

SECTION 7. IMPLEMENTATION

The City of Ontario will adopt the Esperanza Specific Plan by ordinance. Following approval by the City, the Esperanza Specific Plan will serve as the implementation tool for the NMC General Plan as well as the zoning for the Specific Plan area. Concurrently with the adoption of the Specific Plan, the City Planning Commission will also approve tentative tract maps establishing legal residential lots within the Esperanza Specific Plan area.

7.1 METHODS AND INTERPRETATION

Development within the Esperanza Specific Plan shall be implemented through the approval by the City of tentative and final tract maps and through development plans approved through the Development Plan Review process as established in the City of Ontario Development Code. The implementation process described below provides the mechanisms for review and approval of development projects within the Esperanza Specific Plan area.

7.2 APPLICABILITY

All development proposals within the Esperanza Specific Plan shall be subject to the implementation procedures established herein. Whenever the provisions and development standards contained herein conflict with those contained in the City of Ontario Development Code, the provisions of the Esperanza Specific Plan shall take precedence.

7.3 INTERPRETATION

Unless otherwise provided, any ambiguity concerning the content or application of the Esperanza Specific Plan shall be resolved by the City of Ontario Planning Director (Director) or

his/her designee in a manner consistent with the goals, policies, purpose and intent established in this Specific Plan.

7.4 SEVERABILITY

If any portion of these regulations is declared to be invalid or ineffective in whole or in part, such decision shall not affect the validity of the remaining portions thereof. The legislative body hereby declares that they would have enacted these regulations and each portion thereof irrespective of the fact that any one or more portions be declared invalid or ineffective.

7.5 IMPLEMENTATION OF DESIGN GUIDELINES

Adoption of the Esperanza Specific Plan by the City includes adoption of the design guidelines contained herein, which shall be the design criteria by which development projects within the Specific Plan area will be reviewed during Development Plan Review. The design guidelines are intended to be flexible in nature while establishing basic evaluation criteria for the review by the City of developer projects during Development Plan Review.

Any major deviation from the design guidelines within the Esperanza Specific Plan shall require approval by the Planning Commission. The determination of a major deviation from the design guidelines shall be made by the Director.

7.6 DEVELOPMENT REVIEW PROCESS

7.6.1 Subdivision Maps

Approval of tentative tract maps may occur concurrently with the adoption of the Esperanza Specific Plan. All tentative and final tract maps will be reviewed and approved pursuant to applicable provisions of the City of Ontario Subdivision Ordinance and consis-

tent with the applicable provisions of Land Use, Infrastructure, Design Guidelines, and Development Regulations contained within the Esperanza Specific Plan.

7.6.2 Development Plan

All development projects within Esperanza shall be subject to the Development Plan Review Process as established in Article 8 of the City's Development Code. Pursuant to these provisions, the Development Plan process constitutes a design review of project architecture, site plans, and landscape plans. Adoption of the Specific Plan by the City includes adoption of the design guidelines contained within the Specific Plan and which provide direction for the design of development projects within Esperanza. Where the Esperanza Specific Plan development regulations and design guidelines are silent, the applicable development regulations and design guidelines contained within the City's Development Code shall apply. The design guidelines are intended to be flexible in nature while establishing basic evaluation criteria for the review by the City of developer projects during design review.

All development project applications shall include a landscape and irrigation plan describing plant materials and their growth habits, plant size and spacing, methods of irrigation and landscaping maintenance, site plans, architectural elevations, floor plans, grading plans and other requirements as specified by the City.

7.7 DWELLING UNIT ALLOCATIONS

The Esperanza Land Use Plan allocates a maximum number of dwelling units to each residential Planning Area. Variations in number of dwelling units, per Planning Area, may occur at the time of final design of the Planning Area subject to approval by the City and agreement by affected property owners/developers, depending

upon the residential product identified for development. Variations in allocation of units within the Planning Areas of the Esperanza Specific Plan are permitted provided the increased number of dwelling units in a Planning Area does not exceed 15% and the maximum dwelling unit count for the entire Specific Plan area does not exceed that established for Esperanza.

