

ORDINANCE NO. 23-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING VARIOUS SECTIONS IN TITLES 6, 7 AND 8 OF THE ORANGE MUNICIPAL CODE TO DELETE OUTDATED LANGUAGE, UPDATE REFERENCES TO CONFORM WITH CURRENT LAW AND CODE PROVISIONS, AND ACHIEVE INTERNAL CONSISTENCY.

WHEREAS, the Orange Municipal Code requires updates, from time to time, to reflect current administrative or operational procedures adopted by the City; and

WHEREAS, the changes proposed update the Code to delete outdated language, update references to conform with current law and code provisions, achieve internal consistency and otherwise capture general language clean-up.

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

SECTION I:

1. The subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines (Guidelines) Sections 15060(c)(2) and 15060(c)(3) because review and evaluation of potential impact of the Ordinance demonstrate that it will not result in a direct or reasonably foreseeable indirect physical change in the environment, and it is not a "project" as defined in Guideline 15378.

2. The subject Ordinance is exempt from CEQA per Guideline 15061(b)(3) because it can be seen with certainty, after review and evaluation of the facts regarding the Zoning Code administrative amendments, that there is substantial evidence that adoption of this Ordinance would not have a significant effect on the environment and the common sense exemption applies.

SECTION II:

Section 6.08.010 of the Orange Municipal Code, "Animals – Birds and Bees – Keeping of Bees – Permit Required," is hereby amended to read as follows:

6.08.010 – Keeping of Bees – Permit Required.

No person shall keep bees within the City without first procuring a permit. The Director of Community Development is authorized to issue such permit on payment of a fee in an amount set by City Council resolution. No permit shall be issued to any person who proposes to establish or maintain any hive or box where bees are kept, or otherwise proposes to keep any bees on any premises within 300 feet of any dwelling (except that dwelling of the owner of such bees) or within 100 feet of any exterior boundary of that property on which the hive or box is located. Any person

receiving a permit to keep bees shall be required continuously to maintain an adequate water supply in the immediate vicinity of the place where the bees are kept. Within 10 days after a decision by the Director of Community Development, any person may appeal the grant or denial of a permit to the City Council who may reverse, affirm or modify the decision of the Director of Community Development; provided, however, that the City Council shall not grant any such permit unless the Council finds and determines that there will be no adverse effect either on adjacent landowners or the general public.

SECTION III:

Section 7.02.150 of the Orange Municipal Code, “Environment – Water Shortage Contingency Response – Other Provisions,” is hereby amended to read as follows:

7.02.150 – Other Provisions.

In furtherance of the objectives of this chapter, the City may, at its discretion, elect to include any or all of the following provisions at any or all of the water conservation stages.

- A.** Limits on Building Permits. The City may limit or withhold the issuance of building permits which require new or expanded water service, in order to protect the public health, safety and welfare, or in cases that meet the City's adopted conservation offset requirements.
- B.** Customer Water Conservation Reports. The City may, by written request, require all commercial, residential and industrial customers using 25,000 or more billing units per year to submit a water conservation plan and to submit quarterly progress reports on such plan. The conservation plan must include recommendations for increased water savings, including increased water recycling based on feasibility, and the reports must include progress to date on implementation of such recommendations.
- C.** Reporting Hotline. The City may establish a water waste hotline for residents to report violations of this chapter.
- D.** As deemed necessary, an allocation of water supply under a water supply emergency condition, beyond WSCP defined actions, may be implemented when water supply shortage conditions merit that action.
- E.** The City may provide water efficiency devices either directly or through supported programs. Such devices shall remain within the City's service area at all times. Devices provided by the City should be used with the intent to conserve water and are not to be modified in any way or sold.

SECTION IV:

8.01 PROHIBITION OF SMOKING

Section 8.01 of the Orange Municipal Code, “Health and Safety – Prohibition of Smoking,” is hereby deleted in its entirety.

SECTION V:

Section 8.16 of the Orange Municipal Code, "Fly Control," is hereby amended to read as follows:

8.16 PEST CONTROL

8.16.010 – Definitions.

"Commercial dairy farm" means any place or premises upon which milk is produced for sale or other distribution and where more than two cows or six goats are in lactation.

"Commercial poultry ranch" means any place or premises where poultry are maintained, raised, or fed for the primary purpose of producing eggs or meat for sale or other distribution.

"Pest Abatement Board" means an administrative board composed of five members appointed by the Orange County Board of Supervisors.

