

**ORANGE COUNTY, TEXAS**  
**TAKINGS IMPACT ASSESSMENT**

This Takings Impact Assessment (“TIA”) is prepared in accordance with the Private Real Property Rights Preservation Act (the “Act”) as set forth in Texas Government Code §2007.001, *et seq.*, with regard to the following Proposed Action:

**An Ordinance of the Orange County Commissioners Court prohibiting solid waste disposal in certain unincorporated areas of the county pursuant to the authority granted by Chapters 363 and 364 of the Texas Health & Safety Code.**

*Copies of the proposed ordinance are available with the contact person identified below.*

County Department: Environmental Health & Code Compliance

Contact Person: James Scales, Deputy Director Phone: (409) 745-1463

Address: 11475-C FM 1442, Orange, Texas 77630

*A copy of the proposed ordinance will also be available for download from the County’s website:*  
<https://www.co.orange.tx.us/departments/EnvironmentalHealthCodeCompliance/SolidWasteDisposal>

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**I. Stated Purpose of the Proposed Action**

The proposed action is intended to preserve and protect the public health, safety, and welfare of the residents of Orange County, Texas through the identification and designation of areas which are presumptively suitable or unsuitable for municipal or industrial solid waste disposal.

**II. Governmental Entity**

The Act applies to all Governmental Entities as that term is defined in §2007.002(1). State whether the entity seeking to undertake the proposed action a Governmental Entity covered by the Act:

**YES. The County is a political subdivision of the State of Texas to which the Act is applicable pursuant to §2007.002(1)(B).**

*If the answer is “YES,” the entity is a Covered Governmental Entity; go to Section III. If the answer is “NO,” select “Not a Covered Governmental Entity” in Section IX; this TIA has been completed.*

### III. Nature of the Action

A Takings Impact Assessment is required only for two types of governmental actions. State whether the proposed action is one of the following types of governmental action:

1. The adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure; or
2. An action that imposes a physical invasion or requires a dedication of private real property.

**YES. The proposed course of action is the adoption of an ordinance.**

*If the answer is "YES," the action is a Covered Governmental Action; go to Section IV. If the answer is "NO," select "Not a Covered Action" in Section IX; this TIA has been completed.*

### IV. Potential Effect on Private Property

1. Does the proposed action require a physical invasion, occupation, or dedication of real property?

Yes \_\_\_\_\_ No   X  

2. Does the proposed action limit or restrict a real property right, even partially or temporarily?

Yes   X   No \_\_\_\_\_

*If either answer is "YES," the action has an Impact on Private Property; go to Section V. If both answers are "NO," select "No Impact on Private Real Property" in Section IX; this TIA has been completed.*

### V. Exemptions

There are certain governmental actions to which the Act expressly do not apply. *See* TEX. GOV'T CODE §2007.003(b). State whether the proposed action falls within any of the following categories of action exempted from coverage of the Act:

1. An action by a municipality except as provided by Subsection 2007.003(a)(3);
2. A lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;
3. A lawful seizure of property as evidence of a crime or violation of law;

4. An action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;
5. The discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;
6. An action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;
7. An action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;
8. A formal exercise of the power of eminent domain;
9. An action taken under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;
10. A rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;
11. An action taken by a political subdivision (A) to regulate construction in an area designated under law as a floodplain; (B) to regulate on-site sewage facilities; (C) under the political subdivision's statutory authority to prevent waste or protect rights of owners of interest in groundwater; or (D) to prevent subsidence;
12. The appraisal of property for purposes of ad valorem taxation;
13. An action that (A) is taken in response to a real and substantial threat to public health and safety; (B) is designed to significantly advance the health and safety purpose; and (C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or
14. An action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

**YES. The proposed course of action is taken in response to a real and substantial threat to public health and safety, as set forth in the Factual Findings contained in the proposed ordinance. The proposed course of action is further designed to significantly advance the health and safety purpose, and does not impose a greater burden than necessary to achieve the health and safety purpose. The proposed action is therefore exempt pursuant to § 2007.003(b)(13).**

*If the answer is "YES," select "Proposed Action is Exempt" in Section IX; this TIA has been completed. If the answer is "NO," the action is Not Exempt; go to Section VI.*

VI. Analysis of Purpose, Burdens, and Benefits – *Not Applicable; Action Exempt*

VII. Alternatives – *Not Applicable; Action Exempt*

VIII. Potential Impact on Value – *Not Applicable; Action Exempt*

IX. Conclusion


- Not a Covered Governmental Entity
- Not a Covered Action
- No Impact on Private Real Property
- Proposed Action is Exempt**
- Proposed Action Fully Assessed for Potential Impact on Private Property

**Based on the foregoing assessment, the proposed action is exempt from the provisions of the Texas Real Property Rights Preservation Act.**

The foregoing Takings Impact Assessment was **ACCEPTED AND APPROVED** by the Orange County Commissioners Court by a vote of 5 ayes, 0 nays, and 0 abstentions on this 23rd day of August, 2022.

By:

Attest:

  
\_\_\_\_\_  
John H. Gothia  
Orange County Judge

  
\_\_\_\_\_  
Brandy Robertson, Orange County Clerk  
or her deputy clerk