ITEM NO.30

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING CHAPTER 37 OF THE OCEANSIDE CITY CODE BY DELETING SUBSECTION 37.102(d) AND ADDING ARTICLE VIII, RECYCLED WATER

WHEREAS, the City Council has determined the necessity of establishing general regulations for the installation and connection of service, cross connection control program, meters, mains and main extensions for the recycled water system within the City of Oceanside; and

WHEREAS, the City Council has determined that such regulations provide for the protection and maximum beneficial public use of the City's recycled water system.

WHEREAS, on March 27, 1991, the City Council approved Ordinance No. 91-15 related to water conservation;

WHEREAS, Ordinance No. 91-15, Section 37.102 (d) does not comply with current requirements;

NOW, THEREFORE, the City Council of the City of Oceanside DOES ORDAIN as follows:

SECTION 1. Subsection (d) of Section 37.102 of the Oceanside City Code is hereby deleted.

SECTION 2. Article VIII is hereby added to Chapter 37 of the Oceanside City Code and shall read as follows:

"ARTICLE VIII. RECYCLED WATER"

Section 37.140 Intent and Purpose.

It is the intent of this Article to promote the conservation and establish regulations for the installation and connection of service, cross connection control program, meters, mains and main extensions for the recycled water system within the City. The City Council, in enacting the ordinance codified in this article, intends to provide for the protection and maximum beneficial public use of the City's recycled water system, to enable the proper installations of

the recycled water system, to ensure the correct uses of the recycled water within the City, and to promote public health and safety.

The City shall provide recycled water wherever the City determines its use is economically and technically feasible and consistent with the City's Recycled Water Master Plan, developed to meet the projected economic, regulatory and facility needs of the City's recycled program.

Section 37.141 Definitions.

As used in this Article, the following terms are defined in this section.

"Administrative Authority" means the director of the Water Utilities Department or his or her designated representative.

"Applicant" means any person or entity that may request recycled water service.

"Authorized Enforcement Officials" means the Water Utilities Director of the Water Utilities Department or his or her designated representative.

"Authorized Enforcement Staff" means any city employee supervised by an authorized enforcement official, assigned to duties involving permits and other city approvals, inspections, and enforcement related to this chapter.

"Authorized Inspector" means the director of the Water Utilities Department or his or her designated representative.

"*Customer*" means any person to whom the City supplies recycled water service under contract, either expressed or implied, to make payment therefor.

"*Delivery Charge*" means the minimum monthly charge to a customer for the availability of service, the revenue from which enables the City to maintain and operate the recycled water system ready to deliver to a customer. The delivery charge shall be based on the size of the water meter that is appropriate to provide service for the customer.

"*Design Manual*" means the latest edition of the City of Oceanside's Water, Sewer and Recycled Water Design and Construction Manual adopted by Resolution 04-R940-1.

"*Dwelling Unit*" is one (1) or more habitable rooms which are occupied or which are intended or designed to be occupied by one (1) or more individuals with facilities for living,

sleeping, cooking, and eating and includes a mobile home and manufactured home.

"*Extension*" means recycled water pipeline extension.

"*Grey Water*" means untreated waste water which has not come into contact with toilet waste. Grey water includes waste water from bathtubs, showers, bathroom wash basins, clothes washing machines, and laundry tubs.

"*Industrial or Commercial*" means any customer using recycled water for landscape irrigation on the site that is not a residential unit, but used for the purpose of producing either goods or services.

"*Landscape Impoundment*" means a body of water used for aesthetic or irrigation purposes and not intended for public contact or ingestion, which may contain recycled water.

"*Meter*" means a device to measure the amount of recycled water the customer uses in units, where one unit is 748 gallons.

"*Pipeline*" means an existing or proposed recycled water pipeline in the recycled water distribution system.

"*Off-Site Recycled Water Facilities*" means facilities under the control of the City generally located between the supply main and the recycled water meter.

"*On-Site Recycled Water Facilities*" means the customer-operated portion of the recycled water system located within private property, between the recycled water meter and the point of use.

"*Recycled Water,*" sometimes referred to as reclaimed water, means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and also meets the highest level of conformance with California Code of Regulations, Title 22, Division 4, Chapter 3 (use of recycled water for irrigation and for impoundments), currently section 60304 and section 60305. The meaning of recycled water in this definition does not include grey water.

"*Recycled Water Connection Fee*" means the fee paid for the planning, design and construction of capacity improvements and/or new facilities required for the delivery, distribution and storage or recycled water.

"*Water Utilities Director*" shall mean the person designated by the City Manager to have charge of the administration and supervision of the Water Utilities Department and such other duties as the City Manager may prescribe.

Section 37.142 Recycled Water Mains

All new commercial, industrial, multi-family and residential developments of four (4) units or more are required to install a dual recycled water system for the purposes of irrigation of landscape and all common areas.

A. All new and extensions to recycled water mains shall be a minimum of six inches in diameter.

B. All sub-dividers shall be required to install recycled water pipelines within the property subdivision and extend this system to the external limits of the subdivision, or to the nearest recycled water main if one exists within a maximum of seventy-five (75) feet.

C. All off-site recycled water facilities and services shall be planned, designed and installed in accordance with the City's design manual and all applicable federal, state and local laws.

D. All services shall be metered with meters purchased from the City and installed by a City-approved contractor at developers' expense.

E. The City's ownership and maintenance responsibilities shall terminate at the valve on the customer's side of the meter assembly.

All plans and necessary specifications associated with the installation or extension of new recycled water mains within the City must be submitted to the Administrative Authority for review and approval prior to such installation or extension.

Section 37.143 Determination of Feasible and Authorized Uses

The uses of recycled water may include but are not limited to, landscape irrigation, agricultural irrigation, natural treatment system irrigation, construction water, industrial process water, cooling tower makeup water, water for flushing toilets and urinals, trap primers in dual-plumbed buildings, and public and private recreational impoundment. The Administrative Authority is authorized to consider on a case-by-case basis each use for approval by the City,

and the Administrative Authority may determine in its discretion whether it is feasible to furnish recycled water for the specific use involved. Prior to approving such uses, the Administrative Authority may, in its discretion, set forth specific requirements as conditions to providing such services and/or require specific prior approval from the appropriate regulatory agencies. The City's determination of feasibility will be based on the following factors:

1) Whether recycled water may be furnished for the intended use at a reasonable cost to the customer and the City;
2) Whether recycled water use is in accordance with the standards of treatment and water quality requirements set forth in Title 22, Division 4, of the Code of California Regulations and all other applicable federal, state and local laws and regulations including Health and Safety Code Chapter 5, Article 2, Title 17, Division 1 and California Water Code Division 7;
3) Whether the use of recycled water can be made in a manner not detrimental to public health.

Section 37.144 Requirement to Use Recycled Water

The Administrative Authority will identify customers who are located within the City's service area and within an area identified in the Recycled Water Master Plan as an area capable of receiving service from the City's recycled water system and will determine the feasibility of providing recycled water service to these customers. The Administrative Authority will also review applications for new Recycled Water permits to determine the feasibility of providing recycled water service to these applicants. If recycled water service is determined by the Administrative Authority to be feasible, applicants for new water service shall be required to install onsite facilities to accommodate both potable water and recycled water service in accordance with the latest Water, Sewer, and Reclaimed Water Design and Construction Manual. The Administrative Authority may also require existing customers to retrofit existing onsite water service facilities to accommodate recycled water service. When an existing customer is required by the City to convert to recycled water service, the customer will pay the reasonable capital costs of retrofitting the onsite water service facilities and the City will

provide the offsite facilities necessary to deliver recycled water to the customer. The City will provide a minimum of 6 months notification prior to commencement of recycled water deliveries.

Existing customers of potable water service who are directed to retrofit onsite water service facilities to permit the extension of recycled water infrastructure may appeal the final decision of the Administrative Authority to require retrofit to the City Council where such extension of recycled water service was not sought by the customer. The City Council may grant an appeal where the existing customer makes a showing based on substantial evidence that the Administrative Authority's decision would:

1) impose disproportionate cost on the customer compared to the potential benefits to be received by the customer as a result of the retrofit; or
2) constitute a threat to public health or safety at the location to be retrofitted; or
3) would be technically infeasible to implement.

Where the Council makes one or more of the above findings, the Council may disapprove the final decision of the Administrative Authority, in whole or in part, and may place such conditions on the requirement to retrofit as it deems appropriate and fair. The requirement to administratively appeal shall be a prerequisite to the initiation of any legal challenge to the Administrative Authority's final decision.

Section 37.145 Determination of Potential Recycled Water Customer Conversion

The Administrative Authority will identify potential sites where recycled water may be used based on historical water demands or projected demands from similar uses. The identified potential recycled water use sites must meet the following criteria:

1) The City's recycled water distribution system is in a street adjacent to the subject property;
2) The City can provide recycled water in the needed volume, quality, pressure and flow rate;
3) The anticipated use(s) at the subject site are allowed per Title 22 of the California Code of Regulations;

4) The construction/retrofit can be accomplished in compliance with Federal, State, County, and City requirements.
5) The anticipated use(s) will not negatively impact public health;
6) The use of recycled water will not diminish water rights; and
7) Recycled water is available at a reasonable cost, meaning:
    a. The commodity cost for recycled water is less than the commodity cost for a like quantity of non-interruptible potable water; and
    b. The net customer cost of facilities and appurtenances required to be installed can be amortized by the difference in potable and recycled water rates of a period of not more than one-hundred and twenty (120) months.

The Administrative Authority will contact the potential recycled water customer site representative to discuss the use of recycled water. If the potential recycled water customer contends recycled water is not feasible, the customer shall provide written documentation supporting their position to the Administrative Authority for review.

Section 37.146 Determination of Adequate Size and Reimbursement

For new developments where recycled water is anticipated and incorporated into the plans and conditions of approval, the Administrative Authority is authorized to determine if the size of any proposed recycled water pipeline is adequate to serve the intended use of the applicant. Further, the Administrative Authority is authorized to determine if there is other property within the City not being served with recycled water which could be served by the proposed recycled water pipeline. If the Administrative Authority determines that the proposed recycled water pipeline and appurtenant facilities should be constructed to a greater capacity than the immediate needs of the applicant, then the Administrative Authority may require the applicant to enter into a reimbursement agreement with the City providing for the construction of such recycled water pipeline with excess capacity.

The reimbursement agreement shall set forth a description of the project the applicant wishes to construct or have constructed, including complete specifications as to the type of pipe and other appurtenances, a map showing accurately the proposed route and size of such facility,

the estimated cost of construction of such facility, and the allocation of such cost between the applicant and the City. The reimbursement agreement shall be finalized and executed prior to commencement of construction on the project.

Section 37.147 Conversion of Facilities

Prior to the conversion of existing potable water systems or irrigation systems to a recycled water system, the applicant shall submit the record drawings to the City to review and determine the necessary measures to bring the recycled water system into full compliance with all applicable federal, state and local laws. If record drawings for a site do not exist, the applicant is responsible to locate the existing irrigation system and provide adequate as-built plans for the system prior to requesting a conversion of facilities. No existing potable water facilities shall be converted or incorporated into the recycled water system without proper testing and approval by the City and other regulatory agencies.

Section 37.148 Cross-Connection Control

All sites being served by both potable and recycled water services shall have an approved backflow assembly installed in compliance with all applicable laws.

A. Backflow Assemblies are required at every potable water service connection. The customer, at his or her sole expense, shall install, test and maintain an approved backflow assembly in accordance with California Code of Regulations Title 17, Section 7605.

B. Recycled water use site inspections will be performed per the requirements of the State of California Department of Public Health, County of San Diego Department of Environmental Health, California Regional Water Quality Control Board, San Diego Region, or other regulatory agency as determined by the City.

C. As required by the State Department of Health Services and the County of San Diego Department of Environmental Health Services, the City will periodically conduct a cross-connection control test of the integrity of the on-site recycled water system at those facilities having both potable and recycled water service.

D. The recycled water user shall provide the City with an accurate set of controller charts. The chart is to be a reduced drawing of the as-built system. The chart shall use a

different color to show the area of coverage for each station.

Section 37.149 Unlawful Use of Recycled Water Facilities and Appurtenances

It is unlawful for any person to turn on/off a recycled water pipeline of the City or to tap, break, or injure any recycled water pipelines within the City, or to tamper with or tap any recycled water service pipe.

Section 37.150 Interference with Inspection; Stoppage of Service

If any authorized employee or agent of the City is refused access to any premises supplied with recycled water by the City, or on being admitted is hindered or prevented from examining or inspecting the premises by any person, or for any reason, including but not limited to the maintenance on such premises of a vicious dog or animal, the Administrative Authority may provide written notice to the owner or occupant of the premises that the City intends to discontinue the service of recycled water to such premises. The notice shall provide the owner or occupant a reasonable opportunity to allow access so as to avoid discontinuance of service. The Administrative Authority may cause recycled water service to the premises to be discontinued if access is not allowed or restored within the time set forth in said written notice.

Section 37.151 Irrigation Recycled Water Meters

A meter and service connection used for landscape irrigation shall be installed in accordance with the Design Manual Standard Specifications and Drawings in effect at the time the connection is made. The size of the irrigation meter(s) and service connection(s) shall be determined by the landscape architect based on the flow demand in gallons per minute (gpm) for the area to be irrigated.

Only the City's Recycled Water Buy-in fees and meter fees shall be applied for any new recycled water meter.

Section 37.152 Interfering with Meter

It is unlawful for any person to interfere with or cut off or remove a recycled water meter from any service connection where it has been installed, without first receiving written permission from the City's Water Utilities Department. Such permission shall be granted only for the purpose of tests, repairs or replacement to customer service, readjustment of service or

similar emergencies.

Section 37.153 Rate Structure

The City rate structure for recycled water service shall be approved by the City Council. Rates shall be set at a level sufficient to pay for water treatment, maintenance and operations, debt service, replacement funding and to meet the objectives established by the Administrative Authority.

Recycled Water Rate - Recycled water is a flat rate per unit of recycled water used where one unit equals 748 gallons and applies only to the delivery of recycled water to the customer.

Section 37.154 Recycled Water System Buy-In Fees

Each new connection to the city's recycled water system shall be assessed a fee based on the meter size to pay the costs for a new meter and installation equipment provided by the city. Such fee shall be established hereafter by resolution of the Oceanside City Council. Customers shall pay only for the new meter and installation costs. Costs associated with the San Diego County Water Authority Capacity and Treatment charges and the City's buy-in costs, shall not apply to new recycled water system connections.

Section 37.155 Recycled Water System Meter Exchanges.

When converting to recycled water services, current potable water customers may exchange potable irrigation meters at no cost to the customer, provided the recycled meter required is of the same size as the existing meter. There shall be no refunds of buy-in fees as a result of this exchange.

SECTION 3. Severability.

If any section, sentence, clause or phrase of the Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in the San Diego Union Tribune, North County edition, a newspaper of general circulation published in the City of Oceanside.

SECTION 5. This ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside held on the _____ day of _____, 2014, and, thereafter,

PASSED, AND ADOPTED by the City Council of the City of Oceanside, California this _____day of _____, 2014, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

_____
MAYOR, CITY OF OCEANSIDE

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

Robert S. Hamilton, Asst.
CITY ATTORNEY

AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING CHAPTER 37 OF THE OCEANSIDE CITY CODE BY ADDING ARTICLE VIII, RECYCLED WATER