"Pest Abatement Hearing Officer" means the Assistant Director of Parks and Maintenance of the City or such other person as is appointed by the City Manager.

"Pest breeding hazard" as used in this chapter means the accumulation, existence, or maintenance of any substance, matter, material, or condition resulting in the breeding of flies in an amount or manner such as to endanger public health or safety, or to create unreasonable interference with the comfortable enjoyment and use of life and property by others.

"Horse stable" means any place or premises where three or more horses are maintained for any purpose.

8.16.020 – Public Nuisance.

Any pest breeding hazard in the City is hereby declared to constitute a public nuisance.

8.16.030 – Inspection by Health Officer.

It shall be the duty of the Health Officer of Orange County, upon routine inspection, upon request of the Pest Abatement Board, or whenever they are informed or have reasonable cause to believe that any land, building, or collection of plant or animal waste or any substance or existing condition on any lot, farm or other land or on any other premises is a pest breeding hazard to enter, after demand, upon such premises and to determine whether or not there is an existing pest breeding hazard.

8.16.040 – Abatement Proceedings - Notice.

Whenever there exists in any place within the City a pest breeding hazard, the County Health Officer shall notify in writing the record owner or person having control or possession of such

place or premises to abate such nuisance and take corrective measures to prevent its recurrence, and to appear at a public hearing to be held by the Pest Abatement Board. A copy of such notice shall be posted in a conspicuous place upon such place or premises. Such hearing shall be set by the County Health Officer at least 10 days after the date of such notice.

The notice shall specify what is claimed to be causing the hazard and what must be done to abate it and shall direct the owner or person in control or possession of the place or premises to abate the nuisance and to perform any and all work necessary to prevent the recurrence thereof in the places or premises specified in the notice, prior to the time set for the public hearing by the Pest Abatement Board and shall advise such owner or person that in lieu of such abatement, if the Pest Abatement Board determines that a pest breeding hazard still exists at the time of such public hearing, the City Attorney shall be notified. If abatement is not accomplished within five days of notice to the City Attorney, the County Health Officer will proceed to abate such nuisance without further notice unless such nuisance is abated before a date specified by the Board and the owner of such place or premises and the person having control or possession thereof, jointly and severally, shall be liable to the County or to the City for the total cost of such work, including all administrative costs, and such costs shall constitute a charge and lien upon such place or premises.

The notice shall be served upon the owner of record or person having control or possession of the place or premises upon which the nuisance exists, or upon the agent of either. Notices may be served by any person authorized by the Health Officer of Orange County for such purposes in the same manner as a summons in a civil action.

8.16.050 - Abatement Proceedings—Hearing.

At the time fixed for the hearing by the Pest Fly Abatement Board, such Board shall hear and consider all relevant testimony and evidence offered by the owner of record or person having control or possession of the place or premises upon which the pest breeding hazard is stated in such notice to exist, by the County Health Officer or agent, and by any other interested person. Upon the conclusion of the hearing, the Board or the Hearing Officer shall make the following findings:

1. Whether or not a pest breeding hazard exists;
2. Specifically, what is causing the hazard;
3. What should be done by the owner to abate the hazard;
4. What work, if any, should be done by the owner to prevent its recurrence;
5. Whether the owner or operator shall comply with any specific regulations of the Health Officer;
6. Whether the Health Officer shall abate and, specifically, what they may do, at their option, provided that anything not included in the Board's order shall not be done by the Health Officer.

If the Board determines that such a pest breeding hazard exists, it shall direct the County Health Officer to abate it, without further notice, unless the condition is abated and such work performed by the owner on or before a date to be specified by the Board.

8.16.060 – Pest Control Standards.

The Pest Abatement Board, or Pest Abatement Hearing Officer, upon recommendation of the Health Officer, is authorized to adopt pest control standards of operation and design of commercial dairy farms, commercial poultry ranches, horse stables, or other premises, including food establishments and dwellings, to serve as guidelines in the abatement proceedings described in Section 8.16.050. All such standards shall be printed and made available to the public.

8.16.070 – Costs – Special Assessment.

All costs shall constitute a charge and special assessment upon such parcel of land. If such costs are not paid within a period specifically set by the City or the County, they shall then be declared a special assessment against that parcel as provided in the Government Code. Such special assessment shall be collected at the same time and in the same manner as ordinary City or County taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary City or County taxes. The City and County shall retain the additional and independent right to recover their costs by way of civil action against the owner and person in possession or control, jointly or severally.