7.8 SPECIFIC PLAN MODIFICATIONS AND AMENDMENTS

7.8.1 Minor Modifications

The following constitute minor modifications to the Specific Plan, not requiring a Specific Plan Amendment, and are subject to review and approval by the Zoning Administrator. The Zoning Administrator shall have the discretion to refer any such request for modification to the Planning Commission or the City Council.

1. Change in utility and/or public service provider.
2. Collector roadway alignment when the change results in a centerline shift of less than 250 feet.
3. An increase of more than fifteen percent (15%) in the number of units within an individual Planning Area are subject to approval of the City and agreement of the property owners, provided the total number of units for the entire Specific Plan area does not exceed that established in the Specific Plan.
4. Adjustment of a Planning Area boundary or acreage designated for a Planning Area provided the total acreage of the affected Planning Area does not increase by more than 15%.
5. Minor changes to landscape materials, wall materials, wall alignment, entry design, and streetscape design which are consistent with the conceptual design set forth in the design guidelines contained within the Specific Plan.

6. Minor changes to the design guidelines, which are intended to be conceptual in nature only, and are intended to be flexible in implementation.
7. Other modifications of a similar nature to those listed above, which are deemed minor by the Zoning Administrator, which are in keeping with the purpose and intent of the approved Esperanza Specific Plan and which are in conformance with the NMC General Plan.

7.8.2 Reversion of Planning Area 11 to Residential Uses

The NMC General Plan establishes a total residential unit allocation of 1,456 units for the Esperanza Specific Plan. The Land Use Plan for Esperanza designates a total of 1,410 residential dwelling units within Planning Areas 1-10 and reserves Planning Area 11, a 10.02 acre site, for purchase and use by the Mountain View School District (School District) of an elementary school. In the event the School District does not purchase Planning Area 11 for development of an elementary school Planning Area 11 may revert to a Residential – Low Density zoning district permitting development of a maximum of 46 residential dwelling units subject to approval by the City of a Specific Plan Amendment. The Environmental Impact Report prepared for the Esperanza Specific Plan has evaluated the impacts of development of Planning Area 11 alternatively for 46 residential dwelling units in conjunction with the analysis of all other project related impacts. Development of Planning Area 11 for residential land uses shall be subject to all other review and administrative and discretionary approvals requirements required for residential land uses as established within the Esperanza Specific Plan.

7.8.3 Specific Plan Amendments

Amendments to the Esperanza Specific Plan may be requested by the applicant or by the City at any time pursuant to Section 65453(a) of the Government Code. Amendments shall be processed pursuant to the provisions of the Government Code for Specific Plan Amendments. In the event the proposed amendment requires supplemental environmental analysis pursuant to the California Environmental Quality Act (CEQA), the applicant(s) are responsible for preparing the necessary CEQA documentation.

7.9 VARIANCES

Variances and Administrative Exceptions to the development regulations contained in the Esperanza Specific Plan with respect to landscaping, screening, site area, site dimensions, yards and projects into yards, heights of structures, distances between buildings, open space and off-street parking and loading can be considered pursuant to Article 10, “Variances and Administrative Exceptions” of the City of Ontario Development Code.

7.10 CONDITIONAL USE PERMITS

Uses specified as conditionally permitted uses within Section 6, “Development Regulations, of the Esperanza Specific Plan shall be reviewed and approved by the City pursuant to the requirements of Article 9, “Conditional Use Permits.”

7.11 COMPLIANCE WITH MITIGATION MONITORING PLAN

Certification of an Environmental Impact Report (EIR) shall be required prior to approval of the Esperanza Specific Plan. Development within the Esperanza Specific Plan area shall comply with all approved mitigation measures as described in the Mitigation Monitoring Program included as part of the Esperanza EIR.

7.12 PROJECT PHASING

Phasing of the Esperanza Specific Plan will meet the following objectives:

- Orderly build-out of the community based upon market and economic conditions.
- Provision of adequate infrastructure and public facilities as determined and deemed necessary by the City Engineer concurrent with development of each phase.
- Protection of public health, safety and welfare.
- Accommodation of continued agricultural operations within the proposed Specific Plan area.

