervious surface (collectively over the entire project site) including commercial, industrial, residential housing subdivisions (i.e., detached single family homes, multi-family attached subdivisions (townhomes), apartments, condominiums, etc.), mixed-use and public projects;”

Subsection Section X.3 shall be deleted and Subsections X.4 and X.5 renumbered, respectively, to X.3 and X.4.

Subsection X.6 shall be renumbered X.5 and be amended to read as follows:

“5. Hillside developments of five thousand (5,000) square feet or more, which are located on areas with known erosive soil conditions or where the natural slope is 25 percent or more;”

Subsection X.7 shall be renumbered X.6.

Subsection X.8 shall be renumbered X.7 and amended to read as follows:

“7. Parking lots of five thousand (5,000) square feet or more of *impervious surface* exposed to storm water. Parking lot is defined as a land area or facility for the temporary storage of motor vehicles;”

The following subsections shall be added:

“8. Streets, roads, highways and freeways of five thousand (5,000) square feet or more of paved surface. This includes any paved surface used for the transportation of automobiles, trucks, motorcycles and other vehicles and excludes routine maintenance activities when the footprint is not changed.

9. Retail gasoline outlets of five thousand (5,000) or more square feet with projected average daily traffic of 100 or more vehicles per day;

10. Emergency and public safety projects in any of the above-listed categories may be excluded if the delay caused due to the requirement for a WQMP compromises public safety, public health and or/environmental protection.”

Subsection 7.01.030 AA shall be amended to provide as follows:

“AA. SIGNIFICANT REDEVELOPMENT means the addition or replacement of five thousand (5,000) square feet or more of impervious surface on a developed site. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of the facility, or emergency redevelopment activity required to protect public health and safety. Where redevelopment results in the addition or replacement of less than fifty percent (50%) of the impervious surfaces of a previously existing developed site, and the existing development was not subject to WQMP requirements, the numeric sizing criteria applies only to the addition or replacement, and not to the entire developed site. Where redevelopment results in the addition of fifty percent (50%) or more of the impervious surfaces of a previously existing developed site, the numeric sizing criteria applies to the entire development.”

Subsection 7.01.030 FF shall be amended to provide as follows:

“FF. WATER QUALITY MANAGEMENT PLAN (WQMP) means a water quality plan that is designed to minimize pollutant discharges during operation activities. Another synonymous term for such a water quality plan is Standard Urban Storm Water Mitigation Plan (SUSMP).”

Subsection 7.01.050 A.3 shall be amended to provide as follows:

“3. Notwithstanding subsections (A)(1) and (2) of this section, compliance with the development project guidance shall not be required for construction of a (one) single family detached residence unless it falls under one of the Priority Categories as defined in 7.01.030. X. or the Public Works Director determines that the construction may result in the discharge of significant levels of a Pollutant into a tributary to the stormwater drainage system.”

Section 7.01.060 shall be amended to provide as follows:

“7.01.060 Water Quality Management Plan (WQMP) Requirements.

A Water Quality Management Plan (WQMP) shall be prepared and submitted for all priority development and significant redevelopment projects, for nonpriority projects as described in the DAMP and for projects as required by the Public Works Director. The City may require independent review of the submitted WQMP, and the development project proponent shall pay for the cost of the independent review. The WQMP shall include low

impact development practices (LID), source control and structural and treatment control best management practices as specified in the NPDES Permit, and the WQMP shall be prepared in conformance with the DAMP and LIP. Treatment control BMPs shall be required for all priority development projects, and such projects shall be designed so that the treatment control BMPs comply with the volume or flow design criteria specified in the NPDES Permit.”

Section 7.01.070 shall be amended to provide as follows:

“7.01.070 Best Management Practice (BMP) Requirements.

Every person owning property or conducting any activity, operation or facility shall comply with applicable BMP as identified in the DAMP and LIP in order to prevent, to the maximum extent practicable, pollutants from entering the storm water drainage system and maintain the BMPs as specified in the project approved WQMP of Section 7.01.060.”

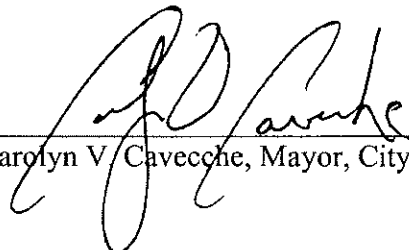
SECTION II:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION III:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance’s passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

Adopted this 8th day of June, 2010



Carolyn V. Cavecche, Mayor, City of Orange

ATTEST:


Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 25th day of May, 2010, and thereafter at the regular meeting of said City Council duly held on the 8th day of June, 2010, was duly passed and adopted by the following vote, to wit:

AYES: COUNCIL MEMBERS: Smith, Murphy, Cavecche, Dumitru, Bilodeau
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None
ABSTAIN: COUNCIL MEMBERS: None

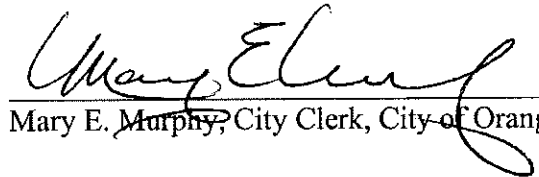

Mary E. Murphy, City Clerk, City of Orange

Exhibit A-4-II

Grading Ordinance 13-03

ORDINANCE NO. 13-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE AMENDING CHAPTER 16.40 OF
THE ORANGE MUNICIPAL CODE RELATING TO
GRADING REQUIREMENTS.**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE
DOES ORDAIN AS FOLLOWS:**

SECTION I:

Section 16.40.030 of the Orange Municipal Code is hereby amended to read as follows:

16.40.030 Scope.

This Chapter and the documents incorporated by reference herein, set forth the rules and regulations to control erosion, water quality, excavation, grading and earthwork construction, including cuts and fills; establishes the administrative procedure for the issuance of grading permits and provides for review and approval of plans and the inspection of grading construction.

SECTION II:

Section 16.40.040 of the Orange Municipal Code is hereby amended to read as follows:

16.40.040 Incorporation by Reference.

That certain document entitled City of Orange Manual of Grading, is hereby incorporated by reference and made a part of this Chapter. The Grading Manual shall include provisions to assure that the Water Quality Requirements relevant to activities subject to this article apply to all such activities. In addition, that certain document entitled Guidelines for Landform Grading and Planting, is hereby incorporated by reference and made a part of this Chapter. Copies of each of these documents, with all amendments thereto, are on file in the Office of the City Clerk for use and examination by the public.

SECTION III:

Section 16.40.060 of the Orange Municipal Code is hereby amended to read as follows:

16.40.060 Additional Requirements.

In addition to the requirements set forth in the City of Orange Manual of Grading and the Guidelines for Landform Grading and Planting, the City Engineer may impose additional specific requirements as set forth in the various Department of Public Works Standards and Specifications as well as Water Quality Requirements relevant to activities subject to this article when sound engineering practice indicate the need for such additional requirements.

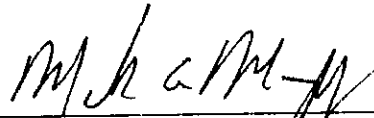
SECTION IV:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION V:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 27th day of May, 2003.



Mark A. Murphy, Mayor, City of Orange

ATTEST:



Cassandra J. Cathcart, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, Cassandra J. Cathcart, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 13th day of May, 2003, and thereafter at a regular meeting of said City Council duly held on the 27th day of May, 2003, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Ambriz, Alvarez, Murphy, Coontz, Cavecche
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


Cassandra J. Cathcart, City Clerk, City of Orange

Exhibit A-4-III

Solid Waste Municipal Code Section 8.28

Orange, California, Code of Ordinances >> Title 8 - HEALTH AND SAFETY >> Chapter 8.28 - GARBAGE >>

Chapter 8.28 - GARBAGE

Sections:

- 8.28.010 - Definitions.
- 8.28.020 - Trash—Size and Weight Limit.
- 8.28.030 - Collection Time by Council Resolution.
- 8.28.040 - Storage for Collection—Container Specifications.
- 8.28.050 - Storage of Trash Containers and Placement for Collection.
- 8.28.060 - Storage for Collection—Bundling and Wrapping of Materials to be Collected.
- 8.28.070 - Collection by City.
- 8.28.075 - Authorization to Remove and Convey Recyclable Materials.
- 8.28.076 - Exceptions.
- 8.28.077 - Mandatory Recycling of Self-Hauled Construction and Demolition Waste.
- 8.28.080 - Containers—Duty of Owner to Provide.
- 8.28.090 - Containers—Premises Containing Four or Less Multiple Dwelling Units.
- 8.28.100 - Containers—Premises Containing Five or More Multiple Dwelling Units.
- 8.28.110 - Containers—Commercial Establishments.
- 8.28.120 - Charge to Commercial Units.
- 8.28.130 - Sanitation Requirements for Containers.
- 8.28.140 - Denial of Public Utility Connections When.
- 8.28.150 - Dumping Trash on Public Ways Prohibited.
- 8.28.155 - Tampering with Garbage or Refuse.
- 8.28.160 - Replacement of Noncomplying Containers.
- 8.28.170 - Accumulation of Refuse—Collection in Accordance with Established Schedules.
- 8.28.180 - Contractor Insurance.
- 8.28.190 - Violation—Infraction.
- 8.28.200 - Violation—Public Nuisance.

8.28.010 - Definitions.

For the purpose of this chapter, certain words and phrases shall be construed as set forth in this section unless it is apparent from the context that a different meaning is intended:

- A. CONSTRUCTION AND DEMOLITION WASTE means any materials removed during any construction, demolition, remodeling, grading, land clearing or renovation project on any residential, commercial, institutional or industrial building, road, driveway, walkway or other structure, including but not limited to, concrete, asphalt paving, asphalt roofing, lumber, gypsum board, rock, soil and metal.
- B. DESTRUCTION WASTE means and includes any waste resulting from the destruction of any building or structure.
- C. GARBAGE means and includes all animal and vegetable refuse and waste from kitchens, all vegetable and fruit trimmings, including such refuse from vegetable and fruit stands and all other household refuse and waste that has been prepared for or intended to be used as food, or has resulted from the preparation of food.
- D. SOLID WASTE shall be as defined in Public Resources Code Section 49503.
- E. TRASH means all refuse and waste from and incidental to the use of homes and places of business, such as tin cans, bottles, metal cartons, broken glass, crockery, junk, paper, rags, packing materials, such as paper, hay, straw, shavings, excelsior and sawdust; also lawn trimmings, weeds and leaves. "Trash" shall not include, or be construed to include, any of the following: dirt or earth, sand, rock, gravel, broken concrete, lawn scalping with sod, or auto bodies.
- F. The placement of more than one type of trash or solid waste (such as cans, glass and paper) in a trash container shall be presumptive evidence that the items so placed are trash or solid waste and are not intended to be recycled.
- G. RECYCLABLE MATERIALS. Recyclable Materials shall include, but not be limited to, newsprint, corrugated cardboard, glass, metal, plastic, aluminum, or other such materials which are placed

within the City right-of-way or within the vicinity of any curb, parkway, or refuse bin for collection purposes.

(Ord. 6-07 § 1; Ords. 4-00; 12-89; 17-81; 58-80; 28-65; 29-64; 16-60; 391: Prior Code 3150, 3150.1 and 3150.2)

8.28.020 - Trash—Size and Weight Limit.

- A. No individual piece of material shall be subject to collection, as herein provided, which is of a size in excess of two feet by one foot by four feet and/or a weight in excess of sixty (60) pounds, if neither a trash bin nor lifting pallet acceptable to the City is provided. Trimmings, weeds and leaves from property used for residential purposes shall either be securely tied in bundles not exceeding four feet in length and twelve (12) inches in diameter, or shall be cut in lengths not exceeding twenty-four (24) inches, and placed within a trash container of the size, shape and type hereinafter specified.
- B. No single baled trash subject to collection may exceed the dimensions of fifty-four (54) inches by sixty inches by twenty-four (24) inches and/or a weight in excess of two thousand (2,000) pounds, if a trash bin or lifting pallet acceptable to the City is provided.

