

ORDINANCE NO. 18-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE TO ADD PROVISIONS RELATED TO DIRECTOR INTERPRETATIONS, CITY EXEMPTION FROM THE ZONING ORDINANCE, TIE VOTES, AND AMENDING THE ZONING ORDINANCE'S APPEAL AND TIME EXTENSION PROVISIONS

WHEREAS, staff, among other ongoing efforts, is in the process of reviewing the language contained in the City of Orange's Title 17 ("Zoning Ordinance") with respect to general administrative matters; and

WHEREAS, the purpose of staff's review of language in the Zoning Ordinance is to streamline processes, where possible, clarify ambiguities and/or address issues that have either not been addressed, or are not clearly and fully addressed by the Zoning Ordinance; and

WHEREAS, first, staff determined that, while provisions related to interpretations of a zoning ordinance is very common among California cities, the Zoning Ordinance's only interpretation provision, contained in Section 17.13.070 (Land Uses Not Listed), is too narrow, pertaining to determinations related to "uses" only; and

WHEREAS, staff also determined that, while many cities' municipal codes exempt City projects (specifically, projects undertaken on City-owned property) from zoning code requirements in order to avoid additional and unnecessary expense and time, the City did not have such a provision in its zoning ordinance; and

WHEREAS, in addition, while many cities have addressed tie votes or insufficient votes in their codes, the Zoning Ordinance was silent on this matter requiring staff to apply generally accepted interpretations that should be memorialized, and augmented, in the Zoning Ordinance; and,

WHEREAS, staff also reviewed the appeal provision of the Zoning Ordinance, contained at Section 17.08.050 and determined that clarifications and edits are necessary to be consistent with City practices, other city practices, and other provisions of the OMC; and

WHEREAS, finally, staff reviewed the time extension provision of the Zoning Ordinance and determined that additional time and flexibility for applicants that do not commence use or construction of a land use entitlement is advisable and warranted in order to provide a more customer-friendly development process; and

WHEREAS, staff has recommended changes to the Zoning Ordinance to address the issues enumerated herein and the City Council wishes to make such staff-initiated changes in hopes

of providing additional clarity to the Zoning Ordinance and to provide staff with additional flexibility to increase efficiency in project development; and

WHEREAS, the Planning Commission, having considered the proposed changes to the OMC at a public hearing held on June 3, 2024 and having received public testimony on the item, determined the proposed ordinance serves the City’s best interests and furthers the public health, safety and general welfare; and

WHEREAS, the City Council, having now considered the proposed changes to the OMC at a public hearing held on June 25, 2024, including review of the staff report, and having received public testimony on the item, desires to adopt the proposed ordinance.

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

SECTION I:

This Ordinance is not a project under the California Environmental Quality Act (“CEQA”) per State CEQA Guidelines Section 15378, because it involves administrative activities of the City that will not result in direct or indirect physical changes in the environment.

SECTION II:

A new Section 17.02.050 shall be added to read as follows:

17.02.050 Director Interpretations.

In addition to any other authority that may be granted to the Community Development Director, the Director shall have the authority to make administrative interpretations whenever it is determined that an ambiguity as to the meaning or applicability of this Title 17 exists. Persons aggrieved by an official administrative interpretation of the Director may appeal the Director administrative interpretation(s) to the Planning Commission, as set forth in Section 17.08.050.

SECTION III:

Table 17.08.020 shall be amended as follows:

Table 17.08.020

Type of Procedure, Permit or Hearing	CDD	DRC	ZA	PC	CC
Administrative Design Review	X(1)				
Administrative Adjustment Permit			X		
Alcohol Production Permit			X		
Conditional Use Permit	A	A(1)	X(1)	X(1)	X(1)
Design Review		A/X(1)		X(1)	
Environmental Documentation	A			X(1)	X(1)

