

*“DEPARTMENT’S DRAFT OWTS ORDINANCE FOR DISCUSSION PURPOSES ONLY, STILL SUBJECT TO FURTHER REVIEW BY THE CITY ATTORNEY, BOARD OF PUBLIC WORKS, CITY COUNCIL AND THE MAYOR”*

ORDINANCE NO. \_\_\_\_\_

**ONSITE WASTEWATER TREATMENT SYSTEMS (OWTS) MANAGEMENT PROGRAM ORDINANCE**

WHEREAS, the City of Los Angeles is authorized by Article XI, §5 and §7 of the State Constitution to exercise the regulatory authority of the State by adopting regulations to promote public health, public safety and general prosperity;

WHEREAS, the City of Los Angeles has authority under the California Water Code to adopt and enforce ordinances imposing conditions, restrictions and limitations with respect to any activity which might degrade the quality of waters of the state;

WHEREAS, the City of Los Angeles is committed to an onsite wastewater treatment system management program that protects water quality that balance environmental and economic considerations;

WHEREAS, the City of Los Angeles and Regional Water Quality Control Board entered into a Memorandum of Understanding (MOU) in May 12, 2005;

WHEREAS, the City of Los Angeles shall remain the agency responsible for the enforcement of all applicable code requirements for the siting, design, approval, installation, operation, maintenance, and monitoring of City regulated OWTS.

WHEREAS, within five (5) years of the effective date of the MOU, the City of Los Angeles shall adopt an ordinance requiring operating permits for high-risk systems in accordance with code.

WHEREAS, City Council adopted interim OWTS operating policy and revised stream definition in September 3, 2008.

WHEREAS, the City of Los Angeles conducted extensive public outreach to the affected areas between February and May of 2010 to solicit public comments and input.

WHEREAS, the City of Los Angeles requested, and was granted an extension of the MOU until December 31, 2010

WHEREAS, in the absence of state mandated AB885, the City of Los Angeles was granted an additional six (6) months extension of the MOU until June 30, 2011.

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NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Chapter VI, Article 4, Section 64.27 of the Los Angeles Municipal code is hereby added to read as follows:

**A. General Provisions**

1. **Purpose.** The purpose of this section is to:
  - (a) Safely use OWTS, referred to as Private Sewage Disposal System (PSDS) in the Los Angeles Municipal Code (LAMC), to treat and dispose of sewage in order to prevent environmental degradation including pollution of surface water and groundwater and to protect public health, safety and welfare to the greatest extent possible.
  - (b) Ensure compliance with standards, laws, and guidelines as adopted, and/or modified by the State of California, Water Resources Control Board or Los Angeles Regional Water Quality Control Boards.
2. **Scope.** One year after the adoption and approval of this Ordinance, by the City Council and the Mayor, the requirements of this Section shall apply to all new and existing single family residential (one or two dwelling units) OWTS in the City of Los Angeles. Multi-family (three or more dwelling units), Commercial & Industrial OWTS will remain under the jurisdiction of the State RWQCB.

**B. Definitions.** For purposes of this section:

1. **Applicant** shall mean property owner or the property owner’s Authorized Representative.
2. **Authorized Representative** shall mean a person or persons authorized by the property owner to act on the property owner’s behalf on matters pertaining to application for permits and services.
3. **Existing OWTS** shall mean an OWTS that was either permitted by Los Angeles Department of Building & Safety or legally installed before the effective date of this Ordinance.
4. **Failing OWTS System** shall mean any on-site wastewater system that:

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- (a) discharges untreated or inadequately treated wastewater or septic tank effluent directly or indirectly onto the ground surface, into a dwelling, or into surface or groundwater; or
  - (b) is not operated in compliance with permit requirements for operation, monitoring and maintenance; or
  - (c) has been retrofitted with unapproved components or been modified from the original approved design; or
  - (d) does not meet effluent quality standards as specified in the approved wastewater system design.
5. **High-Risk Areas** shall mean any location within six hundred (600) linear feet of Impaired Water Bodies, or within nine hundred (900) feet from an active public water well.
  6. **High-Risk OWTS** shall mean any OWTS that are located in high-risk areas.
  7. **Impaired Water Body** shall mean any water body that has been designated as impaired due to nitrogen or pathogens pursuant to Section 303(d) of the Clean Water Act.
  8. **LADBS** shall mean the Los Angeles Department of Building and Safety.
  9. **Memorandum of Understanding (MOU)** shall mean a formal agreement between the Regional Water Quality Control Board and the City. The agreement authorizes the City to administer the OWTS Management Program in lieu of direct State regulation of discharges from OWTS.
  10. **Monitoring and Reporting (M&R) Program** shall mean regular monitoring and reporting provided to OWTS to insure their long-term viability.
  11. **New OWTS** shall mean an OWTS permitted after the effective date of this Ordinance.
  12. **Onsite wastewater treatment system(s) (OWTS)** shall have the same meaning as found in §13290 of the California Water Code and this Section. In conjunction, it shall have the same meaning as Private Sewage Disposal System (PSDS) found in LAMC Appendix K. The acronym “OWTS” may be singular or plural.
  13. **Operating Permit** shall mean the administrative document issued by the City authorizing the initial and/or continued use of an on-site wastewater system, as specified herein.

14. **Operation and Maintenance (O&M) Program** shall mean regular inspection and service provided to OWTS to insure their long-term viability.
15. **Owner** shall mean any person who alone, or jointly, or severally with others:
  - (a) has legal title to any single lot, dwelling, dwelling unit, or commercial facility, or an easement, allowing installation and maintenance of a wastewater system; or
  - (b) has care, charge, or control of any real property as applicant, executor, executrix, administrator, trustee or guardian of the estate of the holder of legal title.
16. **Performance requirements** shall mean the maximum allowable concentrations of biological oxygen demand (BOD), total suspended solids (TSS), total nitrogen (TN), and total coliform resulting from the active treatment of domestic wastewater from an OWTS.
17. **Replaced OWTS** shall mean an OWTS that has its treatment capacity expanded, or its dispersal system replaced, after the effective date of this Ordinance. This includes modified or altered OWTS.
18. **Supplemental treatment** shall mean any OWTS or component of an OWTS, except a septic tank or dosing tank that performs additional wastewater treatment so that the effluent meets the performance requirements of Section H prior to discharge of effluent into the dispersal field.
19. **Telemetric** shall mean the ability to automatically measure and transmit OWTS data by wire, radio, or other means.

### **C. Regulations**

1. Conventional OWTS approved after the effective date of this Ordinance shall be sited and designed so as to have a minimum horizontal separation of 600 linear feet from 303(d) impaired water bodies for Nitrogen and bacteria, and 900 linear feet from active public drinking water wells. Systems that do not meet these criteria shall be identified as “High-Risk OWTS”.
2. Only supplemental OWTS shall be used in High-Risk areas after the effective date of this Ordinance.

3. Any person operating a conventional OWTS in High Risk areas shall obtain a report of certified inspection from a qualified service provider a minimum of once every three (3) years. The certified inspection report shall verify that the level of settleable solids and/or floatable solids do not impair the performance of the septic tank.
4. Operation & maintenance service contract from a qualified service provider or manufacturer is required for supplemental or advanced OWTS, only.
5. The owner shall retain a Record Plan and an Operation and Maintenance (O&M) manual for any new or replaced OWTS upon completion of an OWTS installation.
6. The construction of new cesspools in the City of Los Angeles will continue to be disallowed.

#### **D. General Ordinance Requirements**

1. Any person using a conventional OWTS in High-Risk areas shall obtain an Operating Permit. Said Operating Permit shall be renewed every three (3) years with a fee of \$350.
2. Any person using a supplemental/advanced OWTS in High-Risk areas shall obtain an Operating Permit. Said Operating Permit shall be renewed every one (1) year with a fee of \$800.
3. An application for OWTS registration or operating permit shall be deemed complete when all requirements for this category of OWTS, in the table, in subsection 6 of this section is met.
4. Applications for the renewal of registration or operating permit renewal shall be filed with the City within the ninety (90) days prior to the expiration date, or earlier.
5. The City will take over regulatory responsibilities of residential OWTS in high risk areas, and will issue operating permits, instead of the current WDR’s issued by the RWQCB.
6. **OWTS Categories, Requirements and Fees**

As indicated in the table below, this ordinance recognizes the following three categories of OWTS: Non High Risk OWTS, High Risk Convention OWTS, and High Risk Supplemental/Advanced OWTS. All requirements for each of the three categories of OWTS is indicated in the table below and must be met in order to be issued a valid Registration for non high risk OWTS or a valid Operating Permit for either categories of high risk OWTS.

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	<b>NON HIGH RISK OWTS</b> <i>(11,443 properties) 98.37% of total</i>	<b>HIGH RISK CONVENTIONAL OWTS</b> <i>(182 properties) 1.56%</i>	<b>HIGH RISK SUPPLEMENTAL/ ADVANCED TREATMENT OWTS</b> <i>(8 Properties) 0.07%</i>
Initial Registration or Permit	Register and self certify that OWTS are being properly maintained at all times.	Submit a valid certified inspection report from a qualified service provider and pay permit fee of \$350. *	Submit a valid Operation & Maintenance Agreement, from a qualified service provider or manufacturer that includes routine service inspections and pay permit fee of \$800.
Renewal Period	Renew registration once every three years, within 90 days of registration expiration.**	Renew operating permit every three years, within 90 days of permit expiration.**	Renew operating permit annually, within 90 days of permit expiration.**
Self- Certify	When registering, self-certify that OWTS are properly maintained at all times.	n/a	n/a
Certified Inspection	n/a	Required; must submit proof (evidence or a report) of a passing certified inspection by a qualified (licensed and certified) service provider.	Covered by the submission of a valid Operations & Maintenance Agreement from a qualified service provider or manufacturer that includes routine service inspections.
Operations & Maintenance Agreement	n/a	n/a	Required; must submit a copy of the Operations & Maintenance Agreement, from a qualified service provider or manufacturer that includes routine service inspections, within 90 days of permit expiration.
Monitoring Report	n/a	n/a	Required; must submit annual monitoring report within 90 days of permit expiration.
Record Plan & and Operation and Maintenance (O&M) Manual	Retain copy of all OWTS related records, on-site, for a minimum of five years.		
Transfer Requirements & Fees	New owner shall register and self certify, if there is no valid registration and certification, or the new owner shall re-register and self re-certify if there is a valid registration and certification that OWTS are being properly maintained at all times, within 30 days of the close of escrow (no fee).	Pay \$50 at point of sale. Must be submitted by new owner within 30 days of the close of escrow and the operating permit will remain valid for the remaining period of the operating permit cycle. If there is no valid operating permit, one shall be obtained by the buyer or new owner, within 30 days of the close of escrow.	Pay \$50 at point of sale. Must be submitted by new owner within 30 days of the close of escrow and the operating permit will remain valid for the remaining period of the operating permit cycle. If there is no valid operating permit, one shall be obtained by the buyer or new owner, within 30 days of the close of escrow.
Payment/ Registration	Complete on-line, by mail, phone, or in person.***	Complete on-line, by mail, phone, or in person.***	Complete on-line, by mail, phone, or in person.***

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or Permit Options			
Fees	No fee (Free)	\$350 every three years, paid within 90 days prior to permit expiration.	\$800 annual fee, paid within 90 days prior to permit expiration.

\* - A certified inspection is provided by a licensed certified service provider, who must have a valid state contractor C-36 or C-42 license and possess California Onsite Wastewater Association or National Association of Wastewater Transporters certification.

\*\* - Requirements for the first operating permit and registration cycle shall be completed by **July 1, 2012 deadline or one year after ordinance is adopted, whichever is later.**

\*\*\* - Bureau staff is currently working on the on-line procedure, and expects to have it in place before registration begins.

The fees indicated in the table above will be paid to the City of Los Angeles to cover the cost of implementing the requirements of the ordinance.

The City may require high risk OWTS to install an Advanced/Supplemental Treatment System if a conventional OWTS in a high risk area as determined by the City fails, per Los Angeles Plumbing Code, Section 94.101.15. All conventional high risk OWTS will have to pass an inspection and be certified prior to initial registration and subsequent registration renewal.

**E. ZERO COST REGISTRATION – NON HIGH RISK OWTS**

The zero cost of registering non-high risk OWTS will be staggered and scheduled by the Director in such a way as to reduce staff time to a minimum, in the following manner:

Phase One: The first 3,000 applicants to register shall have a valid registration for approximately 3 years ending June 30, 2015 or thereafter as may be determined by the Director;

Phase Two: The next 4,000 applicants shall have a valid registration for approximately 2 years ending June 30, 2014 or thereafter as may be determined by the Director;

Phase Three: The remaining approximately 4,443 applicants shall have a valid registration for approximately 1 year ending June 30, 2013 or thereafter as may be determined by the Director.

From the second registration cycle and onward, all applicants shall have a valid registration for 3 years. However, Operating permit cycle for the high risk OWTS will not be staggered.

**F. Fines and Penalties for non-compliance.**

Property owners who fail to comply with any of the requirements for their category of OWTS as stated above will be subject to fines for non-compliance at the following rates:

	<b>Monthly Penalty (First 90 Days)</b>	<b>Monthly Penalty (91+ Days)</b>
Non High Risk OWTS	\$25	\$25
High Risk OWTS Conventional	\$50	\$250
High Risk OWTS Advanced/Supplemental	\$100	\$500

In addition to above fines, the penalty upon conviction shall not be more than a fine of \$1,000 or imprisonment in the county jail, not exceeding six months, or both fine and imprisonment. Violations are deemed to be continuing violations, and each day that a violation continues is deemed to be a new and separate offense.

Fines for failure to install a supplemental/advanced treatment system when one is ordered by the Director for an OWTS that has failed in a high risk area shall result in the fees as described in the table above. In addition, fines and penalties for failure to correct a failing OWTS may also be levied by other existing or new programs and agencies, including the Los Angeles Department of Building Safety, the County of Los Angeles, etc.

**G. Qualified Service Providers**

Qualified OWTS service providers will be required to be certified. A certified service provider shall be qualified and certified to perform operation, monitoring, reporting, inspections, and routine maintenance of OWTS. Qualified Service providers should possess a valid and current State of California contractor license C36 or C42, and should have valid and current certification from the National Association of Wastewater Transporters (NAWT) approved training, or through training with California Onsite Wastewater Association (COWA) or through other organizations that may be designated by the Director that offer appropriate training.

**H. Change of Ownership**

1. A person buying a parcel in high risk areas that has a valid operating permit shall notify the City of the transfer within 30 days of close of escrow and pay an operating permit transfer fee of \$50 and the operating permit will remain valid for the remaining period of the operating permit cycle. If there is no valid operating permit, one shall be obtained by the buyer or new owner, within 30 days of the close of escrow.
2. A person buying a parcel in non high risk areas that has a valid registration certificate shall notify the City of the transfer within 30 days of close of escrow and re-register and

recertify at no cost. If there is no valid registration certificate, one shall be obtained by the buyer or new owner, within 30 days of the close of escrow at no cost.

**I. Performance Requirements for Supplemental Treatment Systems.** The City shall require supplemental treatment systems for any existing or new OWTS where treatment is needed to mitigate for insufficient soil depths or to provide protection of water quality and public health.

1. **Operation and Maintenance (O&M) Program.** Each owner of a new OWTS with supplemental treatment components or existing OWTS with supplemental treatment components shall maintain a contract with a qualified service provider to ensure that the OWTS is operated, maintained and monitored as designed.
2. Supplemental treatment components, other than for disinfection or nitrogen reduction, shall be designed to reduce biochemical oxygen demand (BOD) and total suspended solids (TSS) concentrations. Supplemental treatment components, other than for disinfection or nitrogen reduction, shall produce an effluent that meets the following requirements:
  - (a) The 30-day average carbonaceous BOD (CBOD) concentration shall not exceed 25 milligrams per liter (mg/L), or alternately the 30-day average BOD shall not exceed 30 mg/L; and
  - (b) The 30-day average TSS concentration shall not exceed 30 mg/L
3. Supplemental treatment components designed to perform disinfection shall provide sufficient pretreatment of the wastewater so that effluent does not exceed a 30-day average TSS of 10mg/L and shall further achieve an effluent total coliform bacteria concentration, at the 95 percentile, no greater than either of the following:
  - (a) 10 Most Probable Number (MPN) per 100 milliliters prior to discharge into a dispersal field where the soils exhibit percolation rates between 1 and 10 minutes per inch (MPI) or where the soil texture is sand; or
  - (b) 1000 MPN per 100 milliliters prior to discharge into a dispersal field where the soils exhibit percolation rates greater than 10MPI or consist of a soil texture other than sand.
4. Effluent from supplemental treatment components designed to reduce nitrogen shall not exceed a 30-day average TN concentration of 10mg/L as nitrogen.
5. Before the installation of any proprietary supplemental treatment OWTS, all such treatment components shall be tested by an independent third party testing laboratory. The independent third party laboratory shall certify that the type of system being installed and its components are capable of reliably meeting applicable performance requirements

when installed according to design and manufacturer specifications, based upon the results from the testing protocol.

6. OWTS with supplemental treatment components shall be equipped with a visual or audible alarm as well as a telemetric alarm that alerts the owner and service provider in the event of system malfunction. OWTS using supplemental treatment shall, at a minimum, provide for 24-hour wastewater storage based on design flow as a means to minimize pollution from overflow discharge after a system malfunction or power outage.
7. OWTS designed to meet the disinfection performance requirements shall be inspected for proper operation weekly by a qualified service provider unless a telemetric monitoring system is capable of continuously assessing the operation of the disinfection system. Testing of the effluent from supplemental treatment components that perform disinfection shall be based on analysis of total coliform with a minimum detection limit of 2.2 MPN. Effluent samples shall be taken by a qualified service provider and analyzed by a California Department of Health Services certified laboratory

#### **8. Monitoring and Reporting (M&R) Program**

- (a) **Pre-Notification.** Any OWTS owner may be required by the Director, by permit or otherwise, to engage in periodic monitoring and sampling of its effluent discharge. Where an OWTS owner is required to monitor or sample, the OWTS owner shall notify the director by telephone at least 48 hours in advance of any monitoring or sampling performed. Notification shall include the date, time and location of proposed monitoring and sampling. Monitoring and sampling shall be carried out during a period of normal operations. Prior to the commencement of any sampling or monitoring, the Director may request that the OWTS owner furnish to the Director a split sample and all supporting data (i.e., methodology, flow measuring data, strip chart recordings, and other pertinent information). The director reserves the right to refuse any data developed from the monitoring or sampling activity if the OWTS owner fails to comply with the pre-notification procedure.
- (b) **Notification of Discharge Violations and Resampling.** If sampling performed by an OWTS owner or authorized representative indicates a violation, the OWTS owner shall notify the Director within 3 days of becoming aware of the violation. The OWTS owner shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation, except the OWTS owner is not required to resample if:
  - i. The Director performs sampling at the OWTS owner’s residence at a frequency of at least once per month, or
  - ii. The Director performs sampling at the OWTS owner’s residence between the time when the OWTS owner or authorized representative performs its initial sampling and the time the OWTS owner receives the results of this sampling.

- (c) **Representative Samples.** Effluent samples shall represent the normal wastewater flow to the OWTS over a 24-hour period. Composite samples shall be collected according to time or flow as specified by the Director.
- (d) **Sample Analysis.** The handling, storage, and analysis of all samples taken for the determination of the characteristics of effluent discharged shall be performed by laboratories certified by the State of California. In the absence of a state certification process, the Director may approve of a laboratory to perform any necessary sampling and analysis.

## 9. **Inspection and Sampling**

- (a) **Inspections to Enforce Local, State, and Federal Laws.** Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this section or other applicable law, or whenever the Director has reasonable cause to believe that there exists upon any premises any violation of the provisions of this section or other applicable law, or any condition which makes such premises hazardous, unsafe, or dangerous, the Director is hereby authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the Director by this section or other applicable law provided that:
  - i. If the property is occupied, the Director shall first present proper credentials to the occupant and request entry explaining the reasons therefore and;
  - ii. If the property is unoccupied the Director shall first make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry, explaining the reasons therefore. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the Director shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.
- (b) **Inspections to Safeguard the Public Health or Safety.** Notwithstanding the foregoing, if the Director has reasonable cause to believe that wastewater effluent discharge conditions on or emanating from the premises are so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, the Director shall have the right to immediately enter and inspect the property, and may use any reasonable means required to effect such entry and make such inspection, whether the property is occupied or unoccupied and whether or not formal permission to inspect has been obtained. If the property is occupied, the Director shall first present proper credentials to the occupant and demand entry, explaining the reasons therefore and the purpose of the inspection.
- (c) **Penalty for Refusal to Permit Director to Make Inspections.** No person shall fail or refuse, after proper demand has been made upon that person as provided in Paragraph (b)

of this Subdivision 8, to promptly permit the Director to make any inspection provided for by said Paragraph (b). Any person violating this subdivision shall be guilty of a misdemeanor.

(d) **Consent and Agreement to Enter Premises.** The applicant, by accepting any Operating Permit or Registration Certificate issued pursuant to this section, does thereby consent and agree to the entry upon the premises, described in the permit, by Department personnel for the following purposes as required by this section or other applicable laws. The City shall be afforded access at all reasonable times:

- i. for the purposes of inspection, sampling, flow measurement, examination of records in the performance of other authorized duties;
- ii. to set up on the homeowner’s property such devices as are necessary to conduct sampling inspections, compliance-monitoring, flow measuring or metering operations;
- iii. to inspect and copy any records, reports, test results or other information required to carry out the provisions of this section; and
- iv. to photograph any waste, waste container, vehicle, waste treatment process, discharge location, or violation discovered during an inspection.

(e) **Entry of Premises with Security Measures.** Where a homeowner has instituted security measures requiring proper identification and clearance before entry onto the premises, the homeowner shall make all necessary arrangements with its security guards in order that, upon presentation of such identification, City personnel shall be permitted to enter the premises without delay for the purpose of performing their authorized duties.

10. The Director, at his/her discretion, may require other reports or information submitted by homeowners, to meet reporting requirements as the Director deems appropriate.

11. **Monitoring Facilities.** The Director may require to be provided, operated and maintained at the homeowner’s expense, separate and secured monitoring facilities to allow inspection, sampling, and flow measurement of the OWTS discharge. The monitoring facilities ordinarily shall be situated on the homeowner’s premises and in said event the Director shall be granted total and unrestricted access thereto and use thereof by the homeowner as a condition of the homeowner’s operating permit; however, at its discretion the Board may allow monitoring facilities to be constructed off-premises.

12. Specifications in this monitoring program are subject to periodic revisions. Monitoring requirements may be modified or revised by the City based on review of monitoring data submitted pursuant to this M&R Program. Monitoring frequencies may be established and adjusted by the Director as needed.

## **J. Appeals**

1. **Appeal to the Director.** Any person who owns, uses, or maintains an OWTS which is in compliance with all applicable laws, rules, and regulations, may appeal any requirement, section, interpretation or implementation of this ordinance to the Director within 30 days of the date of occurrence or passage of this ordinance, whichever is later. The property owner or her/his representative must demonstrate that the requirements of the ordinance: will result in extreme financial hardships, or were improperly applied (i.e. the property is not in a high risk area, etc.). An appeal to the Director is an administrative process that requires a written response, but no hearing. The fee for appealing to the Director shall be \$100 for each appeal. The appeal fee shall be returned to the appellant if the appeal is granted.

The number of appeals may not be limited, however repeated appeals based on the same issues may be denied or previous responses could be cited by the Director as a response to subsequent appeals of materially the same nature or content.

2. **Discretion of Director.** The Director may grant an appeal that may include an extension of the deadline for compliance if the Director finds that the applicant has demonstrated that:
  - (a) the strict application of the requirements will result in extreme hardships unessential to the overall purpose of such requirements; or
  - (b) the continued operation of the subject OWTS will not have any significant adverse effect to Public Health and the environment; or
  - (c) Designation or requirement was improperly applied, or interpreted, (i.e., the property is not a high risk or is not a residential [1 or 2 dwelling units] property, or
  - (d) For any other reasons as may be determined by the Director.

The determination of the Director shall be in writing. The Director may impose reasonable conditions upon the granting of an appeal, including a requirement that connection to a public sewer and disconnection and abandonment of an OWTS, or a requirement to upgrade OWTS occur within 60 days of a change of ownership of the property.

The effective period of any appeal granted to an applicant shall not exceed two years. Renewal of an appeal shall require re-appealing in writing and paying the appropriate appeal fee and shall be answered with the same the discretion of the Director in accordance with the provisions of this subsection.

The Director shall act upon an application for an appeal within 90 days of its filing or the appeal is deemed granted and appeal fees returned to the appellant.

3. **Appeal to Board.** An appeal of a determination by the Director may be filed with the Board by the applicant or any person aggrieved by the determination, or by any officer, Board, or Department or Bureau of the City. Appeals to the Board shall be filed with the Secretary of the Board within fifteen days of the Director’s action or determination on the appeal to the Director. The appeal fee to the Board shall be \$150, for a maximum appeal fee of \$250. An appeal to the Board requires a hearing that will be scheduled by the Board. The Board, after notice duly given, shall hear and act upon the appeal, within 90 days of its filing . If the Board fails to act within 90 days of the filing of an appeal to the Board, the decision of the Director shall be deemed affirmed. In considering appeals the Board shall be subject to the same limitations and discretions as are applicable to the Director under Paragraph 2 of this subsection.

**K. Enforcement.** All violations of this Section are determined to be unlawful and declared to be detrimental to the public health, safety and welfare, and are public nuisances.

1. The City may condemn, according to law, any residence or other establishment that is accumulating or disposing of wastewater in a manner contrary to the requirements of this Section.
2. No person shall obstruct, impede or interfere with an authorized representative of the City in the performance of code enforcement and nuisance abatement duties pursuant to this Section.
3. When it is necessary to make an inspection to enforce the provisions of this Section, or when the City has reasonable cause to believe that there exists in a building or upon a site a condition which is contrary to or in violation of the sections of this Section, the authorize representative may enter the building or site at reasonable times to inspect or to perform duties imposed by this Section, provided that if such building or site is occupied at the time of inspection, proper credentials shall be presented to the occupant and entry shall be requested. If such building or site is unoccupied, the City shall first make a reasonable effort to locate the owner or other person having charge or control of the building or site and shall request entry to the building or site. If entry is refused, the City shall have recourse to the remedies provided by law to secure entry/access.
4. **Cause for Enforcement Action.** An enforcement action may be initiated against a permittee for any of the following reasons:
  - (a) When an OWTS effluent discharge, may cause, or otherwise may have an adverse effect on public health, safety or welfare; or on the environment;
  - (b) When an OWTS owner obtains its Operating Permit by misrepresentation or fails to disclose fully all relevant facts in either the Operating Permit application or any report,

including falsification of monitoring reports or manifests or tampering with monitoring equipment;

- (c) When an OWTS owner fails to provide timely access to its records;
- (d) When an OWTS owner fails to timely pay applicable fees;
- (e) When an OWTS owner exceeds effluent “discharge limitations”;
- (f) When an OWTS owner fails to provide complete and accurate reports;
- (g) When an OWTS owner violates any term or condition of its Operating Permit, this Section, or any order issued hereunder; and/or
- (h) When the Director determines that a permittee has acted in any manner inconsistent with the intent of this section, the Operating Permit or the laws governing the operation of OWTS.

Enforcement actions as provided herein may include any or all of the following:

#### **5. Administrative Orders**

- (a) **Scope of Administrative Orders.** The Director may issue Administrative Orders containing such terms and requirements as deemed necessary by the Director for determining the compliance status of the OWTS owner; requiring the OWTS owner to achieve compliance; and/or suspending the Permit(s) and requiring the cessation of effluent discharge in whole or in part.
- (b) **Effect of Administrative Order**
  - i. Failure of an OWTS owner to comply with any condition or requirement set forth in any Administrative Order issued hereunder is a violation of this section and is independently enforceable for each day of a violation. An Administrative Order has the full force of law and is enforceable in a court of law. Administrative Orders shall become effective and final upon issuance by the Director.
  - ii. An OWTS owner’s compliance with the requirements of an Administrative Order shall not relieve the OWTS owner of liability for any violation of an Operating Permit, this section, or other legally applicable requirements occurring before or after receipt of the Administrative Order.
  - iii. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions, or any other enforcement action, whether or not an Administrative Order has been issued.

(c) **Description of Administrative Orders.** Administrative orders which the Director may issue include, but are not limited to, the following:

i. **Consent Orders.** The Director and the OWTS owner may enter into a Consent Order establishing an agreement for achieving compliance with discharger requirements. Consent Orders reflect the agreement of the Director and the OWTS owner and are not appealable to the Board or otherwise subject to administrative or judicial appeal.

ii. **Cease and Desist Orders.** The Director may issue Cease and Desist Orders requiring OWTS owners, among other things, to cease and desist all such violations and directing the user to:

(A) Immediately comply with all Permit, Code requirements, and;

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge or preventing further discharges.

iii. **Compliance Orders.** The Director may issue Compliance Orders requiring OWTS owners, among other things to:

(A) Comply with interim and/or final dates and steps for achieving compliance;

(B) Submit and implement a plan of corrective actions to be taken to maintain consistent and permanent compliance;

(C) Submit and implement a pollution prevention plan;

(D) Conduct additional self-monitoring; and/or

(E) Pay all delinquent fees and charges.

iv. **Permit Suspension Order.** The Director may issue Operating Permit Suspension Orders suspending the right of the homeowner to operate OWTS. A Permit Suspension Order may be issued due to the homeowner’s failure to pay applicable fees or penalties or for other good cause, including causes as specified in Subdivision 4 of this Subsection.

## 6. **Notice of Violation**

(a) The Director may serve upon an OWTS homeowner a written Notice of Violation. The Notice of Violation may require the homeowner to promptly respond to the Director within a specified time period and to identify the reason(s) and cause(s) for the violation(s) and a plan for the satisfactory correction and prevention of future violations.

- (b) **Effect of Notice of Violation.** Submission of the response by an OWTS homeowner to a Notice of Violation does not relieve the homeowner of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, whether or not a Notice of Violation has been issued.
7. If full enforcement with the requirements of this section has not been achieved by the deadline for full compliance, the Director shall do all of the following:
- (a) Issue a Notice of Violation to the owner of the affected property and the person using or maintaining the OWTS.
- (b) provide to the City Attorney copies of the applicable Notice to Connect or Upgrade OWTS, Reminder Notice, Final Notice, and Notice of Violation, and proof that such notices were delivered or mailed, together with any responses to such notices which may have been received by the Director, and the records concerning any application for appeal and any appeal there from which may have been filed.
- (c) Provide to the Department of Water and Power a copy of the Notice of Violation. A written request that water service be discontinued at the affected property may also be filed with said department if deemed appropriate by the Director; and
- (d) Provide to the Superintendent of Building a copy of the Notice of Violation. Any building which is the subject of a Notice of Violation is hereby declared to be a public nuisance and the Director may request the Superintendent of Building to order that the subject building be vacated and remain vacated until full compliance with the Notice of Violation has been achieved.
8. Upon receipt of the Notice of Violation and request described in this subsection, the Department of Water and Power shall initiate procedures to discontinue water services, if specified by the Director, after providing reasonable notice thereof to the occupying party and the owner of the property, and the Department of Building and Safety. Upon receipt of notification from the Director that compliance has been achieved, the Department of Water and Power shall act to reinstitute normal water service.
9. Notwithstanding any provision of this Code to the contrary, upon receipt of the Notice of Violation and notice that the Department of Water and Power intends to discontinue water service, the Superintendent of Building shall order the subject building to be vacated in accordance with the procedures set forth in Section [91.8903](#) of this Code.
10. In addition to the use of any other remedy, the City may seek legal or equitable relief in Los Angeles County Superior Court to enjoin any act or practice and to abate any conditions that constitute or will constitute a violation of this section.

*“DEPARTMENT’S DRAFT OWTS ORDINANCE FOR DISCUSSION PURPOSES ONLY, STILL SUBJECT TO FURTHER REVIEW BY THE CITY ATTORNEY, BOARD OF PUBLIC WORKS, CITY COUNCIL AND THE MAYOR”*

If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall no affect remaining provisions of this Ordinance are declared to be severable.

The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I herby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at it’s meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

Carmen Trutanich, City Attorney

By \_\_\_\_\_  
Edward Jordan  
Assistant City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_

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