(Ords. 58-80; 32-72; 28-65; 16-60: Prior Code 3150.3)

8.28.030 - Collection Time by Council Resolution.

The Council may fix and alter by resolution from time to time the days and hours of collecting trash, and garbage subject to any contract rights of the collector under contract with the City.

(Ords. 28-65; 16-60: Prior Code 3151)

8.28.040 - Storage for Collection—Container Specifications.

Every person having charge or control of any premises in the City shall, except as hereinafter provided, place all trash and garbage from such premises in suitable containers weighing not more than seventy-five (75) pounds when filled as provided for in Section 8.28.080.

(Ords. 28-65; 16-60; 309: Prior Code 3152)

8.28.050 - Storage of Trash Containers and Placement for Collection.

- A. Trash and recycling containers shall be placed in the street or alley, as approved by the Public Works Director, next to the curb immediately adjacent to the premises at which they are stored. Such containers shall be placed in such locations not sooner than noon of the day preceding the day of their collection. All such containers shall be removed and stored in accordance with subsection B of this section by noon of the day following the day of the pickup.
- B. Except during the permitted time for trash and recycling containers to be collected in accordance with subsection A of this section, all such containers shall be completely screened in a manner so as not to be visible from the public right-of-way, private street or alley.

(Ord. 20-04)

8.28.060 - Storage for Collection—Bundling and Wrapping of Materials to be Collected.

- A. All limbs and branches shall be trimmed, compacted and need not be placed in containers if impractical. When not placed in containers, they shall be tied securely and not exceed four feet in length and two feet in diameter.
- B. Live coals or hot ashes shall not be put out for collection. Ashes, not considered hot, shall be placed in cardboard boxes for collection.
- C. Garbage, vacuum cleaner dust and sweepings shall be wrapped with several thickness of paper. Containers shall not be filled above top level.

(Ords. 28-65; 16-60: Prior Code 3152.2)

8.28.070 - Collection by City.

- A. All trash, garbage, destruction waste, solid waste and construction waste accumulated in the City shall be collected, conveyed and disposed of by the City or its authorized representative. No person, except the City or its authorized representative, shall collect or convey over any of the streets or alleys of the City or dispose of any trash, garbage, solid waste or construction waste accumulated in the City.
- B. Exception. This section shall not prohibit the actual producers of solid waste or the owners of premises upon which refuse has accumulated from personally collecting, conveying and disposing of such solid waste provided such producers or owners comply with this chapter, with any other governing law or ordinance of the City, and provided a trash drop off box or trash bin permit is obtained if a trash drop off box or trash bin is utilized.
- C. The City shall have the right to enter into a contract with any person for the collection of trash, garbage, destruction waste, solid waste and construction waste.

(Ords. 17-81; 58-80; 26-79; 28-65; 42-60; 16-60: Prior Code 3152.3)

8.28.075 - Authorization to Remove and Convey Recyclable Materials.

All recyclable materials as defined by Section 8.28.010G of this chapter, which are placed within the City's right-of-way or within the vicinity of any curb or refuse bin for collection purposes shall become the property of the City of Orange; and no person other than the employees or contract agents of the City acting in the scope of their agency or employment shall remove from any place or premises in the City or transport over the public streets or alleys thereof any such recyclable material. This Section shall exclude non-profit organizations which have agreements with the residents to collect and transport recyclable materials. Agreements between residents and non-profit organizations shall not include any recyclable materials placed within the City's right-of-way or in the vicinity of any curb or refuse bin. Any such organization must substantiate their non-profit status upon request of the Director of Public Works.

The City Council is hereby authorized to obtain additional financial information for the permittee at any time such information is found to be necessary. (12-89)

8.28.076 - Exceptions.

This Chapter shall not apply to the following:

- A. Person from removing the refuse or recyclable materials which have been generated on premises owned or controlled by him.
- B. The immediate removal by an authorized person of refuse or recyclable materials which are found by the local administrative authority, Public Works Director, Fire Marshall, or Public Safety Director to constitute a nuisance or a danger to the public health, safety, or general welfare. (12-89)

8.28.077 - Mandatory Recycling of Self-Hauled Construction and Demolition Waste.

- A. **Projects Covered.** A "covered project" shall mean any construction, demolition, remodeling, grading, land clearing or renovation project which is required to obtain a building or demolition permit from the City or State and generates construction and demolition waste that would be disposed of by a person or entity described in Section 8.28.070.B at a solid waste landfill. Projects that are utilizing a waste disposal container or bin supplied by the City's contract solid waste hauler shall not constitute a covered project.
- B. **Recycling Requirement.** A covered project shall take all construction and demolition waste to a material processing facility or facilities designated by the City. No covered project shall take construction and demolition waste directly to any landfill.
- C. **Acknowledgment of Recycling Obligation.** Any person or entity obtaining a building or demolition permit ("permittee") from the City for a covered project shall acknowledge in writing, on a form supplied by the City, their obligation to dispose of construction and demolition waste at a facility or facilities designated by the City prior to being issued such permit. The City shall supply a permittee of a covered project with a list of the names and addresses of processing facilities, along with disposal rates, that have been designated by the City.
- D. **Enforcement.** In addition to a violation of this section constituting a misdemeanor, if the Public Works Director and City Manager determine that permittees are not substantially complying with this section, a cash deposit of up to five hundred dollars (\$500.00) shall be required as a condition of issuance of a building or demolition permit for a covered project. Said deposit shall be returned if the permittee provides proof to the satisfaction of the Public Works Director in the form of receipts, weight tickets or other documentation that the permittee has complied with this section.

(Ord. 6-07 § 2)

8.28.080 - Containers—Duty of Owner to Provide.

It shall be the duty of every owner, manager or person in possession, charge or control of any boardinghouse, restaurant, or hotel, apartment or eating house, and of every person occupying a dwelling or flat in the City, to provide, and at all times to keep, as prescribed in this chapter, portable vessels, tanks or receptacles for holding trash and garbage: such vessel, tank or receptacle shall be so constructed of sheet metal, plastic or masonite, shall be tapered, shall be watertight, and shall be so constructed as to contain not less than five nor more than forty-five gallons, and shall be provided with suitable handles, and with a tight-fitting cover. Such covers shall not be removed except when necessary to place trash and garbage therein, or to take trash or garbage therefrom.

(Ords. 32-72; 28-65; 16-60: Prior Code 3153)

8.28.090 - Containers—Premises Containing Four or Less Multiple Dwelling Units.

At each active water meter service serving buildings containing four or less multiple dwelling units and required to be served by the contractor, the contractor shall not be required to gather trash or garbage from containers other than bins furnished by the contractor when any one of such containers exceed seventy-five pounds or the total quantity at one pickup exceeds two hundred and twenty-five gallons; provided, that at each active water service serving buildings containing four dwelling units or less, if trash and rubbish collection service is required more frequently than once per week, the premises shall be required to utilize bins supplied by the contractor.

(Ords. 28-65; 16-60: Prior Code 3153)

8.28.100 - Containers—Premises Containing Five or More Multiple Dwelling Units.

For all multiple-family dwellings containing five units or more and required to be served by the contractor, the contractor shall not be required to gather trash or garbage from containers other than from bins furnished by the contractor. If the City determines that it is physically impossible to place a trash bin supplied by contractor at any active water meter service serving a building or buildings containing five or more dwelling units or at any multiple-family building or buildings containing less than five dwelling units but generating trash in excess of two hundred and twenty-five gallons capacity, each unit of such multiple-family building shall be charged an amount as stipulated from time to time in the refuse contract. Such sum shall be billed by the contractor and paid to the contractor.

(Ords. 28-65; 16-60: Prior Code 3153)

8.28.110 - Containers—Commercial Establishments.

At each active water meter service serving any commercial establishment required to be served by the contractor, the contractor shall not be required to gather trash or garbage from containers other than from bins furnished by the contractor when any one of such containers exceeds seventy-five pounds in weight or the total quantity at one pickup exceeds two hundred and twenty-five gallons; provided, that at each active water meter service serving a building or buildings containing a commercial unit or units, if trash and rubbish collection service is required more frequently than once per week, the premises shall be required to utilize bins supplied by the contractor.

(Ords. 32-72; 28-65; 16-60: Prior Code 3153)

8.28.120 - Charge to Commercial Units.

If the City determines that it is physically impossible to place a trash bin supplied by the contractor at any active water meter service serving a building or buildings containing one or more commercial units and generating trash in excess of two hundred and twenty-five gallons capacity, each commercial unit shall be charged an amount as stipulated from time to time in the refuse contract. Such sum shall be billed by the contractor and paid to the contractor.

(Ord. 32-72: Prior Code 3153)

8.28.130 - Sanitation Requirements for Containers.

Each vessel, tank or receptacle shall be kept in a clean and sanitary condition. This section shall be subject to the following exception: During the months of July, August, September and October of each year, yard trimmings and leaves only may be placed in throw-away cardboard boxes or plastic bags.

(Ord. 32-72: Prior Code 3153)

8.28.140 - Denial of Public Utility Connections When.

The Building Inspector shall deny final approval and acceptance of final public utility connections to any residential unit or building until one or more approved-type metal containers have been installed in accordance with the recommendations of the Fire Chief.

(Ords. 28-65; 48-60: Prior Code 3153(a))

8.28.150 - Dumping Trash on Public Ways Prohibited.

No person shall deposit or dump trash, as defined under Section 8.28.010B, upon any public property, street or alley in the City or use any private property for such purpose except such property as may be provided and set apart therefor by the Council.

(Ords. 28-65; 29-64; 16-60; 310; 309: Prior Code 3154)

8.28.155 - Tampering with Garbage or Refuse.

No person, other than the owner thereof, his agents or employees, an officer or employee of the City or an authorized refuse contractor shall enter, tamper, or meddle with any garbage or refuse container or the contents thereof or remove the contents of any such container or remove any such container from the location where the same shall have been placed by the owner thereof or his agent, regardless of whether or not such container conforms to the requirements set forth in this Code.

(Ord. 31-85)

8.28.160 - Replacement of Noncomplying Containers.

Whenever such vessel, tank or receptacle does not comply with the requirements of this chapter, the same shall be replaced with one complying therewith within five days after the owner or other person in charge has received notice from the Chief of the Fire Department or Department of Public Works.

(Ord. 16-60)

8.28.170 - Accumulation of Refuse—Collection in Accordance with Established Schedules.

No person who owns, controls or occupies any premises shall permit trash or garbage to accumulate for a period in excess of one calendar week, or cuttings to accumulate for a period in excess of one calendar month, or fail, refuse or neglect to place such trash, garbage and such refuse and cuttings for collection in accordance with schedules established therefor, the provisions of this chapter and rules and regulations established pursuant hereto. Neither the City nor its contract agents shall be required to collect garbage, trash, or cuttings not placed for collection in accordance with this chapter and said rules and regulations.

(Ord. 28-65: Prior Code 3156)

8.28.180 - Contractor Insurance.

The contractor shall maintain in full force and effect during the term of the contract a public liability policy with a five hundred thousand dollar limit, and a property damage insurance policy with a one hundred thousand dollar limit. The contractor shall maintain in full force and effect during the term of the contract an adequate worker's compensation policy and such other insurance as may be required by law. The policies shall name the City as an additional insured and shall contain an endorsement providing that such policies will not be canceled, modified or reduced in limit until notice in writing shall have been given to the City at least thirty (30) days prior to the time of such cancellation, modification or reduction in limit becomes effective. The contractor's insurance shall be considered primary insurance, not contributing with and not in excess of insurance carried by the City.

(Ord. 58-80)

8.28.190 - Violation—Infraction.