Type of Procedure, Permit or Hearing	CDD	DRC	ZA	PC	CC
General Plan Amendment	A			A	X
Neighborhood Preservation Overlay Applications		A/X(1)	X(1)		
Director Administrative Interpretations	X				
Old Towne Demolition Permit		A		X(1)	X
Reasonable Accommodation	X(1)				
Site Plan Review—Major	A	A		X	
Site Plan Review—Minor	X				
Sober Living Permit	X				
Temporary Use (Non-Recurring) Permit	A	X(1)	X(1)		
Temporary Use (Recurring) Permit	X				
Tentative Parcel Map	X(1)			X(1)	X(1)
Tentative Tract Map	A			A	X
Variance	A	A(1)	X(1)	X	
Zone Change	A			A	X
Zoning Ordinance Amendment	A			A	X

SECTION IV:

A new Section 17.02.060 shall be added to read as follows:

17.02.060 Exemption

Except as otherwise required by law, any activities, developments, and/or projects initiated by the City on City-owned property shall be exempt from the requirements of this Title.

SECTION V:

A new subsection (c) is hereby added to Section 17.08.020(B)(3) to read as follows:

c. In the event of a tie vote, the matter upon which such vote is being cast shall fail, which shall have the effect of a denial or recommendation of denial, as appropriate. Alternatively, the Planning Commission may approve a “resolution of no decision” to the City Council. In the case of an appeal, a tie vote shall constitute a denial of the appeal, which shall have the effect of affirming in whole the determination of the lower body.

SECTION VI:

Section 17.08.050 shall be amended to read as follows:

17.08.050 Appeals.

Right of Appeal. Any action taken by the Community Development Director, Zoning Administrator, or the Design Review Committee in the administration or enforcement of the provisions of this Title may be appealed by any person aggrieved by said action or determination

to the Planning Commission. Any decision of the Planning Commission may be appealed to the City Council.

SECTION VII:

Section 17.08.050 (B) shall be amended to read as follows:

B. Appeal Stays Proceedings. Unless authorized by the Community Development Director, no permits related to the proceeding shall be issued during the pendency of the proceeding.

SECTION VIII:

Section 17.08.050(C) shall be amended to read as follows:

C. Form and Content of Notice of Appeal. The notice of appeal shall be in writing and shall be filed in the Planning Division upon forms provided by the City. An appeal from any action in the administration or enforcement of this chapter shall provide a statement of the facts in sufficient detail to enable the appeal body to understand the nature of the controversy and indicate specifically the alleged error or abuse of discretion to be evaluated by the appeal body.

SECTION IX:

Section 17.08.050 (E) shall be amended to read as follows:

E. Hearing Date and Notice. Upon receipt of an appeal, the Planning Division shall receive the appeal and thereafter set a date for the matter to be heard by the applicable reviewing body and give notice of the date, time and place of the hearing to the applicant and appellant and public notice of the hearing as required in Section 17.08.040.

SECTION X:

Section 17.08.050 (F) shall be amended to read as follows:

F. Authority of Planning Commission and/or City Council. The Planning Commission and/or City Council shall consider the record and such additional information as may be offered and may affirm, reverse or modify, in whole or in part, the action that was appealed. The Planning Commission and/or City Council may also make or substitute additional decisions or determinations as it finds warranted under the provisions of this Title 17.

SECTION XI:

Section 17.08.060 shall be amended to read as follows:

17.08.060 Time Extensions.

A. Upon a request from an applicant, the Planning Commission may extend the period upon which to commence use or construction of the land use entitlement by a period of up to two

years. The Community Development Director may further extend the period upon which to commence use or construction of the land use entitlement by a period of up to one year. The person seeking an extension from the Planning Commission and/or Community Development Director must submit a written request to the Community Development Director prior to the expiration date and at a minimum shall explain the extenuating circumstances that have delayed construction or use of the land use entitlement. A request for an extension shall not require a public hearing provided that no conditions or other requirements are added, deleted or modified. Any such changes to the land use entitlement shall be considered an amendment to the land use entitlement and require the same notice and hearing requirements as the underlying land use entitlement.

SECTION XII:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XIII:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____ 2024.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

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

I, PAMELA COLEMAN, 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 June, 2024, and thereafter at the regular meeting of said City Council duly held on the ___ day of _____, 2024 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange