

## REPORT TO CITY COUNCIL

**DATE:** FEBRUARY 13, 2019

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER 

**BY:** RAMIRO ADEVA, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER 

**SUBJECT:** CONDUCT A PUBLIC HEARING TO CONSIDER ADOPTION OF ORDINANCE NO. 19-441 OF THE CITY OF AGOURA HILLS ADOPTING BY REFERENCE TITLE 11, DIVISION 1 OF THE LOS ANGELES COUNTY CODE (HEALTH CODE) AND ADOPTING BY REFERENCE SECTION 8.04.420 OF TITLE 8, RELATING TO PUBLIC HEALTH MONITORING AND ENFORCEMENT OF ONSITE WASTEWATER TREATMENT SYSTEMS; AND AMENDING THE AGOURA HILLS MUNICIPAL CODE

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On January 9, 2019, the City Council introduced by title only, Ordinance No. 19-441, and set a date for a Public Hearing on February 13, 2019 for the discussion and adoption of this ordinance. The Public Hearing Notice was published on January 24 and 31, 2019, in accordance with Government Code 5002.2 as it relates to ordinances that adopt other codes by reference.

In September 2000, the State of California adopted Assembly Bill 885, which required the State Water Resources Control Board (State) to adopt specific regulations outlining standards for the permitting and operation of Onsite Wastewater Treatment Systems (OWTS). On June 19, 2012, the State adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), which became effective on May 13, 2013.

The OWTS Policy established a waiver for Waste Discharge Requirement permits covering OWTS systems that meet the criteria set by the OWTS Policy. In addition to the waiver requirements, the OWTS Policy authorized local agencies to submit a Local Agency Management Program (LAMP) to the State for approval of alternate methods for siting and design to achieve the same purpose.

The County of Los Angeles Department of Public Health (County) has operated an ongoing program for the approval of the siting, design, operation, and maintenance of OWTS for individual residences within its Environmental Health Division. Subsequent to the State's adoption of the OWTS Policy, the County submitted a LAMP to the Los Angeles Regional Water Quality Control Regional Board (Regional Board) for approval. The Regional Board approved the County's LAMP on May 21, 2018, which covers those

areas within both the Los Angeles and Lahontan Regional Water Quality Control Boards. As a result, a conditional waiver of waste discharge requirements for all OWTS, complying with the LAMP, was granted.

The Los Angeles County Board of Supervisors approved Ordinance No. 2018-0037 to Implement the requirements of the LAMP on October 2, 2018. As such, the Los Angeles County Board of Supervisors delegated authority to the County Director of Public Health to enter into agreements with local jurisdictions to provide services under the LAMP.

The City of Agoura Hills (City) has existing OWTS, located mostly within the Old Agoura area, which has limited access to a public sewer system. Currently, the County provides plan check and approval services, on behalf of the City, for development projects requiring the installation of a new OWTS. Under LAMP, the existing OWTS will be required to be monitored on a regular basis with stringent enforcement of maintenance and upgrading of OWTS that are shown to be failing. Given that the County has the staffing with specific technical knowledge of the OWTS Policy and has provided these services to the City prior to their LAMP approval, the City proposes to continue designating the County as the Qualified Local Agency by entering into a Memorandum of Understanding (MOU), authorizing the County to implement its approved LAMP for those properties with OWTS in the City.

The LAMP does not require any changes for existing systems that are fully functional. Therefore, most residents will not have to do anything unless their existing system is failing, or if they decide to remodel and are required to install or upgrade to a new system. The City has a current MOU with the County to provide these services; however, this MOU will expire by the end of February 2019, which is an extension granted to the City after the Woolsey fires. Adoption of the MOU will allow the County to regulate OWTS and non-conventional OWTS (NOWTS) within the City, consistent with the County's existing practice. If authorized by the City Council, the new MOU would be effective upon the approval of the proposed resolution.

The benefit of adopting the County's LAMP ordinance is that the City will have the County's qualified staff perform inspections, and monitor OWTS and NOWTS for compliance within the City's jurisdiction. There are no fiscal impacts to the City from the LAMP Program; however, the residents with existing OWTS will be assessed the following fees through LAMP:

- Addition of a fee for annual permits for existing septic systems of \$5.00 to fund the annual Water Quality Assessment Program and the five-year program review. The fee will be assessed on the annual property tax bill.
- Addition of a fee for annual permits for NOWTS of \$43 and a Sewage/Septage Pumping Vehicle Operator of \$124.00 to offset the costs of the programs. If the LAMP is not adopted, residents and businesses who do not meet State OWTS Policy standards will have to pay annual fees of \$1,044 and \$2,088.

There is no environmental impact from the LAMP. The State's approval of policies for water quality control is a regulatory program that has been certified as exempt from the requirements of the California Environmental Quality Act (CEQA) by the Secretary for Natural Resources. Since the approval of the LAMP by the Regional Board was part of the State's OWTS Policy, the adoption of a local ordinance to implement the County's LAMP is also considered exempt per the Substitute Environmental Document.

## **RECOMMENDATION**

Staff respectfully recommends the following:

1. City Council conduct a Public Hearing to consider the adoption of Ordinance No. 19-441; and
2. Authorize the City Manager to execute a Memorandum of Understanding between the City of Agoura Hills and the County of Los Angeles, Department of Public Health regarding Onsite Wastewater Treatment Systems.

Attachments:     Ordinance No. 19-441  
                          MOU

**ORDINANCE NO. 19-441**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS ADOPTING BY REFERENCE DIVISION 1 (HEALTH CODE) OF TITLE 11 (HEALTH AND SAFETY) AND DIVISION 1 (PUBLIC HEALTH LICENSES REGULATIONS) OF TITLE 8 (CONSUMER PROTECTION, BUSINESS, AND USAGE REGULATIONS) OF THE LOS ANGELES COUNTY CODE RELATED TO PUBLIC HEALTH MONITORING, PUBLIC HEALTH LICENSES REGULATIONS, AND ENFORCEMENT OF ONSITE WASTEWATER TREATMENT SYSTEMS, AND AMENDING THE AGOURA HILLS MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 1 (Health Code) of Article V (Sanitation and Health) of the Agoura Hills Municipal Code is hereby amended in its entirety to read:

“5100. - Adoption of Health Code.

Except as provided herein, Division 1 (Health Code) of Title 11, (Health and Safety) of the Los Angeles County Code, as amended and in effect on December 1, 2018, is hereby adopted by reference as the Health Code of the City of Agoura Hills. In the event that any conflict or ambiguity arises between the provisions of the health code adopted in this section and any other provisions of the Agoura Hills Municipal Code, the provisions of the Agoura Hills Municipal Code shall prevail.

5101. - Amendment to Health Code.

(a) Notwithstanding the provisions of section 5100, the following words and phrases used in the Division 1 (Health Code) of Title 11 (Health and Safety) of the Los Angeles County Code are hereby amended to be defined as follows:

1. “County of Los Angeles” shall mean the City of Agoura Hills, except where the County of Los Angeles is the correct notation due to circumstances.

2. “Unincorporated area or territory of the County of Los Angeles” shall mean and include the area of the City of Agoura Hills in its true geographical location.

(b) Notwithstanding the provisions of section 5100, the health code of the City of Agoura Hills is hereby amended by amending Section 11.16.090 thereof to read:

*11.16.090. Keeping animals and birds—location restrictions and sanitation requirements.* A person shall not keep any animal, fowl or bird, wild or domestic, other than cats, dogs, canaries or birds of the psittacine family, within twenty-five (25) feet of any restaurant or food establishment, or within

one hundred (100) feet of any school building, hospital building or other similar institutional building. It is unlawful to keep or maintain a premises, yard, coop or building in which fowl or animals are maintained in a foul or unsanitary condition. The provisions of this section regarding distances shall not apply to accredited laboratories regulated by the state department of public health.

5102. - Adoption of public health licenses regulations.