Any person violating any of the provisions of this chapter shall be guilty of an infraction and, upon conviction thereof, shall be subject to:

1. A fine of not more than fifty dollars (\$50) for the first violation;
2. A fine of not less than fifty dollars (\$50) nor more than one hundred (\$100) for a second violation of this ordinance within one year;
3. A fine of not less than one hundred and fifty dollars (\$150) nor more than two hundred and fifty dollars (\$250) for each additional violation of this ordinance within one year.

(Ord. 58-80)

8.28.200 - Violation—Public Nuisance.

Any violation of this chapter is a public nuisance and may be abated in accordance with law.

(Ord. 58-80)

Exhibit A-4-IV

Industrial Waste Municipal Code Section 13.64

Orange, California, Code of Ordinances >> Title 13 - PUBLIC UTILITIES >> II. - Sewer System >> Chapter 13.64 - INDUSTRIAL WASTE >>

Chapter 13.64 - INDUSTRIAL WASTE

Sections:

- 13.64.010 - Citation.
- 13.64.020 - Definitions.
- 13.64.030 - Dumping of Waste Unlawful.
- 13.64.040 - Permit—Required for Disposal of Industrial Waste.
- 13.64.050 - Permit—Application.
- 13.64.060 - Permit—Action on Application.
- 13.64.070 - Permit—Issuance.
- 13.64.080 - Permit—Certain Acts Not Authorized.
- 13.64.090 - Permit—Term.
- 13.64.100 - Permit—Transfer.
- 13.64.110 - Permit—Request for Hearing.
- 13.64.120 - Permit—Suspension.
- 13.64.130 - Permit—Revocation.
- 13.64.140 - Permit—Proceedings for Revocation.
- 13.64.150 - Hearings—When and How Requested.
- 13.64.160 - Hearings—Notice.
- 13.64.170 - Hearings—Appearance.
- 13.64.180 - Hearings—Decision.
- 13.64.190 - Tests and Inspections.
- 13.64.200 - Cooperation by Other Departments.
- 13.64.210 - Cessation of Activities Required When—Notice.
- 13.64.220 - Notice—Service.
- 13.64.230 - Enforcement and Administration.
- 13.64.240 - Enforcement by Director.
- 13.64.250 - Notice of Violation.

13.64.010 - Citation.

The ordinance codified in this chapter shall be known and may be cited as the industrial waste ordinance.

(Ord. 33-71: Prior Code 7907)

13.64.020 - Definitions.

As used in this chapter, the following terms are defined as follows:

- A. BOARD OF SUPERVISORS means the Board of Supervisors of the County of Orange, California.
- B. DEPARTMENT means any department of the City or County.
- C. DIRECTOR means the duly appointed administrator of Orange County Ordinance No. 703, appointed by the Board of Supervisors of the County.
- D. INDUSTRIAL WASTE means any and all liquid or solid waste substance from any producing, manufacturing, or processing operation of whatever nature. It shall include any such waste placed within containers of whatever nature prior to and for purposes of disposal. It shall also include sewage mixed with industrial waste but shall not include domestic sewage from residences, business buildings and institutions containing only waste from waterclosets, wash water, baths, or kitchens.
- E. POLLUTION OF UNDERGROUND OR SURFACE WATERS means any condition resulting from the depositing or discharging of industrial waste which impairs or contributes to the impairment of the usefulness of waters for human or animal consumption or domestic, agricultural, industrial or recreational purposes, or any other useful purposes.
- F.

PUBLIC AGENCY means and includes the United States or any department or agency thereof, the state or any department or agency thereof, and any county, city, public corporation, municipal corporation, or public district.

- G. PUBLIC SEWER means the main line sewer, publicly owned or maintained, commonly constructed in a street, highway, alley, place or right-of-way dedicated to public use.
- H. SEWAGE means all waste substances, liquid or solid, associated with human habitation or of human or animal origin and includes sewage effluent and water contaminated with offal, filth, or feculent matter.
- I. UNDERGROUND OR SURFACE WATER means any surface or subterranean stream, watercourse, lake, or other body of water, and includes water wells and any underground or surface storage reservoir, whether natural or artificial.

(Ord. 33-71: Prior Code 7907.3)

13.64.030 - Dumping of Waste Unlawful.

The City does hereby declare that the dumping or discharging of industrial waste by any person in a manner which will or may cause or result in the pollution of any underground or surface waters is unlawful.

(Ord. 33-71: Prior Code 7907.1)

13.64.040 - Permit—Required for Disposal of Industrial Waste.

No person shall discharge or deposit or cause or suffer to be deposited or discharged any industrial waste into or upon any area in the City, or into any underground or surface waters in the City where such industrial waste is or may be deposited upon or may be carried through or over any area of the City except in conformity with the provisions of this chapter, and unless he first has secured in the manner hereinafter provided, a permit so to do from the Director; provided, however, a permit shall not be required for the disposal of industrial waste into a public sewer with an ocean outfall.

(Ord. 33-71: Prior Code 7907.5)

13.64.050 - Permit—Application.

Applications for permits required under this chapter shall be filed with the Director upon printed forms to be prescribed and supplied by him. The Director may require any additional information, including plans and specifications, which he may deem necessary for the proper disposition of the application.

(Ord. 33-71: Prior Code 7907.6)

13.64.060 - Permit—Action on Application.

Within thirty days after receipt of all of the information requested of an applicant, the Director shall either grant or deny the permit and immediately shall notify the applicant by first-class mail of the action taken.

(Ord. 33-71: Prior Code 7907.7)

13.64.070 - Permit—Issuance.

- A. The Director shall issue a permit for industrial waste disposal if he determines that:
 - 1. The material to be discharged or deposited in the manner proposed will not cause or result in the pollution of any underground or surface waters, as herein prohibited; and that,
 - 2. Under existing circumstances and conditions, it is reasonable and necessary to dispose of the waste in the manner proposed.
- B. The Director may incorporate in any permit issued pursuant to this chapter such limitations or conditions as may be reasonably necessary to effectuate the purpose of this chapter and may, from time to time,

review the limitations or conditions, which have been incorporated in any permit therefor issued, giving consideration to changed conditions, and may, whenever in his judgement it is advisable or required in order to maintain the waters of the City and County free from pollution, alter, revise, modify, delete, or add further limitations or conditions applicable to any permit theretofore issued. No such alterations, revision, modification, deletion or addition of limitations or conditions shall be effective, however, until notice in writing thereof shall have been served upon the permittee in the manner provided by Section 13.64.220.

(Ord. 33-71: Prior Code 7907.8)

13.64.080 - Permit—Certain Acts Not Authorized.

A permit issued under this chapter does not authorize any act or acts forbidden by any law, rule, regulation or order of any public agency or department and such fact shall be so stated on the face of all permits issued.

(Ord. 33-71: Prior Code 7907.9)

13.64.090 - Permit—Term.

A permit for the disposal of industrial waste shall be valid until suspended or revoked in the manner hereinafter provided.

(Ord. 33-71: Prior Code 7907.10)

13.64.100 - Permit—Transfer.

The Director may transfer a permit to the successor in interest of a permittee upon the filing by the successor in interest of a written application therefor, together with such evidence of transfer of title or interest as the Director may require; provided, however, a permit shall not be transferable from one location to another. The Director shall immediately notify, by first-class mail, the person requesting a transfer of a permit of the action taken.

(Ord. 33-71: Prior Code 7907.11)

13.64.110 - Permit—Request for Hearing.

A person who is dissatisfied with an action of the Director may request a hearing before the Board of Supervisors as hereinafter provided.

(Ord. 33-71: Prior Code 7907.12)

13.64.120 - Permit—Suspension.

- A. The Director may suspend a permit by giving notice thereof to the permittee:
1. When a permittee fails to rectify a violation within the time specified in a notice thereof; or
 2. When a violation is so aggravated as to require cessation of activities as provided in Section 13.64.210.
- B. A permit suspended by the Director shall be reinstated by him when all of the violations charged in a notice thereof have been corrected.

(Ord. 33-71: Prior Code 7907.18)

13.64.130 - Permit—Revocation.

The Board of Supervisors may, after notice and hearing as hereinafter provided, revoke a permit on any one or more of the following grounds:

- A. Fraud or deceit in obtaining a permit;
- B. Failure of a permittee to correct a violation within the time prescribed in a notice of violation;
- C. Willful violation of any provisions of this chapter of a condition or limitation of a permit, or of any lawful order of the Director.

(Ord. 33-71: Prior Code 7907.19)

13.64.140 - Permit—Proceedings for Revocation.

Proceedings for the revocation of a permit may be initiated:

- A. By the Director by serving upon the permittee a copy of and filing with the County Clerk a written Recommendation of Revocation setting forth the grounds therefor and requesting a hearing thereon before the Board of Supervisors;
- B. By the Board of Supervisors, on its own motion or upon the complaint of a third person, by serving or causing to be served upon the permittee and the Director a notice of intention to revoke, setting forth the grounds therefor and designating a time and place for hearing thereon.

(Ord. 33-71: Prior Code 7907.20)

13.64.150 - Hearings—When and How Requested.

Any person who feels himself aggrieved by an action of the Director:

- A. Denying an application for a permit or incorporating limitations or conditions in a permit;
- B. Denying an application for the transfer of a permit;
- C. Ordering the correction of a violation of any provision of this chapter, or of a condition or limitation of a permit issued hereunder;
- D. Directing the cessation of operations pending the correction of a violation; or
- E. Suspending or refusing to reinstate a permit suspended by him; may, within thirty days after receipt of a notice of the action complained of, serve upon the Director a copy of, and file with the County Clerk, a written request for a hearing before the Board of Supervisors. The request shall set forth in concise language the particular action or actions complained of and the reasons why the person or permittee feels himself aggrieved thereby. Failure to file a request for hearing within the time prescribed herein shall constitute a waiver of any objection to the action of the Director and his action shall be final.

(Ord. 33-71: Prior Code 7907.22)

13.64.160 - Hearings—Notice.

When a request for hearing is filed with the County Clerk, the Board of Supervisors shall set the matter for hearing and give notice of the time and place thereof to the person requesting the hearing, the Director, and any other person or public agency requesting notice thereof. The hearing shall be held not more than thirty days after a written request therefor has been filed with the County Clerk and not less than ten days after the issuance of the notice thereof.

(Ord. 33-71: Prior Code 7907.23)

13.64.170 - Hearings—Appearance.

At the time and place set for hearing, the person requesting the hearing, the Director, and any interested person or public agency may appear and be heard either in person or by counsel.

(Ord. 33-71: Prior Code 7907.24)

13.64.180 - Hearings—Decision.

The Board of Supervisors shall, within thirty days after conclusion of the hearing, render its decision. The Board of Supervisors may:

- A. Confirm the action of the Director;
- B. Direct the Director to issue a permit with or without such conditions or limitations as the Board of Supervisors may deem appropriate;
- C. Vacate or modify the suspension of permit;
- D. Cancel a notice of violation or modify such notice in such particulars as the Board of Supervisors may deem appropriate;
- E. Direct the Director to transfer a permit;
- F. Revoke a permit on any of the grounds specified in Section 13.64.130;
- G. Make such other disposition of the matter heard as may be appropriate and in conformity with this chapter.

(Ord. 33-71: Prior Code 7907.25)

13.64.190 - Tests and Inspections.

For the purpose of securing compliance with this chapter, the Director shall make periodic tests of samples of industrial waste obtained from the place or places of discharge or deposit, and such other tests deemed necessary for proper administration thereof. For the purpose of making such tests or inspections, the Director shall be authorized, after permission is granted, to enter any place or premises where industrial waste is being or is proposed to be discharged or deposited, or where there may be a violation of this chapter. If permission to enter for the purpose of inspection or testing is refused, the Director shall proceed to obtain an inspection warrant as prescribed in Title 13 of Part 3 of the Code of Civil Procedure, commencing with Section 1822.50. After obtaining such a warrant, the Director shall enter upon said premises and carry out any tests and inspections required by this chapter.