7.12.1 Residential Development

The phasing of residential development areas will be determined by the developer. The development of residential uses will be implemented through the approval of tentative and final tract maps and development permits for each Planning Area as developed. Appropriate levels of infrastructure and community facilities shall be subject to the review and approval of the City Engineer and shall be installed and available to serve each subsequent phase of residential development as it occurs.

7.12.2 Infrastructure

Backbone infrastructure to serve all areas of Esperanza shall be installed by the developer in accordance with the City's adopted Master Plan or any approved amendments to it. Infill service mains will be installed and constructed in phases as development proceeds and conditioned by the City Engineer's office to support individual phases of development, which may require installation of offsite infrastructure improvements beyond a given phase boundary.

Grading and installation of infrastructure to serve Esperanza are anticipated to be completed in three phases. Following completion of grading and infrastructure installation, the developer will construct models for each product type within each neighborhood. Phase I will include installation of infrastructure adequate to serve Planning Areas 5-9 located south of Merrill Avenue between Milliken Avenue and Mill Creek Avenue. Phase II will include installation of infrastructure adequate to serve Planning Areas 4A and 10, as well as the school site. Phase III will include installation of infrastructure adequate to serve Planning Areas 1-4B and the Neighborhood Park.

7.12.3 Parks

Following issuance of Certificates of Occupancy for no more than 50% of the total dwelling units within Esperanza, Park 1, the Neighborhood Park, will be developed. The timing for installation of infrastructure and utilities and the provision of public services will be determined as part of the City's approval of tentative maps or development plans. Facilities will be constructed and services made available in a timely manner as development progresses. Pocket Park 2 will be developed at the time of issuance of 50% of Certificates of Occupancy for Planning Area 5. Pocket Park 3 will be developed at the time of build-out of Planning Areas 6 and 7 combined.

Pocket Park 4 will be developed at the time of issuance of 50% of Certificates of Occupancy for Planning Areas 8 and 9. Pocket Park 5 will be developed at the time of issuance of 50% of Certificates of Occupancy for Planning Area 10.

7.12.4 Community Facilities and Services

The timing for installation of community facilities and payment of impact fees for public improvements and services for the Esperanza Specific Plan will be determined as part of the City's approval of tentative tract maps in accordance with the provisions of the existing City development impact fee ordinances. Community facilities such as bike trails will be developed in conjunction with construction of the public street improvements.

7.13 APPEALS

Appeals from any determination of the City Planning Director, Zoning Administrator or the Planning Commission, may be made by the applicant or any other aggrieved party filing an application on forms provided by the City of Ontario and accompanied by the appropriate filing fee, where applicable, within ten (10) days following the final date of action for which an appeal is made. Appeals shall be processed consistent with the provisions of Article 5, "Appeals" of the City of Ontario Development Code.

7.14 PROJECT FINANCING

The financing of construction, operation, and maintenance of public improvements and facilities (the "facilities"), and public services will include funding through a combination of financing mechanisms. Final determination as to the facilities to be constructed and as to maintenance responsibilities, whether publicly or privately maintained, will be made prior to recordation of final maps. In order for the

project to be fiscally self sufficient, the following financing options can be considered for implementation:

7.14.1 Facilities and Services

- Private capital investment for the construction of facilities.
- Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district, to provide funding for the construction of a variety of public facilities and the provision of public services.

7.14.2 Operation and Maintenance

- By individual private property owner.
- By private property owners or Home Owners Association (HOA).
- By Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district.

City Council approval is a prerequisite for the implementation and establishment of any and all special district-financing mechanisms. The use of the Mello-Roos Community Facilities District Act of 1982 (the "Act") to finance public facilities and services will be at the City's sole discretion. Moreover, the use of the Act must be consistent with the City's adopted goals and policies concerning the use of the Act.

7.15 MAINTENANCE RESPONSIBILITIES

The public and private improvements constructed within Esperanza will be maintained through a combination of public and private entities as described below and in Table 5.