Except as provided herein, Division 1 (Public Health Licenses) of Title 8 (Consumer Protection, Business and Wage Regulations) of the Los Angeles County Code, as amended and in effect on December 1, 2018, is hereby adopted by reference as the Public Health Licenses regulations of the City of Agoura Hills. In the event that any conflict or ambiguity arises between the provisions of the Public Health Licenses regulations adopted in this section and any other provisions of the Agoura Hills Municipal Code, the provisions of the Agoura Hills Municipal Code shall prevail."

Section 2. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Agoura Hills Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

Section 3. Civil Remedies Available. The violation of any of the provisions of this Ordinance or the Codes adopted hereby shall constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.

Section 4. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 5. The City Clerk shall certify to the adoption of this Ordinance, cause the same to be posted as required by law, and a certified copy hereof to be forthwith transmitted to the California Building Standards Commission.

**PASSED, APPROVED AND ADOPTED THIS** \_\_\_\_ day of February, 2019, by the following vote to wit:

AYES:        ( )  
NOES:         ( )  
ABSENT:      ( )  
ABSTAIN:     ( )

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Linda L. Northrup, Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

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Candice K. Lee, City Attorney

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF LOS ANGELES, DEPARTMENT OF PUBLIC HEALTH  
AND**

**THE CITY OF \_\_\_\_\_**

**REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS**

**EFFECTIVE DATE: \_\_\_\_\_**

**I. RECITALS**

WHEREAS, the State of California adopted Assembly Bill 885 in September 2000, to require the State Water Resources Control Board to adopt specific regulations or standards for the permitting and operation of onsite wastewater treatment systems (OWTS).

WHEREAS, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) on June 19, 2012 and it became effective on May 13, 2013.

WHEREAS, the OWTS Policy establishes a waiver of Waste Discharge Requirement permits for OWTS systems meeting the criteria of the OWTS Policy.

WHEREAS, the OWTS Policy establishes low risk siting and design requirements for OWTS subject to the OWTS Policy and authorizes local agencies to submit a Local Agency Management Program (LAMP) to the Regional Water Quality Control Board for approval of alternate methods of siting and design to achieve the same purpose.

WHEREAS, the County of Los Angeles, Department of Public Health (DPH) operates a program for the approval of the siting, design, operation and maintenance of OWTS for individual residences within its Environmental Health Division and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy.

WHEREAS, the County of Los Angeles (County) has submitted a LAMP to the Los Angeles Regional Water Quality Control Board for approval.

WHEREAS, the California Regional Water Quality Control Boards, upon mutual agreement, may designate one Regional Water Quality Control Board to regulate a person or entity that is under the jurisdiction of two or more Regional Water Quality Control Boards (Water Code Section 13228).

WHEREAS, the OWTS Policy Section 4.3 states that the Regional Water Quality Control Board designated in Attachment 3 shall review, and if appropriate, approve a Local Agency Management Program submitted by the local agency pursuant to Tier 2 in this Policy.

WHEREAS, OWTS Policy Attachment 3 identifies Los Angeles Quality Control Regional Board as the designated Regional Water Quality Control Board for the County of Los Angeles for purposes of reviewing and, if appropriate, approving new Local Agency Management Plans (LAMP).

WHEREAS, the Los Angeles Regional Water Quality Control Board has reviewed the County's LAMP, determined that it meets the requirements of the OWTS Policy, approved the County's LAMP on {Date} for those areas within both the Los Angeles and Lahontan Regional Water Quality Control Boards, and as a result has granted a conditional waiver of waste discharge requirements for all OWTS complying with the LAMP.

WHEREAS, the Los Angeles County Board of Supervisors approved Ordinance # \_\_\_\_\_ to implement the requirements of the LAMP on {Date}.

WHEREAS, the Los Angeles County Board of Supervisors delegated authority to the Director of Public Health to enter into agreements with local jurisdictions to provide services under the LAMP.

WHEREAS, the City of \_\_\_\_\_ (City) has existing OWTS and areas without access to a public sewer system.

WHEREAS, both the County of Los Angeles and the City are desirous of protecting the public's health and the quality of groundwater within the City.