(Ord. 33-71: Prior Code 7907.14)

13.64.200 - Cooperation by Other Departments.

In carrying out the duties imposed upon him, the Director may request and receive the aid of any other City or County department.

(Ord. 33-71: Prior Code 7907.15)

13.64.210 - Cessation of Activities Required When—Notice.

Whenever the Director finds that the continued violation of any provision of this chapter or of the conditions of any permit issued under this chapter is so aggravated that the prevention of pollution of underground or surface waters requires the immediate cessation of the activities causing the violation, he may so direct in the notice of violation. A person who has been so notified shall immediately cease all such activities and shall not resume them until the Director determines that all of the violations charged in the notice have been corrected.

(Ord. 33-71: Prior Code 7907.17)

13.64.220 - Notice—Service.

- A. Unless otherwise expressly provided, any notice under this chapter required to be given by the County or the Director shall be in writing and may be served either in the manner provided in the Code of Civil Procedure for the service of process or by certified mail, the notice shall be sent to the last address given to the Director.
- B.

The failure to comply with a notice of violation issued and served pursuant to this chapter shall constitute a willful violation of this chapter and each day of willful violation shall constitute a separate offense punishable as provided for in this code.

(Ord. 33-71: Prior Code 7907.4)

13.64.230 - Enforcement and Administration.

The County and all its officers, employees and agents are authorized and empowered to enforce and administer the provisions of this chapter in the City.

(Ord. 33-71: Prior Code 7907.2)

13.64.240 - Enforcement by Director.

The Director shall enforce this chapter and shall, upon his own initiative, or may upon the complaint of a third person, investigate any violation of this chapter, or of any permit issued under this chapter. For such purpose, he shall have the powers of a peace officer.

(Ord. 33-71: Prior Code 7907.13)

13.64.250 - Notice of Violation.

Whenever the Director finds that any person is acting in violation of any provision of this chapter, or of any permit issued under this chapter, he shall serve upon the person causing or suffering such violation to be committed, including the permittee, if a permit has been issued, a Notice of Violation. The notice shall state the act or acts constituting the violation and shall direct that the violation be corrected within such time to be specified in the notice as the Director may deem reasonable.

(Ord. 33-71: Prior Code 7907.16)

Exhibit A-4-V

Animal Regulations Municipal Code Section 6.04

Orange, California, Code of Ordinances >> Title 6 - ANIMALS >> Chapter 6.04 - ANIMAL REGULATIONS >>

Chapter 6.04 - ANIMAL REGULATIONS

Sections:

- 6.04.010 - Adoption of County Ordinances by Reference.
- 6.04.020 - Amendments and Additions to County Ordinances.
- 6.04.025 - Adoption of County Fee Schedule and Amendments Thereto.
- 6.04.030 - Violation—Penalty.
- 6.04.040 - Animals Running at Large Not Permitted.
- 6.04.050 - Prohibited Animal Behavior.
- 6.04.051 - Slaughtering of Animals.
- 6.04.060 - Removal of Manure—Owner Responsibility.
- 6.04.070 - Wild Animal—Definition.
- 6.04.080 - Wild Animal—Unlawful to Keep in City—Exception.

| 6.04.010 - Adoption of County Ordinances by Reference.

Title 4, Division 1, Title 5, Divisions 1, 2 and 3, of the Codified Ordinances of the County governing the control, licensing, and regulation of animals are adopted by reference with the enumerated exceptions designated in Section 6.04.020. Copies of the aforementioned ordinance of the County of Orange proposed to be adopted by reference, together with the exceptions as hereinafter specifically enumerated, are on file in the office of the City Clerk for use and examination by the public.

(Ord. 5-07 § 1: Ords. 17-85; 19-84; 37-76; 61-65; 629: Prior Code 4110)

| 6.04.020 - Amendments and Additions to County Ordinances.

Title 4, Division 1, Title 5, Divisions 1, 2, and 3, of the Codified Ordinances of the County are adopted with the following changes and additions:

- A. In Section 5-2-18 of the ordinances of Orange County, substitute the words, "City Council," for the words, "Board," or "Board of Supervisors," wherever these words appear in the aforementioned section.
- B. Nothing contained in Title 5, Division 1, 2 and 3 shall be construed as relieving any person from payment of business license revenue taxes to the City pursuant to Section 5.02.010, et seq.
- C. No person, firm or corporation, whether its owners, lessee, sublessee, or occupant, shall violate any of the provisions of the Codified Ordinances of the County contained in Title 4, Division 1, Article 1, Title 5, Divisions 1, 2 and 3, of said Codified Ordinances of the County governing the regulation and control of animals.

(Ords. 17-85; 19-84)

| 6.04.025 - Adoption of County Fee Schedule and Amendments Thereto.

The existing fee schedule for animal control and animal shelter services as it has now been adopted or as it may hereafter be amended by the Board of Supervisors of the County of Orange shall be effective within the City of Orange, without further action of the City Council of the City of Orange unless and until Council elects, by resolution, to change or modify the schedule of fees approved by the County Orange. A copy of any such resolution which changes or modifies any fee established by the Board of Supervisors of the County of Orange shall be furnished to the Director, County of Orange Animal Control.

(Ord. 17-85)

6.04.030 - Violation—Penalty.

- A. Any person, firm, or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than six months, or by both such fine and imprisonment.
- B. In addition, these provisions governing animal control may be enforced by injunction or other appropriate civil remedy.

(Ords. 1-80; 37-76; 7-76: Prior Code 4110)

6.04.040 - Animals Running at Large Not Permitted.

No owner or custodian shall permit any horse, cattle, hog, sheep, chicken, duck, goose, goat, mule or any other domestic animal to run at large in the City or be staked or tied in any of the streets, parks or other public places belonging to or under the control of the City. Any such animal found by any law enforcement officer of the City in the aforesaid places may be seized and impounded at some feed yard until the owner or custodian appears and pays all expenses incurred in the impounding of the animal. Should no owner appear within four days thereafter, the Chief of Police of the City shall at once proceed to treat such animal or animals as an estray under the State law.

(Ord. 112 (1914): Prior Code 4120)

6.04.050 - Prohibited Animal Behavior.

A person having custody of any animal shall not permit, either willfully or through failure to exercise due care or control, any such animal to do any of the following:

- A. By their noise or actions or by the accumulation of feces, be offensive to or annoy persons residing in or using the streets of the neighborhood where such animal is kept;
- B. Go or be upon the premises of any other person without such other person's consent;
- C. Defecate or urinate upon the premises of any other person, upon any public property, or upon any property used by the public, without immediately removing any feces deposited by such animal.

(Ord. 15-00: Prior Code 4122)

6.04.051 - Slaughtering of Animals.

No person shall kill any animal in the City of Orange in order that it may be sold or used as food, except:

- A. In an enclosed building in a residential area and, provided each animal so slaughtered (is) of five pounds or less in weight; or
- B. In commercial slaughtering buildings. Nothing herein shall be construed to permit any use of property in violation of the zoning regulations of the City of Orange.

(Ords. 56-80; 388)

6.04.060 - Removal of Manure—Owner Responsibility.

Every owner, lessee, tenant or occupant of any stable, stall or apartment in which any horse, cow, or other animal shall be kept, or in any place where manure or liquid discharge of any such animal shall collect or accumulate shall cause such liquid or manure to be removed to some place outside the City unless the same be plowed under or otherwise disposed of in such a manner as to effectively prevent the same from attracting or breeding flies and shall at all times keep the stables, stalls, or appurtenances thereof in a clean and wholesome condition.

(Ord. 110 (1914): Prior Code 4123)

6.04.070 - Wild Animal—Definition.

- A. WILD ANIMAL means and includes any animal, reptile, fowl, or fish which is not tame or gentle as found in nature but is of a wild nature or disposition or which is known to be vicious and which must be kept in confinement to be brought within the immediate power of the owner.
- B. This section shall not prohibit the keeping of any bird life except as otherwise provided by law, any non-poisonous snake not exceeding six feet in length, any turtle, any nonpoisonous toads, lizards, salamanders, newts, chameleons, kangaroo rats, any fish except piranha and walking catfish.

(Ord. 48-71: Prior Code 4121)

6.04.080 - Wild Animal—Unlawful to Keep in City—Exception.

- A. It is unlawful for any person to keep or maintain, or cause to be kept or maintained within the City, any wild animal except those enumerated in Section 6.04.070.
- B. The provisions of this section shall not prohibit the keeping or maintaining of the following wild animals within the City:
 - 1. Wild animals in zoos or museums: any wild animals which are kept confined in zoos or museums for the public to view;
 - 2. Wild animals in bona fide, licensed veterinary hospitals for treatment;
 - 3. Wild animals may be maintained by bona fide educational institutions for the purpose of instruction, provided such wild animals are securely confined and are properly cared for in a manner satisfactory to the Orange County poundmaster.
 - 4. Wild animals may be maintained in interim confinement during the time such animals are not being displayed to the public at shows, exhibitions and educational presentations, provided, that any such interim confinement shall be permitted only in the M-2 District and, further, the City Council shall approve any such interim confinement in that M-2 District.

The City Council shall determine whether a particular application to maintain wild animal or animals on an interim confinement basis shall be permitted after an application in writing has been filed with the City Manager and after a report submitted by the Orange County Animal Control and the Department of Community Development.

After receiving such reports, the City Council shall have discretion to determine whether said application shall be approved. The City Council shall consider, but shall not be limited to considering, the following factors:

- a. The number of wild animals proposed at the location designated by the applicant.
- b. The particular zoning and land use of the location proposed, as well as the land use and zoning surrounding the proposed location.
- c. Whether such wild animal or animals are proposed to be kept in accordance with all laws of the State of California and the County of Orange.
- d. Whether the person or entity proposing to keep and maintain such animal or animals is licensed by the State of California Department of Fish and Game to import, transport, possess or otherwise handle a wild animal.
- e. Whether applicant has agreed to a minimum of at least two annual inspections of the premises to determine whether a public nuisance exists and whether there is compliance with all laws of the City, County and State, and with applicants further agreement that all costs of all such inspections shall be borne by applicant.
- f. Whether applicant has agreed in writing to remove the animal or animals in the event the City Council determines that a nuisance or any violation of State, County or City law exists.
- g. Whether the applicant has filed proof of insurance naming the City and its officers and employees as additional insureds and meeting other requirements imposed by the City Attorney.
- h. Whether the applicant has executed and filed a hold harmless agreement acceptable to the City Attorney which insures that any costs or expenses, including, without limitation, attorneys' fees required to be incurred by City resulting from any negligence of applicant which proximately causes damage or injury to persons or property shall be borne by applicant or by an entity capable of bearing such costs or expenses of applicant acceptable to the City Attorney.
- i. Any other factors which City may determine are necessary for the protection of the public health, safety and welfare. (Ords. 4-87; 1-84; 48-71; Prior Code 4121.1)

Exhibit A-4-VI

Zoning Specific Administrative Regulations

Municipal Code Section 17.10

Orange, California, Code of Ordinances >> Title 17 - ZONING >> Chapter 17.10 - SPECIFIC ADMINISTRATIVE PROCEDURES >>

Chapter 17.10 - SPECIFIC ADMINISTRATIVE PROCEDURES

Sections:

- 17.10.010 - General Plan Amendments.
- 17.10.020 - Amendments to Zoning Ordinance and Zoning Map.
- 17.10.030 - Conditional Use Permits.
- 17.10.035 - Temporary Use Permits.
- 17.10.040 - Variances.
- 17.10.045 - Reasonable Accommodation.
- 17.10.050 - Administrative Adjustments.
- 17.10.060 - Site Plan Review.
- 17.10.070 - Design Review.
- 17.10.080 - Environmental Review.
- 17.10.085 - Mitigation Monitoring Program.
- 17.10.090 - Demolition Review.

| 17.10.010 - General Plan Amendments.