The provisions of this article are to be construed as an added remedy of abatement of the nuisance hereby declared and not in conflict with or derogation of any other actions or proceedings or remedies otherwise provided by law.

8.16.080 – Commercial Manure Dealers.

- A. Commercial Manure Dealer Defined. "Commercial manure dealer" means any person, firm, or corporation who, for a fee, gathers, collects, hauls, stockpiles, spreads, or sells any manure or manure-like substance.
- B. Registration. It is unlawful for any commercial manure dealer to gather, collect, haul, stockpile, spread, or sell any manure or manure-like substances within the City without first registering with the Orange County Health Officer on forms prescribed by him or her. Such registration shall expire at the end of each calendar year and shall be renewed annually during the first week in January. There shall be no fee for such registration nor any subsequent renewal.
- C. Failure to Register a Misdemeanor. Failure to register as a commercial manure dealer as provided in this section shall constitute a misdemeanor.

8.16.090 – Failure to Abate Nuisance—Penalty.

- A. Other remedies not excluded, the provisions of this chapter are to be construed as an added remedy of abatement of the nuisance hereby declared and not in conflict with or derogation of any other actions or proceedings or remedies otherwise provided by law.

- B.** Penalty for Failure to Abate Nuisance. Any record owner or person having control or possession of any place or premises upon which a pest breeding hazard has been found to exist by the Pest Abatement Board or Pest Abatement Hearing Officer who refuses or neglects to abate such nuisance or to perform all work necessary to prevent its recurrence in accordance with and within the time specified in such written notice of the Board or Hearing Officer shall be guilty of a misdemeanor.
- C.** Anyone who maintains a pest breeding hazard as defined in Section 8.16.010(E) shall be guilty of a misdemeanor and may be prosecuted criminally without first complying with the requirements of Sections 8.16.040 and 8.16.050 except that reasonable notice in writing shall be given prior to filing such complaint.

SECTION VI:

Sections 8.24.040 of the Orange Municipal Code, “Health and Safety – Noise Control – Exterior Standards,” 8.24.050 of the Orange Municipal Code, “Health and Safety – Noise Control – Exemptions from Chapter Provisions,” and 8.24.080 of the Orange Municipal Code, “Health and Safety – Noise Control – Enforcement Authority,” are hereby amended to read as follows:

8.24.040 – Exterior Standards.

- A.** The following noise standards for fixed noise sources, unless otherwise specifically indicated, shall apply to all residential property:

Table 8.24.040		
Exterior Noise Standards		
	Noise Level	Time Period
Hourly Average (L _{eq})	55 dB (A)	7:00 a.m.—10:00 p.m.
	50 dB (A)	10:00 p.m.—7:00 a.m.
Maximum Level	70 dB (A)	7:00 a.m.—10:00 p.m.
	65 dB (A)	10:00 p.m.—7:00 a.m.

- B.** It is unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any residential property to exceed the noise standards identified in Table 8.24.040. For multi-family residential or mixed use developments located within the City's Urban Mixed Use, Neighborhood Mixed Use, Old Towne Mixed Use or Medium Density Residential General Plan land use districts, exterior noise standards shall apply to common recreation areas only and shall not apply to private exterior space (such as a private yard, patio, or balcony).
- C.** In the event the ambient noise level exceeds the noise standards identified in Table 8.24.040 of this section, the "adjusted ambient noise level" shall be applied as the noise standard. In cases where the noise standard is adjusted due to a high ambient noise level, the noise standard shall not exceed the "adjusted ambient noise level," or 70 dB(A), whichever is less.

In cases where the ambient noise level is already greater than 70 dB(A), the ambient noise level shall be applied as the noise standard.

- D. Each of the noise limits specified in Table 8.24.040 shall be reduced by five dB(A) for impact or simple tone noises, recurring impulsive noises, or for noises consisting of speech or music.
- E. During a one-year period subsequent to the effective date of the ordinance codified in this chapter, the noise level standards as specified in this section, shall be increased by eight 8 dB(A) where the alleged noise source is an air conditioning apparatus, refrigeration system, or pool equipment, which was installed prior to the effective date of the ordinance codified in this chapter.

8.24.050 – Exemptions from Chapter Provisions.

The following activities shall be exempted from the provisions of this chapter:

- A. Any activities such as but not limited to school bands, school athletic and school entertainment events on any public or private nursery, elementary, intermediate, or secondary school or college campus;
- B. Outdoor gatherings, public dances, shows, sporting and entertainment events or other public or private events provided such events are conducted pursuant to any permit or license requirements established by the City;
- C. Activities conducted on public parks, public playgrounds, and public or private school grounds that are consistent with the expected use, rules, regulations and/or permit provisions of the location;
- D. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;
- E. Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except for Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday. Noise generated outside of the hours specified are subject to the noise standards identified in Table 8.24.040;
- F. All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;
- G. Noise sources associated with agricultural operations provided such operations take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday;

- H. Noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner;
- I. Noise sources associated with the maintenance of real property, provided such activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday. Operation of leaf blowers is regulated under Chapter 8.26;
- J. Industrial or commercial noise affecting residential units, when the residential unit is associated with said industrial or commercial use (e.g. caretaker's dwellings);
- K. Any maintenance or construction activity undertaken by a public agency or utility within street right of way;
- L. Mobile noise sources including but not limited to operational noise from trains, or automobiles or trucks traveling on roadways. Transportation noise as related to noise/land use compatibility is subject to the City's General Plan Noise Element;
- M. Any activity to the extent regulation thereof has been preempted by state or federal law.
- N. Vehicle sound systems, radios and similar devices located within or upon any vehicle, to the extent the sound from such devices is regulated by provisions of the Vehicle Code of the State of California;
- O. Warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles when used for traffic safety purposes, work safety regulations (i.e., forklifts earth moving equipment), or any other device when used by public safety or City services for official purposes;
- P. Deliveries to or pickups from any commercial or industrial property sharing a property line with any residential property may occur between 7:00 a.m. and 10:00 p.m. daily. No deliveries to or pickups from any such properties shall occur outside of these hours unless approved pursuant to any permit or license requirements established by the City;

8.24.080 – Enforcement Authority.

- A. The Director of Community Development or Chief of Police or their designee are directed to enforce the provisions of this chapter. The Director of Community Development or Police Chief or their designee are authorized, pursuant to Penal Code Section 836.5, to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence.
- B. Administrative citations may be issued for violations of the provisions of this chapter, as set forth in Chapter 1.10 of the Code.

- C. If the Director of Community Development or Chief of Police or their designee conduct noise monitoring tests or other noise measurement readings for purposes of enforcement, and the noise level is found to exceed the noise levels in this chapter, the property owner or the operator of the noise source shall be required to pay the City's cost of the noise monitoring tests or readings.

SECTION VII:

Sections 8.29.050 of the Orange Municipal Code, "Health and Safety – Self-Hauling Violations," 8.29.110 of the Orange Municipal Code, "Health and Safety – Solid Waste Disposal Reduction – Prohibited Acts," 8.29.160 of the Orange Municipal Code, "Health and Safety – Container Placement," 8.29.180 of the Orange Municipal Code, "Health and Safety – Solid Waste Disposal Reduction – Sharing of Containers," and 8.29.290 of the Orange Municipal Code, "Health and Safety – Solid Waste Disposal Reduction – Enforcement," are hereby amended to read as follows:

8.29.050 – Self-Hauling Violations.

A. Unauthorized Containers. In addition to any other penalties and/or remedies as set forth in this chapter or provided for by law, any container placed on or adjacent to any Premises, street, or public right-of-way for the collection of solid waste in violation of Section 8.29.160 ("unauthorized container(s)") may be impounded as set forth in this chapter.

B. The City may cause a notice of violation to be placed in a conspicuous place on any unauthorized container directing that it be removed. The notice shall specify the nature of the violation and shall state that the container must be removed within 24 hours or it may be removed and stored by the City or authorized designee, and the contents disposed of, at the expense of the owner thereof. The notice shall indicate the time that it was posted and shall include the name and phone number of a person designated by the City to hear any appeal or challenge to the requirement that the container be removed; and, further, shall indicate that any appeal of the order for removal must occur within 24 hours of the posting of the notice. The posting of a notice to remove shall constitute constructive notice to the owner and user of the requirement to remove the unauthorized container. If the identity of the owner of an unauthorized container is known to the City, the City shall also promptly cause a copy of the notice to remove to be mailed or emailed to the owner.

C. If within 24 hours after a notice to remove is posted on an unauthorized container a request for an appeal has not been received and the container is not removed, the City may direct the removal and storage of the unauthorized container. In addition, if the contents of the container are either comprised of a substantial amount of putrescible solid waste, or determined by the City to create a threat to health and safety if not disposed of immediately, the City may direct the disposal of the contents of the container. The owner of the unauthorized container shall be responsible to reimburse the City for the actual cost of removal, storage and disposal, including any administrative costs incurred by the City. All amounts due to the City for the cost of removal, storage and disposal must be paid before the unauthorized container may be returned to the owner. Such amounts shall constitute a debt owed by the owner to the City, and the owner shall be liable to the City in an enforcement action brought by the City for the recovery of such amounts.

D. If the unauthorized container is not claimed within 30 days after removal, the unauthorized container and its contents shall be deemed abandoned property and may be disposed of as determined by the City.

E. Within five business days following retrieval of an unauthorized container from the City by the owner, the owner may request a hearing to appeal the City's determination that the container is an unauthorized container as provided in Section 8.28.040.

8.29.110 – Prohibited Acts.

A. It is unlawful for any person, other than the owner, occupant or person in possession, charge or control or any residential or commercial premises, or a person authorized by law (such as a franchisee), to remove any bin, cart, rolloff box or other container from any such premises or from any location where it was lawfully placed for collection, without the prior written approval of the owner, occupant or person in possession, charge or control of such premises.

B. No person shall place solid waste adjacent to a street or public right-of-way for collection by a franchisee without having first subscribed for solid waste collection services with such franchisee.

C. No person shall burn or process any solid waste within the City, except in an approved incinerator, digester or other device for which a permit has been issued by the Building Official and Fire Marshal, and which complies with all applicable local, state and/or federal permit requirements, laws, rules and regulations.

D. It is unlawful for any person, other than a franchisee or the City, to take, remove or appropriate for their own use any solid waste, including recyclable materials, which has been placed in any street or alley for collection or removal by a franchisee, regardless of whether the solid waste is placed in a bin, cart, rolloff box or other container.

E. No person other than the waste generator or any waste generator employee, City Manager, or franchisee of the City shall move, remove or interfere with any container or its contents.

F. No person shall enter into or be inside of a solid waste, recyclable materials or compostable materials container.

8.29.160 – Sharing of Containers.

A. No bin, cart, rolloff box or other container shall be placed adjacent to or in a street or public right-of-way for collection service prior to 4:00 p.m. on the day preceding the normal collection time.

B. All containers placed adjacent to or in a street or public right-of-way for collection service shall be removed from the street or public right-of-way by 7:00 a.m. on the day after collection.

C. Containers shall be placed on top of the curb when street sweeping days align with solid waste collection days.

D. Containers shall be placed only within the public right-of-way aligning with associated property's frontage.

E. No bin, cart, rolloff box or other unauthorized containers shall be placed on or adjacent to any Premises, street or public right-of-way for the collection, deposit or transportation of solid waste, commercial solid waste, construction, demolition, and deconstruction debris, organic, food or green waste, or other solid waste which were not provided by the City or the City's franchisee for solid waste handling services pursuant to Section 8.29.020.

8.29.180 – Sharing of Containers.

A. It is unlawful for any person to share, place solid waste in, or to otherwise use the bin, cart, rolloff box or other container of another person or business without the approval of the City or a franchisee. Occupants of single family premises (one to four dwelling units) shall not share carts with other single-family premises.

B. The sharing of bins may be permitted under either of the following conditions:

- 1.** The owner, property manager or person in charge or control of a premises upon which five or more residential dwelling units exist may arrange for one or more bins (but not carts) to be shared by the occupants, tenants or persons in possession of the dwelling units on that premises.
- 2.** The owner, property manager or person in charge or control of a commercial premises with several sub-tenants may arrange for one or more bins or rolloff box (but not carts) to be shared by the occupants, tenants or persons in possession of the units on that premises.

8.29.290 – Enforcement.

The Chief of Police or their designee are authorized to administer and enforce the provisions of this chapter. A violation of this chapter is considered a misdemeanor punishable as prescribed by Section 1.08.010 of this code.

SECTION VIII.

8.32 TRAILER PARKS

Section 8.32 of the Orange Municipal Code, "Health and Safety – Trailer Parks," is hereby deleted in its entirety.

SECTION IX.

8.36 WEED AND RUBBISH CONTROL

Section 8.36 of the Orange Municipal Code, "Health and Safety – Weed and Rubbish Control," is hereby deleted in its entirety.

SECTION X.

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 XI:

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 ____ day of _____, 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