NOW THEREFORE THE COUNTY OF LOS ANGELES AND THE CITY OF \_\_\_\_\_  
HEREBY AGREE AS FOLLOWS:

## II. DESIGNATION AND AGREEMENT

1. The City designates the County as the Qualified Local Agency (QLA) and the County accepts the designation for the implementation of the County's approved LAMP for the siting, design, operation, and maintenance of certain OWTS within the City's incorporated area.
2. The County and City agree that the County Health and Safety Code, Title 11, Chapter 38 and Requirements and Procedures adopted by the Director of DPH and/or Health Officer of the County and the County Plumbing Code will govern the applicable siting, design, operation, and maintenance of OWTS within the City. City will adopt County's ordinance governing OWTS into City's municipal code by resolution or ordinance.
3. The MOU shall be effective upon the date that City adopts County Ordinance # \_\_\_\_\_ into its municipal code and shall be in effect until terminated by either party in accordance with Section V.

## III. APPLICABILITY

1. OWTS subject to this agreement shall consist of those OWTS within the jurisdiction of the City that generate 10,000 gallons per day or less of domestic wastewater (as that term is defined in the OWTS Policy), that dispose of wastewater below the ground surface, that is generated from single family residences, multi-family residences, commercial buildings where the wastewater is from domestic sources (i.e., toilets, urinals, bathtubs, showers, dishwashing facilities, laundry washing, and garbage disposals), buildings which are a combination of commercial and residential, and commercial food service buildings with a wastewater with a Biological Oxygen Demand (BOD) of 900 mg/L or less and a properly functioning grease interceptor.



2. This MOU shall not apply to any other OWTS within the incorporated area of the City, including those that:
  - a) Generate more than 10,000 gallons per day,
  - b) Discharge high strength wastewater, other than commercial food service buildings meeting the above requirements,
  - c) Are commercial food service buildings that don't meet the above requirements,
  - d) Generate industrial wastewater,
  - e) Accept wastewater from Recreational Vehicles,
  - f) Utilize methods to dispose of wastewater above ground,
  - g) Treat and reuse wastewater onsite for non-potable uses.
  
3. Nothing in this MOU shall diminish or affect the ability of the City to exercise its authority through the Plumbing Code to regulate the type, siting, design and installation, for those OWTS that are exempt from the MOU to be operated within the incorporated area of the City. Issuance of a Waste Discharge Requirement or other permit by a Regional Water Quality Control Board shall not constitute authorization for any person or entity to construct, install, or operate any OWTS without City approval.

#### IV. GENERAL PROVISIONS

##### COUNTY RESPONSIBILITIES

1. The County will notify the appropriate Regional Water Quality Control Board that the City has entered an agreement to be regulated under the County's LAMP.
  
2. The County will review all applications for new, replacement or repair of OWTS for siting and design.
  
3. The County will review all applications for building permits where an OWTS is present on the property to evaluate whether the proposed construction will impact the OWTS by:
  - Potentially increasing wastewater flows,
  - Changing the strength of the wastewater,
  - Impinging upon required setbacks of the OWTS, any of its components, or the required 100% future expansion area.
  
4. The County shall provide the owner of the property or his/her representative with an approval of the application, a detailed list of corrections needed to proceed with the application, or a detailed reason why the project is unable to be approved. Projects that the County determines may impact ground or surface water may be directed to file a Report of Waste Discharge with the Regional Water Quality Control.
  
5. The County will maintain an inventory of all OWTS permitted within the City's incorporated area including OWTS Policy Tier, depth to groundwater, setback

information, and if a non-conventional onsite wastewater treatment system (NOWTS) was required.

6. The County will require an evaluation by a qualified professional of all OWTS and NOWTS which are determined to be exhibiting signs of failing. The County will issue compliance orders to owners of OWTS or NOWTS when a qualified professional determines the OWTS or NOWTS is in need of replacement or repair.
7. The County will issue an operating permit to all existing and new OWTS and NOWTS. The County will maintain a database of all NOWTS, including when the system was serviced by a service technician and the results of any effluent testing performed by a California certified laboratory, as required by the LAMP.
8. The County will license all Sewage Pumper Trucks that service OWTS within the City's jurisdiction.
9. The County will complete and submit an annual report by February 1 of each year detailing the number, location, and description of permits issued for OWTS where a variance is granted and assess the impact of OWTS discharges based on analysis of water quality data, complaints, inspection results, monitoring data, and failures. Other data outlined in the OWTS Policy, Section 9.32 will be reviewed if available.
10. The County will refer to the City for legal enforcement, any violation of the City's ordinance where the property owner has failed to comply with the written directives of the Health Officer or his/her duly authorized deputy.
11. The County may direct any property owner whose permit for a NOWTS is suspended or revoked for failure to comply with the directives of the Health Officer to file a Report of Waste Discharge with the Regional Water Quality Control Board. The County shall also inform the Regional Water Quality Control Board that the property owner is no longer operating under a waiver of Waste Discharge Requirements and is required to file a Report of Waste Discharge.

#### CITY RESPONSIBILITIES

1. The City will provide the County with a list of all known domestic OWTS, all OWTS with septic tanks greater than 10,000 gallons, OWTS with probable high strength waste streams, and cesspools within the City's jurisdiction within 60 days of the effective date of this agreement.
2. The City will annually provide the County with a list of properties where an existing OWTS was decommissioned and the property connected to the public sewer.
3. The City shall notify the County whenever a new building with a NOWTS is issued a Certificate of Occupancy.
4. The City shall refer any building permit application for a new building, remodel of an existing building, repair of an existing OWTS, or construction of any building or

permanent structure which may impinge upon an OWTS or future expansion area to the County. The City shall not issue a building permit for a project referred to the County unless plans are first approved by the County.

5. The City shall require a property owner to submit a Report of Waste Discharge (RWD) for issuance of Waste Discharge Requirements (WDR) by the appropriate Regional Water Quality Control Board for any OWTS project that does not meet the requirements identified in Section III of this agreement.
6. The City shall refer to the County any complaint alleging an OWTS is failing. The City shall indicate whether the City desires to conduct a joint investigation of the complaint.
7. The City shall investigate any complaint alleging construction of an OWTS or modification of an existing OWTS without obtaining the appropriate permits.
8. The City shall provide legal enforcement for any property owner who fails to comply with the City's ordinance and written directives issued by the Health Officer or his/her authorized deputy.
9. The City, upon cancellation of this MOU, shall comply with the Tier 1 requirements in the State OWTS Policy until the Regional Water Quality Control Board has approved a LAMP authorizing the City to use alternative requirements. If as a result of termination of this contract the Regional Water Quality Control Board determines that a WDR is required for existing NOWTS, the City shall be responsible for issuing a notice to the owner of each property where a NOWTS is installed within their jurisdiction directing the owner to obtain a WDR.
10. The City shall provide the County by December 31<sup>st</sup> of each year with surface or groundwater quality monitoring data for nitrates and pathogens that may be useful in the County's annual Water Quality Assessment Program. The data may be collected by the City as part of its National Pollutant Discharge Elimination System (NPDES) Permit requirements, a City operated water utility, or other monitoring program.

#### V. TERM AND TERMINATION

1. The City may terminate this MOU, with or without cause, upon ninety (90) days written notice. The City shall send all notices related to this MOU to:

County of Los Angeles Department of Public Health - Environmental Health Division

Director of Environmental Protection Branch

5050 Commerce Drive

Baldwin Park, CA 91706

The County shall send all notices related to this MOU to:

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2. The County may terminate this MOU, with or without cause, upon ninety (90) days written notice from the Director of Public Health to the City.
3. Upon the effective date of the termination, the City shall become responsible for enforcement of the State OWTS Policy within its jurisdiction.
4. In addition to the above, in the event that the State Water Board adopts new regulations regarding OWTS, the County may, at its discretion terminate this MOU upon the effective date of the new regulations. The City and the County, at their mutual agreement, may negotiate and adopt an amendment to this MOU to include the new regulations.

AUTHORIZING SIGNATURES