Amendments to the General Plan shall be processed in the same manner as Amendments to the Zoning Ordinance, subject to the additional requirements of California Government Code Sections 65350-65362.

(Ord. 12-95)

| 17.10.020 - Amendments to Zoning Ordinance and Zoning Map.

- A. Initiation and Application. Initiation and application for amendments to the Zoning Ordinance or Zoning Map shall be made pursuant to Section 17.08.030 of this Title.
- B. Planning Commission Procedures.
 - 1. Hearing Required. Upon receipt of an application requesting a Zone Change or Zoning Ordinance Amendment, the secretary of the Planning Commission shall set the matter for hearing not more than 60 days from the date an application is deemed complete. The Planning Commission shall hold at least one public hearing on the matter.
 - 2. Recommendation to City Council. The Planning Commission shall render its decision in written form to the City Council, and the report shall include the following information:
 - a. Reasons for the recommendation;
 - b. The relationship of the proposed amendment to the General Plan and applicable Specific Plans; and
 - c. Environmental determination.
- C. Hearing by City Council. Upon receipt of the report from the Planning Commission, the Council shall conduct at least one public hearing on the matter. The Council may approve, modify or disapprove the Commission's recommendation. If the matter under consideration is a change of zone and the Planning Commission has recommended against the adoption of the change of zone, the Council shall not be required to take any further action on the amendment unless an interested party appeals the matter to the Council within 15 days of the date of the denial. D. Planning Commission Review of City Council Changes. Substantial modification of the proposed amendment by the City Council which was not previously considered by the Planning Commission shall be referred to the Planning Commission for report and recommendation.

(Ords. 12-95; 4-87; 38-68; Prior Code 17.92.120 and 17.92.090)

| 17.10.030 - Conditional Use Permits.

- A. Purpose and Intent. The City recognizes that certain types of land use, due to the nature of the use, require special individual review. Such review is required to determine whether the proposed use, or the location of the use, is compatible with surrounding uses or can be made compatible through the imposition of development conditions. The conditional use permit is established to facilitate such review.
- B. Initiation and Application. Initiation and application for a conditional use permit shall be made pursuant to Section 17.08.030 of this Title.
- C. Conditional Use Permits Reviewed by Planning Commission.
1. The Planning Commission shall hear applications made for all conditional use permits with the exception of those made to the City Council or Zoning Administrator, pursuant to Sections 17.10.030 (D and E). At least one noticed public hearing shall be held for a conditional Use permit application. Also, the Planning Commission shall hear any conditional use permit application which has been submitted in conjunction with any other application subject to Planning Commission review.
 2. The Planning Commission shall make a finding by resolution stating its authority to grant, deny or make a recommendation to the City Council regarding the conditional use permit. The granting or revocation thereof shall conform to Subsections F, G, and H of this section.
 3. Due to the nature of some specific uses, special conditions may apply beyond those outlined in this section. The special conditions, where applicable, are contained within the regulations established for the various zone districts (Chapters 17.14 through 17.32 of this Title).
- D. Conditional Use Permits Reviewed by City Council. The City Council shall have the final authority to review and determine the following conditional use permits.
1. Accessory Second Housing Unit applications pursuant to Section 17.14.060.
 2. Alcoholic beverage sales in conjunction with sale of motor fuel, and off-sale of alcoholic beverages in industrial zones.
 3. Bingo Games pursuant to Section 17.18.060.
 4. Hazardous Waste Facility applications pursuant to Chapter 17.42.
 5. Heliports pursuant to Sections 17.18.060 and 17.20.030.
 6. Hospital expansions or new construction pursuant to Section 17.18.060.
 7. Planned Unit Development applications pursuant to Chapter 17.16.
- E. Conditional Use Permits Reviewed by Zoning Administrator.
1. The Zoning Administrator shall have the authority to review the following conditional use permits:
 - a. Permits to allow amusement arcades in appropriate zones as prescribed.
 - b. Permit for large family day care homes, subject to special criteria and hearing requirements set forth in Section 17.14.060.
 - c. Permits for collection or processing facilities (recycling) subject to standards set forth in Section 17.18.060.
 2. At least one noticed public hearing shall be held for a conditional use permit application.
- F. Requirements for Granting Conditional Use Permits. Conditional use permits may be heard and decided provided that findings are made based on the following guidelines:
1. A conditional use permit shall be granted upon sound principles of land use and in response to services required by the community.
 2. A conditional use permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.
 3. A conditional use permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.
 4. A conditional use permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.
- G. Approval May Be Conditional. In granting any conditional use permit, the reviewing body may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this code and punishable under this code. The reviewing body may prescribe a time limit within which the action for which the conditional use permit is required shall be started, completed or both.
- H. Revocation of Conditional Use Permits.
1. A conditional use permit granted in accordance with the terms of this chapter shall be revoked if:
 - a. It has not been used in accordance with the terms of approval;
 - b. Was obtained under fraud or misinformation; or
 2. A conditional use permit may be revoked if any of the conditions or terms are violated, or if any ordinance or other provision of law is violated in connection with the permit.

The Planning Commission shall hold a public hearing to determine if the terms of the conditional use permit are being violated in addition to any other ordinance or provision of law, and shall make a recommendation to the City Council. The City Council shall make the final determination on a revocation.

- I. Expiration of Conditional Use Permits. Approved conditional use permits shall become void under the following circumstances:
1. If the use has not commenced, or if substantial construction has not begun within twenty-four (24) months after the date the conditional use permit was approved. However extensions of time may be granted in accordance with Section 17.08.060 of this title;
 2. Unless otherwise provided in Section 3, if the use has ceased to exist for more than one year;
 3. Due to the nature of the following specified uses, if the use has ceased to exist for more than six months:
 - a. Alcoholic beverage sales in conjunction with sale of motor fuel, and off-sale of alcoholic beverages in industrial zones;
 - b. Antennas, wireless communication facilities;
 - c. Amusement arcades;
 - d. Bars;
 - e. Billiard parlors;
 - f. Liquor stores;
 - g. Massage establishments;
 - h. Restaurants with alcoholic beverage sales;
 - i. Restaurants with on-site brewing and sale of beer;
 - j. Sale of alcoholic beverages.

(Ords. 11-05 § 1; 4-03 § 2; 19-97; 12-95; 1-95; 17-86; 10-85; 26-83; 20-82; 20-79; 3-79; 41-76; 40-76; 40-73; 37-73; 20-69; 38-68; 13-65; Prior Codes 17.94.050, 17.94.060, 17.92.010, 17.92.120, 17.92.140 and 17.86.170)

17.10.035 - Temporary Use Permits.

- A. Purpose and Intent. The City recognizes that certain types of land use, due to the nature of the use, require special individual review. The intent of this section is to accommodate reasonable requests for interim, temporary or seasonal uses within any zoning district, when such activities are desirable for the community in the short term but would have detrimental effects if allowed to continue on a permanent basis. Temporary uses allowed under this section shall be sensitive to the health, safety and general welfare of persons residing and working in the community and shall be conducted so as not to cause any long term detrimental effects on surrounding properties and the community. This section does not supercede existing regulations pertaining to specific temporary uses included in other code sections. The issuance of a temporary use permit does not confer any land use entitlement or property right to the holder of the permit. This permit is revocable with or without cause upon thirty (30) days written notice to the permit holder, unless violations of public health, safety or welfare are occurring, in which case the permit will be immediately revocable.
- B. Initiation and Application. Application for temporary use permits shall be filed on forms furnished by the Community Development Department at least thirty (30) days prior to initiation of the use. Applications for temporary uses shall contain the following information:
1. The name and address of the sponsoring business or organization;
 2. The proposed location of the temporary use;
 3. The name and address of the party responsible for the temporary use;
 4. A list of communities in California where the temporary use has been previously conducted by the party responsible for the temporary use;
 5. The number of persons who will be engaged in conducting the temporary use, if applicable;
 6. A plot plan showing the entire property in addition to that portion of the property to be used to conduct the temporary use, including an exact description and plot plan describing the total extent of any off-street parking area which would be occupied for the purpose of conducting the temporary use;
 7. A completed property owner affidavit; and
 8. Such other information as shall be required by the Community Development Director.
- C. Temporary Use Permit for Uses of Limited, Specific Duration (Nonrecurring). Nonrecurring temporary uses, located within any zoning district in the City, except as specified in this section, shall include:
1. Modular buildings used for classrooms or offices;
 2. Outdoor storage;
 3. Swap meets;
 4. Other temporary uses of a similar nature as determined by the Community Development Director;
 5. Procedure. The Community Development Director, shall serve as the initial reviewing body for nonrecurring temporary use permits. Once an application for a nonrecurring temporary use permit has been deemed complete, the Community Development Director shall consider and make a

- recommendation to approve, approve with conditions or deny the permit. The recommendation shall be forwarded to the Zoning Administrator. The Zoning Administrator, in reviewing the application, shall review the recommendations of the Community Development Director and shall act to approve, approve with conditions, or deny the application. Zoning Administrator action shall be deemed final;
6. Design Review. Nonrecurring temporary uses on properties located within the Old Towne Historic District shall require the approval of the Design Review Committee prior to the establishment of the temporary use permit.
- D. Temporary Use Permit for Annual, Seasonal, or Recurring Uses. Annual, seasonal or recurring temporary uses, located within any zoning district in the City shall include:
1. Off-site agricultural sales including, but not limited to, Christmas tree lots, pumpkin patches and strawberry stands;
 2. Temporary holiday storage containers/trailers and outdoor storage containers/trailers ancillary to an existing permitted use;
 3. Other annual, seasonal or recurring temporary uses of a similar nature as determined by the Community Development Director;
 4. Duration. Annual, seasonal, or recurring temporary uses may be allowed for a maximum time period of six months; and
 5. Procedure. The Community Development Director shall serve as the initial reviewing body for recurring temporary uses. Once an application for a temporary use permit has been deemed complete, the Community Development Director shall have a staff review committee, as designated by the City Manager, consider and make a recommendation to approve, approve with conditions or deny the permit. The staff recommendation shall be forwarded to the Community Development Director or his designee. The Community Development Director, in reviewing a temporary use permit application, shall review the recommendations of staff and shall act to approve, approve with conditions, or deny the application. The Community Development Director's action shall be deemed final.
- E. Conditions of Approval. In granting any temporary use permit, the reviewing authority may prescribe appropriate conditions and safeguards in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which the temporary use permit is granted, shall be deemed a violation of this code and punishable under this code. The reviewing authority may prescribe a time limit within which the action for which the temporary use permit shall be started, completed, or both. Conditions of approval may include, but are not limited to:
1. Regulations of hours and days;
 2. Requirements of bonds or other guarantees for cleanup or removal of structures or equipment;
 3. Return of temporary use site to its original state within a specified period of time;
 4. Regulation of permit duration;
 5. Regulation of signs and advertising;
 6. Regulation of lighting;
 7. Regulation of public-address or sound system;
 8. Regulation of gas, smoke, noise, fumes, vibrations or other nuisances;
 9. Regulation of design features including, but not limited to, size, colors, material, architectural details and landscaping;
 10. Referral to the Design Review Committee; and
 11. Such other conditions as are deemed necessary to protect the health, safety and welfare of the community and to assure compliance with the intent and purpose of this section.
- F. Criteria for Review. The reviewing authority shall consider the following criteria in granting a temporary use permit:
1. That the temporary use permit is compatible with the various provisions of this chapter;
 2. That the temporary use is a reasonable use of land compatible with the general plan land use designation and zoning classification;
 3. That the temporary use will not impede the reasonable use of land, or the orderly development of land in the immediate vicinity;
 4. The temporary use will not adversely affect the adjacent uses, buildings or other structures;
 5. That the temporary use will not endanger the public health, safety or general welfare;
 6. Provisions for adequate traffic access/circulation, off-street parking and pedestrian safety have been provided and will be maintained during the operation of the use or activity; and
 7. That the granting of the temporary use permit is made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.
- G. Revocation. This permit may be revoked by the City for any reason in the sole and absolute discretion of the Community Development Director, or his or her designee, upon thirty (30) days written notice, or immediately in the event that the permittee, as determined by the Community Development Director, or

his or her designee, is in violation of any law or activity that endangers the public health, safety, or general welfare.