7.15.1 Public Maintenance

1. All streets and sidewalks serving residential product areas RD-1 through RD-6 single family detached residential will be dedicated as public streets to the City of Ontario and will be maintained by the City.
2. Landscape improvements within the public right-of-way of Master Plan streets, neighborhood edges, community and neighborhood entries, and public street lights within Esperanza shall be maintained through a landscape and lighting district or other special maintenance district established by the City for the New Model Colony.
3. All on site water, sewer, and storm drain facilities within the public streets or easements dedicated to the City shall be constructed by the developer and, upon acceptance, shall be maintained by the City.
4. Offsite infrastructure improvements such as water, sewer and storm drain facilities will be maintained by the City. The City intends to participate in a Regional Water Quality Basin. In the event permanent on site basins are developed within Esperanza as an alternative to a regional water quality basin, such facilities shall be maintained by the HOA.
5. NPDES facilities within public streets and/or easements. Operation and Maintenance (O&M) requirements for all NPDES storm water runoff source control and treatment control Best Management Practices (BMP's) shall be identified in the approved Water Quality Management Plan for the project. An O&M Plan shall be created to ensure ongoing long-term maintenance of all structural and non-structure BMP's.

7.15.2 Homeowner Association

A Homeowner Association will be established for the maintenance of common area landscape improvements within residential areas of Esperanza. Improvements to be maintained by the Homeowner Association include:

- Designated private alleys and adjacent landscaping.
- Designated private streets and landscaping. During the course of maintenance of public utilities within public streets, private streets, private drive aisles, or alleys, the City will restore the streets to City standards for trench backfill, pavement repair, and hardscape or landscape, as applicable. Restoration of any enhancements above and beyond City standards, including but not limited to architectural paving, hardscape and landscape enhancements shall be the responsibility of the HOA or other entity maintaining those enhancements.
- Courts, parkways and landscaping within the residential areas.
- Parkway of Interior Local Streets including sidewalks, landscaping and street lights as well as common areas distinct to individual residential types and neighborhoods.
- Maintenance of interior local streets including landscaping and associated architectural monument elements required to restore these areas to their condition as originally installed.
- Internal slopes fronting streets and slope areas in the rear of homes.
- All internal open spaces, parks, and common areas.
- NPDES facilities within private streets and/or common areas.

	City CFD	Private Homeowners Association (HOA)	Private Homeowner	Utility Entity
Master Plan Roadways (Bellegrave Avenue, Milliken Avenue, Mill Creek Avenue, Merrill Avenue)	•			
Interior Public Project Streets (curb to curb for primary entry streets, secondary entry streets, and neighborhood streets)	•			
Parkways of Master Plan Roadways and Neighborhood Edges (curb to perimeter walls, including landscape, sidewalks and street lights)	•			
Parkways of Interior Project Streets (landscaping and sidewalks)		•		
Traffic Signals and Street Lights	•			
Traffic Control Signs	•			
Alleys and Drive Aisles		•		
Interior Streets within Single Family Attached (Multi-Family) Developments		•		
Offsite and Onsite Water, Sewer, and Storm Drain Improvements excluding Laterals ⁽¹⁾	•			
Neighborhood Park		•		
Pocket Parks		•		
Linear Parks		•		
Private Recreation Areas		•		
Front Yard and Corner Streetside Landscaping for Single Family Detached Areas RD-1 through RD-4			•	
Front Yard and Corner Streetside Landscaped Areas RD-5 through RD-8		•		
Community Theme Wall on Master Planned Roadways (outside face for graffiti removal and paint)	•			
Community Theme Wall on Master Planned Roadways: Surface (interior) opposite streetside (structural integrity and face repair)		•		
Private Interior Yard Walls		•	•	
Alley Landscaping and Lighting		•		
Police and Fire	•			
Electricity and Natural Gas				•
Communication Systems	•			•
NPDES Facilities (onsite) W.Q.M.P. ⁽¹⁾	•			
NPDES Facilities/Interim Detention Basin on Private Property		•		

Notes:

(1) Only those facilities in public roads and/or easements, including restoration work following public street repair.

Table 5
Maintenance Responsibilities