- H. Expiration. Permits for nonrecurring temporary uses shall not exceed a one year time period. Any nonrecurring temporary use exceeding one year must reapply. In no case shall any nonrecurring temporary use be allowed for more than two years. Annual, recurring temporary uses must be reapplied for each year.

(Ord. 3-02)

17.10.040 - Variances.

- A. Purpose and Intent. The City recognizes that certain properties, due to their unique shape, size, location or other physical condition cannot be developed in strict conformance with the regulations of this title. The variance procedure is established to provide guidelines and regulations for the granting of relief from certain provisions of this title. However, in no case may a variance be granted to permit a use otherwise not permitted in a zone district.
- B. Initiation and Application. Initiation and application for a variance shall be made pursuant to Chapter 17.08.030 of this title.
- C. Variances Reviewed by Planning Commission. The Planning Commission shall hear applications for all variances not under the jurisdiction of the Zoning Administrator, as indicated in Section 17.10.040(D). Also, the Planning Commission shall hear any variance application which has been submitted in conjunction with any other application subject to review by the Commission. At least one noticed public hearing shall be held to consider the variance application.
- D. Variances Reviewed by Zoning Administrator. The Zoning Administrator shall have the authority to review the following applications for variances:
1. The location of accessory buildings which do not conform to the requirements of the Orange Municipal Code;
 2. Waiver of the following building site requirements for buildings constructed on a single lot or for buildings constructed on separate parcels of land provided there are less than five lots or parcels:
 - a. Building setback and yard requirements,
 - b. Building site area,
 - c. Building site coverage, and
 - d. Building site width;
 3. Waiver of wall height requirements;
 4. Waiver of garage location and access requirements;
 5. Waiver of parking lot dimensional standards; 6. Waiver of sign requirements; and
 7. Waiver of antenna requirements for height, location, site, and setbacks, except for wireless communication facilities as defined in Chapter 17.04 of this title.

Certain minor variations from development standards can be accomplished through the granting of an Administrative Adjustment Permit, as outlined in Section 17.10.050 of this chapter.

- E. Requirements for Granting of a Variance. The following findings must be made by the responsible reviewing body in granting a variance pursuant to Section 65906 of the California Government Code:
1. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
 2. That the variance granted shall be subject to such conditions which will assure that the authorized adjustment shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is located.
- F. Approval may be Conditional. In granting any variance, the reviewing body may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this code and punishable under this code. The reviewing body may prescribe a time limit within which the action for which the variance is required shall be started, completed or both.
- G. Revocation of Variances.
1. A variance granted in accordance with the terms of this chapter shall be revoked if:
 - a. It has not been used in accordance with the terms of approval; or
 - b. Was obtained under fraud or misinformation.
 2. A variance granted in accordance with the terms of such permit may be revoked if any of the conditions or terms are violated or if any ordinance or other provision of law is violated in connection with the variance. The Planning Commission shall hold a public hearing to determine if

the terms of the variance are being violated in addition to any other ordinance or provision of law, and shall make a recommendation to the City Council. The City Council shall make the final determination on a revocation.

- H. Expiration of Variances. Every approved variance shall become void unless utilized within twenty (24) months after the date the variance was approved. Extensions of time may be granted in accordance with Section 17.08.060.

(Ords. 4-05 § 2; 19-97; 12-95; 4-87; 2-86; 20-79; 3-79; 40-74; 40-73; 35-70; 20-69; 80-62; 64-62; 56-60; 13-58: Prior Codes 17.02.040, 17.10.040, 17.86.170, 17.92.030, 17.92.140, 17.94.060—17.94.080 and Chapter 17.86)

17.10.045 - Reasonable Accommodation.

- A. Purpose and Intent. This Section provides a procedure and sets standards for disabled persons seeking a reasonable accommodation in the provision of housing and is intended to comply with federal and state fair housing laws. A reasonable accommodation is defined as relief from the strict application of the City's zoning and land use regulations, policies, and practices when such an accommodation is found to be reasonably necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. An accommodation is not reasonable if: (1) it will fundamentally alter the City's zoning scheme or program; (2) the benefits provided by the accommodation are outweighed by the costs and administrative burden created; or (3) it would create a direct threat to the health and safety of other individuals or physical damage to the property of others. Unless otherwise noted, terms used herein shall have the same meaning as those terms have under the state Fair Employment and Housing Act, Government Code §12926 et seq. and the federal Fair Housing Act, 42 United States Code §3601 et seq. The term "handicapped" and "disabled" shall be construed as having the same meaning.
- B. Other than requests for reasonable accommodation that involve handicapped parking in City streets or would require a variance or conditional use permit subject to review by the Planning Commission, the Community Development Director or his designee, which may be an outside hearing officer (hereafter jointly referred to as Director), shall approve, conditionally approve, or deny all applications for a reasonable accommodation. Requests for reasonable accommodation which otherwise constitute a variance or a conditional use permit shall be processed in accordance with the OMC process for such entitlements; provided that all determinations on a request for reasonable accommodation shall be made in accordance with subsections E. and F. of this Section.
- C. Application for a Reasonable Accommodation. Any person with a disability, their authorized written representative, or a developer or provider of housing for individuals with a disability may submit a request for a reasonable accommodation. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability. An application for a reasonable accommodation shall be made on a form provided by the Planning Department and the applicable processing fee (administrative adjustment fee shall apply to determinations of the Director) paid. The application shall include, but not necessarily be limited to the following information:
1. Documentation that the applicant is: (i) an individual with a disability; (ii) applying on behalf of one or more individuals with a disability; or (iii) a developer or provider of housing for one or more individuals with a disability.
 2. The specific exception or modification to the zoning code section, policy or practice that is being requested.
 3. An explanation that the accommodation requested is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the dwelling.
 4. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by this Chapter can be made.
- D. Decision of the Director. The Director shall issue a written determination to approve, conditionally approve, modify or deny a request for reasonable accommodation and if approved a permit for a reasonable accommodation shall be issued.
- E. Written Findings. The written decision to approve, conditionally approve, modify or deny the request for reasonable accommodation shall be based on the following findings, all of which are required for approval:
1. The accommodation is requested by or on the behalf of one or more individuals with a disability.
 2. The accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
 3. The accommodation will not impose an undue financial or administrative burden on the City.
 4. The accommodation will not result in a fundamental alteration in the nature of the City's zoning scheme.
 5. The accommodation will not result in a direct threat to the health and safety of other individuals or physical damage to the property of others.
- F.

- The Director may consider, but is not limited to, the following factors in determining whether the requested accommodation is reasonably necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
1. Whether the reasonable accommodation is being provided primarily to benefit individuals who are disabled.
 2. Whether the requested reasonable accommodation will lead to an equal opportunity for a disabled individual to use and enjoy a dwelling.
 3. Whether financial considerations make the requested accommodation reasonably necessary in light of the relevant market and market participants.
 4. Whether the requested accommodation would fundamentally alter the character of the neighborhood.
 5. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
 6. Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable Specific Plan.
 7. Whether the requested accommodation would create an institutionalized environment due to the number of tenants being proposed and/or the number or distance between facilities that are similar in nature or operation.
 8. Whether it would significantly deprive any neighboring property owners of the use and enjoyment of their own properties.
- H.** Compliance with Existing Rules. In order to be eligible for consideration for a reasonable accommodation, the property must be in compliance with the then existing laws and regulations otherwise applicable to the property that is the subject of the request. If the non-compliance is through no fault of the applicant or unrelated to the request for reasonable accommodation, the Director may waive this requirement. However, such a waiver shall not preclude the City from requiring that the existing violations to be corrected in accordance with the OMC.
- I.** Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation becomes final by reason of the expiration of time to make an appeal. In the event an appeal is filed, the reasonable accommodation shall not become effective unless and until all administrative appeals have been exhausted in accordance with Chapter 17.08 of the OMC.
- J.** Time Extension, Voidance, and Revocation. Any reasonable accommodation approved in accordance with the terms of this Section may be extended, voided or revoked for the same reasons and in the same manner as a conditional use permit or for any violations of this Section or the terms or conditions of the reasonable accommodation or if any law is violated in connection with the use of the reasonable accommodation. Reasonable accommodations granted under this Section shall not run with the land.
- K.** Restrictive Covenant. When applicable, the City shall enter into a restrictive covenant with the owner of the property which provides that prior to any sale, transfer, lease or other conveyance of the property or at the time the need for the reasonable accommodation is no longer necessary, that the owner of the property shall bring the property into conformance with the City's zoning code to the extent that relief was provided under the zoning code as part of the request for reasonable accommodation. The restrictive covenant shall be recorded against the property being granted the reasonable accommodation. The restrictive covenant shall provide that the reasonable accommodation does not run with the land and shall terminate upon any sale, transfer, lease or other conveyance of the property. Upon submittal of a new application for a successor in interest to the property, the Director may consider a continuation of the reasonable accommodation if it is consistent with and does not extend the original approval.
- L.** Appeals. Appeals of any decision may be made in accordance with Chapter 17.08 of the OMC.
- M.** Amendments. A request to modify an approved reasonable accommodation shall be treated as a new application, unless in the opinion of the Director, the requested modification results in only a minor change, is within his authority to approve and is consistent with the original approval.

(Ord. No. 6-09, § 1, 8-25-2009)

17.10.050 - Administrative Adjustments.

- A.** Purpose and Intent. The administrative adjustment permit process is established to allow for a simplified review process for specific land use actions which the City anticipates will not adversely affect surrounding properties.

(Ords. 12-95; 20-82; 35-70)

- B.**

Initiation and Application. Applications may be initiated by the City Council, Planning Commission, or owners or authorized agents of real property affected by the proposed amendment or action.

Applications shall include the following:

1. A description of the request (site plans may be required);
2. Reasons justifying an approval of the application;
3. Fees as required by Section 17.08.070; and
4. Additional data and information may be required at the discretion of the Planning Division.

(Ords. 12-95; 20-82; 35-70)

- C. Zoning Administrator Review. The Zoning Administrator shall have the authority to review administrative adjustment permit applications and may act to approve, conditionally approve or deny such applications. No public hearing shall be required to consider the issuance of an administrative adjustment permit.

(Ords. 12-95; 20-82; 35-70: Prior Codes 17.94.080 and 17.94.090)

- D. Actions Considered to be Administrative Adjustments. The following types of land use actions shall be subject to review by the Zoning Administrator as administrative adjustments:

1. Adjustment of Required Yards and Setbacks. The Zoning Administrator may approve a reduction in the required yard within any zone as follows:
 - a. Front Yard—A maximum of twenty percent (20%).
 - b. Side Yard—A maximum of twenty percent (20%).
 - c. Rear Yard—A maximum of twenty percent (20%).

Any proposed deviation in excess of these limits shall be considered a variance and shall be subject to the provisions of Section 17.10.040.

2. Adjustment of Other Development Standards. Other development standards in all zones may be adjusted a maximum of ten percent. Any proposed deviation in excess of ten percent shall be considered a variance and shall be subject to the provisions of Section 17.10.040.
3. Cul-de-Sac and Knuckle Lot Frontage. The Zoning Administrator may reduce lot frontage requirements for lots fronting on cul-de-sac or knuckle streets.
4. On-Site Sale of Agricultural Products. The Zoning Administrator may approve the sale of agricultural products on the site where they are being grown.

- E. Findings Required. The Zoning Administrator shall make the following findings in granting an administrative adjustment permit:

1. That the reduction in standards will not be detrimental to the public health, safety, and general welfare of persons residing or working on the subject property or in the vicinity;
2. That issuance of the permit does not compromise the intent of this code.

(Ords. 12-95; 20-82; 40-74; 35-70: Prior Code 17.94.070, 17.94.080, 17.94.090 and 17.94.120)

17.10.060 - Site Plan Review.

- A. Purpose and Intent. The site plan review process is established to provide a means of reviewing development projects to ensure that projects reflect the highest quality of land planning and design, that projects conform to City development standards, that new projects are compatible with surrounding development and neighborhoods in terms of scale, style and construction materials, that on and off-site circulation is adequate to support the project; that City services are adequate and available, and to ensure the maintenance, restoration, enhancement and protection of the environment.
- B. Initiation and Application. Applications for site plan review shall be filed in accordance with submittal requirements as determined by the Community Development Director. Additional information may be requested from an applicant to allow for thorough site plan review of a project.
- C. When Site Plan Review is Required. Site plan review shall apply to any new use of previously vacant land, new construction, or rehabilitation or expansion of existing structures in all zones. Exception: Site plan review shall not be required for construction of a new single-family residence, or rehabilitation of an existing single-family residential structure in zoning districts permitting such use. Expansion of an existing single-family residence is also exempt from site plan review; provided, that such expansion does not result in the creation of any additional dwelling unit(s).
- D. Minor Site Plan Review.
 - 1.

Criteria. Any proposal meeting the criteria below may be considered a minor site plan unless the Community Development Director determines that the special circumstances relating to the project warrant review as required for major site plan review. These criteria correspond to those projects identified by the California Environmental Quality Act (CEQA) as being categorically exempt.

- a. Additions to existing structures provided that the addition will not result in an increase of more than ten thousand (10,000) square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the general plan, and the area is not environmentally sensitive.
 - b. Construction of six or fewer residential units on a single parcel, when only one parcel is being developed.
 - c. Construction of up to three small commercial or industrial structures, not involving the use of significant amounts of hazardous substances, and designed with a maximum occupancy load of thirty (30) persons.
 - d. Conversion of a residence to a nonresidential use within zones permitting such use.
 - e. Remodeling or reuse of an active or idle service station, or conversion of any portion of a service station to another use as required in Section 17.30.060.
 - f. Creation of lots or building sites with no direct access to a public street.
 - g. Establishment of mobile homes as a residence for a caretaker, custodian, or guard at recreational, equestrian, industrial, and institutional locations.
 - h. Moving any existing structure or building onto a building site from another location or building site.
 - i. Restriction of access to any required parking spaces on any property by means of fencing or gating.
 - j. Construction of an attached or detached garage in any residential zone, where the garage door exceeds eight feet in height.
2. Procedure. The Community Development Director, pursuant to Section 17.08.020.E, shall be responsible for minor site plan review. Once an application for minor site plan review has been deemed complete, the Community Development Director shall, in conjunction with a staff review committee designated by the City Manager, consider and approve, approve with conditions, deny or refer the project to the Design Review Committee and/or the Planning Commission. A continuance may be granted upon mutual consent of the applicant and the Community Development Director. Appeals from decisions by the Community Development Director shall be made in accordance with the City appeal procedures set forth in Section 17.08.050.
- E. Major Site Plan Review.
1. Criteria. Any proposal exceeding the criteria for minor site plan review shall require major site plan review.
 2. Procedure. Community Development Director and Design Review Committee shall serve as the preliminary reviewing bodies for major site plan review. Once an application for major site plan review has been deemed complete, both the Community Development Director and Design Review Committee shall independently consider and make a recommendation to approve, approve with conditions, or deny the project. A continuance may be granted upon mutual consent of the applicant and Community Development Director. The recommendations shall be forwarded to the Planning Commission secretary for placement on the Commission's consent calendar, and shall be noticed as provided for in Section 17.08.040 of this title. Procedures for acting on consent calendar items shall be established by the Planning Commission and shall be adopted by resolution. The Commission, in considering a site plan review application, shall review the recommendations of the Community Development Director and Design Review Committee. The Commission shall act to approve, approve with conditions or deny the application. A continuance may be granted upon mutual consent of the applicant and Planning Commission. Planning Commission action shall be deemed final unless an appeal to the City Council is filed within fifteen (15) days of the decision in accordance with Section 17.08.050.
- F. Site Plan Review Criteria. In addition to project review for compliance with the development standards of the underlying zoning district and other applicable ordinance provisions, site plan review will include review of those development qualities which are not subject to precise definition in the regulations of each zone. The following criteria are listed to illustrate the issues to be considered by the Community Development Director and/or Planning Commission in project review and determination:
1. Compatibility of the Project With Surrounding Development and Neighborhoods.
 - a. The development shall be consistent in size and scale with surrounding development.
 - b. The building design and materials shall be compatible with the character of the surrounding area.
 - c. The building design shall consider and respect the privacy of adjacent residents.
 - d. Building and site design shall be consistent with any applicable design guidelines.
 - e. Projects within redevelopment project areas shall be consistent with project area goals.

- f. Development shall have adequate buffering to screen exterior trash, loading and storage areas from view of adjacent streets and structures, and to minimize impacts of noise and lighting.
- g. Projects in historic districts shall comply with applicable design standards.
- 2. Building/Site Planning Issues.
 - a. Building setting and grading shall consider the existing topography, and grading shall blend contours with those of adjacent properties, consistent with City landform grading guidelines.
 - b. Building bulk and massing shall consider the size, shape and location of the site.
 - c. Mechanical equipment shall be screened from view of adjacent streets and structures, in a manner which is architecturally compatible with the building design and materials.
 - d. All signage shall be integrated with building design.
- 3. Circulation/Traffic Safety, On and Off-Site.
 - a. Site access points shall be located so as to promote safe site access and egress, and cause minimal disruption to public street traffic flow. The following guidelines should be used in locating access drives:
 - i. Minimize the number of driveways/access points serving a single site.
 - ii. Provide for reciprocal access between adjacent parcels where possible.
 - iii. Provide adequate sight distance for drivers at all entrances, exits, drive aisles and roadways, per City Standard Plan 126.
 - iv. Locate site access points a safe distance from street intersections, and from other street/driveway intersections. Factors to consider include:
 - (a) Specific characteristics of the abutting public streets, including street width, capacity, traffic volume, curvature, gradient, design speed, and intersection characteristics;
 - (b) Specific characteristics of the proposed site and development plan, including site size, shape, topography, and traffic generation potential;
 - (c) Characteristics of the surrounding land uses, including existing and potential traffic generation rates, peak hour usage, and potential for reciprocal access.
 - b. Interior site drive aisles shall align in a manner which promotes ease of circulation, and minimizes traffic and pedestrian/vehicular conflicts.
- 4. City Services.
 - a. Projects shall employ concepts of crime prevention through environmental design, and shall provide for site access to accommodate emergency services (police, fire).
 - b. Trash receptacles shall be placed throughout the site in locations and numbers adequate for usage and accessible for pickup.
- 5. Environmental Protection. All projects shall be evaluated in accordance with the provisions of the California Environmental Quality Act.
 - a. Projects shall minimize the disruption of existing natural features such as vegetation, topography and ground features.
 - b. All streambed modification proposals shall identify compliance with California Department of Fish and Game requirements.
 - c. Projects shall make every attempt to preserve historic properties and landmarks.
- G. Conditions of Approval. The Community Development Director may recommend or require reasonable conditions of approval which may include, but not be limited to those items listed below. The Design Review Committee may recommend conditions of approval for major site plan review in accordance with Section 17.10.070(E).
 - 1. A revised site plan;
 - 2. Modifications of building height, bulk, mass or scale;
 - 3. Increased setbacks;
 - 4. Division or sound walls;
 - 5. Mitigation of potential project related environmental impacts;
 - 6. Increased open space;
 - 7. Screening of parking areas, trash receptacles, mechanical equipment, storage areas;
 - 8. Increased landscaping;
 - 9. Relocation of buildings;
 - 10. Revised interior circulation or parking area design;
 - 11. Off-site improvements;
 - 12. Revised grading plan; or
 - 13. Any other changes or additions the Committee feels are necessary to further the goals of the site plan review process.

- H. Findings Required. Findings shall be made as follows in conjunction with any project approval.
1. That the project design is compatible with surrounding development and neighborhoods;
 2. That the project conforms to City development standards and any applicable special design guidelines or specific plan requirements;
 3. That the project provides for safe and adequate vehicular and pedestrian circulation, both on- and off-site;
 4. That City services are available and adequate to serve the project;
 5. That the project has been designed to fully mitigate or substantially minimize adverse environmental effects.
- I. Expiration. If not utilized, project approval expires two years from the approval date. Extension of time may be granted in accordance with Section 17.08.060.

(Ords. 3-03; 6-00; 10-99; 12-98; 19-97; 12-95)

17.10.070 - Design Review.

- A. Purpose and Intent. The design review process is established to provide a means of reviewing development projects to ensure that these projects are compatible with community aesthetics including architectural design, massing and scale, context, color palette, signage and landscaping. The design review process serves a primary role in the implementation of adopted design standards. The City's design objective is to enhance the community character and identity of the City by promoting diversity, creativity and cohesiveness in the development of property, building structures, site relationships and landscape through quality design.
- B. When Design Review is Required. Design review is required for all projects listed below:
1. Development projects requiring Planning Commission or City Council approval;
 2. Any project requiring major site plan review;
 3. Signs as specified in Chapter 17.36;
 4. All projects located within a redevelopment project area except where otherwise exempted by the specific design guidelines adopted for the project area;
 5. All projects within Old Towne or other historic districts as established, except where otherwise exempted by adopted design standards and/or adopted specific plan(s);
 6. All projects for external remodeling of commercial, industrial, institutional and large scale multiple family developments, except where otherwise exempted by City codes, including adopted design standards and/or adopted specific plan(s).
 7. Infill residential development as specified in the City of Orange infill residential design guidelines.
- C. Initiation and Application. Design review applications shall be filed in accordance with application and submittal requirements as determined by the Design Review Committee. Application materials may include site, building and landscape plans, photographs, colored elevations and/or renderings and color and material boards. This information must be of sufficient detail to allow the reviewing body to determine the compatibility of the change to the existing structure, area, or district and that the project meets established design standards and criteria. In addition, to comply with provisions of the California Environmental Quality Act, most projects in historic districts will require an application for environmental review in accordance with Section 17.08.030. Submittal materials shall also include information pertaining to scale, massing, streetscape, landscaping and open space.
- D. Design Review Procedure and Criteria. The Design Review Committee shall make a recommendation or final determination as authorized by Section 17.08.020(D) to approve, approve with conditions or deny a project at a public meeting. In making such recommendation or determination, the Committee shall consider adopted design standards and guidelines (where applicable), the Secretary of the Interior's Standards and Guidelines for Rehabilitation (where applicable) and the following general criteria in making a project determination:
- The project shall have an internally consistent, integrated design theme which is reflected in the following elements:
1. Architectural Features.
 - a. The architectural features shall reflect a similar design style or period.
 - b. Creative building elements and identifying features should be used to create a high quality project with visual interest and an architectural style.
 2. Landscape.
 - a. The type, size and location of landscape materials shall support the projects overall design concept.
 - b. Landscaping shall not obstruct visibility of required addressing, nor shall it obstruct the vision of motorists or pedestrians in proximity to the site.

- c. Landscape areas shall be provided in and around parking lots to break up the appearance of large expanses of hardscape.
- 3. Signage. All signage shall be compatible with the building(s) design, scale, colors, materials and lighting.
- 4. Secondary Functional and Accessory Features. Trash receptacles, storage and loading areas, transformers and mechanical equipment shall be screened in a manner which is architecturally compatible with the principal building(s).
- E. Conditions of Approval. The reviewing body may require reasonable conditions of approval to mitigate potential aesthetic impacts of a project. These conditions may include but are not limited to the following:
 - 1. Modifications to building height, bulk, scale, mass and placement;
 - 2. Changes in building materials and color palette;
 - 3. Screening of parking areas, trash receptacles, storage areas, mechanical equipment;
 - 4. Changes to the location and use of plants in required landscape areas to mitigate community concerns.
- F. Findings Required. The reviewing body shall make findings for all projects based upon design criteria stated above. A specific finding shall be made for projects as follows:
 - 1. In the Old Town Historic District, the proposed work conforms to the prescriptive standards and design criteria referenced and/or recommended by the Design Review Committee or other reviewing body for the project.
 - 2. In any National Register Historic District, the proposed work complies with the Secretary of the Interior's standards and guidelines.
 - 3. The project design upholds community aesthetics through the use of an internally consistent, integrated design theme and is consistent with all adopted specific plans, applicable design standards and their required findings.
 - 4. For infill residential development, as specified in the City of Orange infill residential design guidelines, the new structure(s) or addition are compatible with the scale, massing, orientation, and articulation of the surrounding development and will preserve or enhance existing neighborhood character.
- G. Expiration. If not utilized, project approval expires two years from the approval date. Extensions of time may be granted in accordance with Section 17.08.060.

(Ords. 8-04; 10-99; 15-98; 12-95; 16-94; 4-87; 20-82; 4-74; Prior Code 17.96.020, 17.96.100, 17.96.110, 17.96.130)

17.10.080 - Environmental Review.

Environmental assessments shall occur in accordance with California Environmental Quality Act (CEQA) provisions and the City of Orange Environmental Review Guidelines.

(Ord. 12-95)

17.10.085 - Mitigation Monitoring Program.

- A. Purpose and Intent. The mitigation monitoring program is a process used to verify that mitigation measures, adopted in conjunction with project approval to reduce or avoid significant environmental effects, are carried out during project development or implementation. The program has been adopted to comply with the requirements of the California Environmental Quality Act.
- B. When Mitigation Monitoring is Required. Mitigation monitoring is required on all projects for which a mitigated negative declaration or environmental impact report has been prepared.
- C. Initiation and Application. There is no formal application process, however fees shall be paid in accordance with the City's adopted Master Schedule of Fees and Charges.
- D. Mitigation Monitoring Program Manual. The guidelines for implementation of the mitigation monitoring program are contained within the City's Mitigation Monitoring Program Manual.
- E. Definitions. As used in this chapter, the following words and phrases shall have the meanings set forth below:
 - 1. "CEQA" means the California Environmental Quality Act as in force and amended from time to time;
 - 2. "DIRECTOR" means the Director of Community Development or his designee, and/or such other City Staff position as may be given responsibility for managing and enforcing the Mitigation Monitoring Program in the Mitigation Monitoring Program Manual;
 - 3.

"PROJECT" refers to a development proposal subject to government approval defined in CEQA Statutes and Guidelines Section 15378, partially reproduced as follows:

- a. "Project" means the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, and that is any of the following:
 - (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local general plans or elements;
 - (2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies;
 - (3) An activity involving the issuance to a person of lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
 4. "MITIGATION MEASURE" shall mean any action and/or inaction specified in the Environmental Documentation for the purpose of reducing or eliminating identified environmental impacts, in accordance with CEQA.
 5. "PROJECT PROPONENT" shall mean both the owner of real property during any phase of a development project and the applicant for any development approval for any stage of that Project.
 6. "ENVIRONMENTAL DOCUMENTATION" shall mean the final environmental impact report or mitigated negative declaration, together with all amendments, addenda, supplements or other modifications as approved by the City Council for the project, in accordance with CEQA and any rules regulations or orders implementing CEQA adopted by any State or City agency.
- F. Compliance Required. The project proponent of any real property within the City shall fully comply with all mitigation measures at the respective times specified for such mitigation measures in the environmental documentation for the project and with the provisions of the City Mitigation Monitoring Program Manual as adopted and amended from time to time by resolution of the City Council. Failure to do so shall result in one or both of the following:
1. Suspension of any and all rights to proceed with any previously granted development approval or permit; and
 2. Issuance of a stop work order requiring all work to cease except that necessary to implement mitigation measures. Failure to comply with a stop work order shall be a misdemeanor and will be enforced as such an offense. In the event that compliance is not achieved by the time set forth in the approved environmental documentation, no further permits for the project involved will be issued until the matter is resolved. Furthermore, if a field inspection reveals a violation of or a failure to implement mitigation measures, and immediate action is warranted, the Mitigation Manager, or authorized monitoring staff, shall have the authority to require all work to cease until resolution.
- The City Council may, by resolution or in the Mitigation Monitoring Program Manual as adopted from time to time, set forth procedures for enforcement of this chapter, for issuance of stop work orders hereunder, and for resolution of disputes arising from the Mitigation Monitoring Program or its enforcement. Failure to comply with this chapter or with any such stop work order shall be a misdemeanor and each day that such failure to comply continues shall be a separate offense.
- G. Cost to be Borne by Project Proponent. The Project Proponent shall pay to the City the reasonable costs of administering the City of Orange Mitigation Monitoring Program with respect to the Project Proponent's Project. Such costs shall include, but not be limited to, the time of City employees necessary to monitor and ensure compliance by the Project Proponent, the cost of materials, traveling expenses and other reasonable costs of administering the program, and a reasonable allocation of the costs of equipment, computer facilities and other capital expenses incurred by the City in order to administer the program. The City Council may establish by resolution from time to time, the amounts of or methods for determining and collecting fees or charges to recover such costs.

(Ords. 19-97; 22-91)

17.10.090 - Demolition Review.

- A. Purpose and Intent. The demolition review process has been established to preserve the integrity of the City's cultural and architectural history. For this reason, a specific demolition review process has been established for historic districts and structures. The provisions of this section shall apply to the demolition of:
1. Any structure within an established historic district that is over one hundred twenty (120) square feet in area.
 2. Any structure listed on the National Register at any location within the City.
- Exception: This process is not intended to apply to:

1. Demolitions ordered by the Chief Building Official or Fire Chief of the City of Orange to remedy conditions determined to be dangerous to life, health, or property.
 2. Demolition of a noncontributing structure which has a floor area less than one hundred twenty (120) square feet. Demolition of structures in the Plaza Historic District shall require approval of the State Historic Preservation Office.
- B.** Initiation and Application. Demolition review includes evaluation of a replacement use or structure, and application shall be made in the same manner as for design review, in accordance with Section 17.10.070.C. Most demolition reviews will also require a concurrent application for environmental review, in accordance with the California Environmental Quality Act and the City's Environmental Review Guidelines.
- C.** Issuance of a Demolition Permit. A permit to demolish a building or structure within the boundaries of Old Towne shall only be issued concurrently with the issuance of a building permit for the approved replacement building, structure, or other permit approving the future use. This section shall be effective when:
1. The structure is to be removed from the site, by either destruction or relocation.
 2. All or part of the structure is to be demolished to the extent that its structural or architectural integrity is permanently impaired.
- D.** Appeals.
1. Demolition reviews may be appealed in accordance with Section 17.08.050 of this code.
 - a. An appeal of a decision to either approve or deny the design of a replacement building, structure or use shall be based upon the criteria contained in Section 17.10.070.D. of this code and/or the design standards for the Old Towne Historic District as adopted by reference in Chapter 17.17.060 of this code.
 - b. An appeal of a decision to approve the demolition of a building or structure that the appellant believes is worthy of preservation because it makes a significant contribution to the historical or cultural heritage of the City shall be substantiated by a contributing or higher status on the Historic Survey, or other evidence from an expert in the area of historical structures. Such appeal shall also require that the appellant present a plan and schedule for preservation through relocation of the building or structure, with evidence of financial ability to complete the proposed project.
 - c. An appeal of a decision to deny the demolition of a historically or culturally significant building or structure may be based upon economic hardship. The appellant shall provide evidence to substantiate the fact that preservation is not economically feasible.
 2. If no appeal is filed within the established fifteen (15) day appeal period, the demolition permit shall be issued subject to all the provisions of this chapter.
- E.** Penalties for Noncompliance. Any structure demolished without benefit of a City demolition permit may be subject to either or both of the following penalties:
1. Civil penalties specified in Section 1.08.010 of the OMC.
 2. No application for permit nor building construction shall be allowed for a period of one year from the date of the demolition of the structure. This penalty shall apply to all properties unless waived or modified, upon appeal in accordance with Section 17.08.050 of this title.

(Ords. 15-98; 12-95)

Exhibit A-4-VII

Statement of Legal Authority April 26, 2010

M Estrada



CITY OF ORANGE

CITY ATTORNEY—(714) 744-5580

FAX (714) 538-7157

April 26, 2010

Gerard J. Thibeault, Executive Officer
Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Re: Legal Authority to Implement and Enforce the Requirements of
40 CFR 122.26(d)(2)(i)(A-F) and RWQCB Order R8-2009-0030

Dear Mr. Thibeault:

The City of Orange ("City") submits this statement in its capacity as a permittee under RWQCB Order R8-2009-0030 ("Order").

1. Legal Authority Statement

The City Attorney for the City of Orange represents to the best of his knowledge that the City has adequate legal authority to comply with the legal requirements imposed upon the City under RWQCB Order No. R8-2009-0030, consistent with the requirements set forth in the regulations to the Clean Water Act, 40 CFR [Code of Federal Regulations] 122.26(d)(2)(i)(A-F), and to the extent permitted by State and Federal law and subject to the limitations on municipal action under the California and United States Constitutions.

2. Status of Implementation

The City has not implemented some of the requirements imposed by the Order that have future effective dates. However, the City has or will have adequate legal authority, as envisioned by the Clean Water Act and applicable regulations, to implement such requirements by the mandated dates, and to enforce such additional requirements after they have been implemented, all to the extent permitted by California and federal law and subject to the limitations on municipal action under the constitutions of California and the United States.

3. City Departments

The City’s Public Works Department is primarily responsible for the regulation of urban runoff that is within the incorporated areas of the City.

4. Ordinances

Below is a description of the various City Ordinances related to urban runoff, along with the City Departments responsible for enforcement.

Description	City Department(s) Responsible for Enforcement	Municipal Code Chapter
Water Quality and Stormwater Discharges	Engineering	7.01
Grading Requirements	Engineering	16.40
Solid Waste	Maintenance	8.28
Industrial Waste	Building, Engineering	13.64
Animal Regulations	Building	6.04
Zoning	Planning	17.10

5. Administrative and Legal Procedures

In addition to the above authority, the City has in place the following legal and administrative procedures to assist in enforcing the various urban runoff related Ordinances. Our office would prosecute infractions and misdemeanors.

Administrative Remedies

- Notice of Non-Compliance/Notice of Violation
- Administrative Compliance Orders
- Stop work orders (for work requiring a City permit)
- Administrative penalties
- Permit revocation or withdrawal

Nuisance Remedies

- Public nuisance under State law
- City Nuisance abatement procedures

Criminal Remedies

- Infraction citations / prosecution
- Misdemeanor citations / prosecution
- Restitution

Equitable Remedies

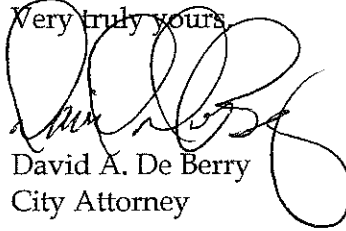
- Injunctive relief under State law
- Declaratory relief under State law

Other Civil Remedies

Federal law claims, e.g. CWA and RCRA Citizen Suits

Please do not hesitate to contact the undersigned should you have any questions or need any additional information

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. De Berry', written over the typed name.

David A. De Berry
City Attorney