Disclaimer: The following is currently being corrected and updated.

CITY OF CALIFORNIA CITY MUNICIPAL CODE

PREFACE

The Code which follows contains codified ordinances of the City of California City adopted after May 1998.

Title 1 was adopted on August 9, 1998, and reprinted with SDI provisions (Sec. 1-3.07 and 1-3.08) on March 13, 2000, per Ordinance No. 99-569 adopted July 6, 1999.

Codified ordinances adopted after the above date will be incorporated into this code by page revisions. The revised page will contain a notation at the bottom of the page indicating in a short-hand manner the year, month and day of the revision. For example, "011298" indicates that the revised page was prepared for an old ordinance which was in 1998. The amended sections on the revised page will also contain a reference to the amending ordinance. For example, "(as amended by Section 1, Ord. 80-260)" indicates the section was amended by Section 1 of Ordinance No. 80-260.

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CALIFORNIA CITY

ZONING ORDINANCE

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TITLE 1. GENERAL PROVISIONS

CHAPTER 1. ADOPTION OF CODE

Sec. 1-1.01. Title: References to Code.

This Code is the "California City Municipal Code." It shall be sufficient to refer to the California City Municipal Code in prosecution for violation. It shall also be sufficient to designate ordinances revising this Code as a revision to the California City Municipal Code.

Sec. 1-1.02. Authority.

This Code includes the regulatory, penal and administrative laws of general application of the City , codified pursuant to Article 2 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

Sec. 1-1.03. Construction and Interpretation of Code.

This Code and ordinances shall be interpreted to refer to the appropriate or designated officer of office of the City. Whenever an ordinance, uniform code, statute, or other matter is adopted by reference and refers to a department, officer, employee, inspection, police, or other function, such reference is to the appropriate or designated office, officer, department, agency, employee, or function of the City.

Sec. 1-1.04. Validity of Code.

If a section, subsection, sentence, clause, or phrase of this Code is held to be unconstitutional, the decision shall not affect the validity of the remaining portions of this Code.

Sec. 1-1.05. Maintenance of Code.

Certified copies of ordinances revising this Code shall be filed in the office of the City Clerk, duly indexed for ready reference.

CHAPTER 2. PENALTIES

Sec. 1-2.01.[1] Violation as Misdemeanor or Infraction.

(a) It is unlawful for any person to violate any provision of the Code or fail to comply with the requirements of this Code or code adopted by reference. Violation of this Code is a misdemeanor unless it is indicated to be an infraction or unless the code enforcement officer determines the violation should be enforced as an infraction.

(b) Every misdemeanor violation under this Code shall be punishable by a fine of not more than $1,000, by imprisonment in County jail for a period not to exceed six months, or both.

(c) Every infraction violation of this Code is punishable by (1) a fine not exceeding $100 for the first violation; (2) a fine not exceeding $200 for the second violation of the same provision within one year; (3) a fine not exceeding $500 for each additional violation of the same provision within one year.

Sec. 1-2.02. Prohibited Acts.

Whenever this Code makes an act or omission unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

Sec. 1-2.03. Imposition of Penalty.

(a) Whenever this Code declares certain crimes to be punishable as therein mentioned, a duty devolves upon the court authorized to pass sentence to determine and impose the punishment described.

(b) Whenever this Code leaves the punishment for a crime undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits prescribed by this Code.

Sec. 1-2.04. Place of Confinement.

A person found guilty of violating this Code and sentenced to imprisonment shall be imprisoned in the Kern County Jail.

Sec. 1-2.05. Fees, Charges, Licenses, and Taxes Made a Civil Debt.

The amount of fee, service charge, utility charge, license, or tax imposed by this Code is a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of such delinquent or unpaid fee, service charge, utility charge, license, or tax, together with penalties as prescribed by this Code. This section is cumulative, and collection of such an amount by civil action shall not bar the use of any other remedy provided by this Code or by law.

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[1] Amended by Ord. No. 11-699 on March 1, 2011.

Sec. 1-2.06. Violation of Administrative Provisions.

The violation of an administrative provisions of this Code by any officer or employee of the City is a failure to perform the duties or to observe the rules and regulations or of the civil service regulations of the City.

Sec. 1-2.07 Notices to Appear.

(a) If a person is arrested for the violation of this Code or other law of the City, and not immediately taken before a magistrate, as prescribed in the Penal Code, the arresting officer shall prepare, in duplicate, a written notice to appear in court containing the name and address of such person, the offense charged and the time and place when and where such person shall appear in court.

(b) If a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail, the magistrate shall issue and have delivered for execution a warrant for the arrest of such person within twenty days after failure to appear as promised, if such person promises to appear before an officer authorized to accept bail, other than a magistrate, and such person fails to do so on or before the date within twenty days after the delivery of such written promise to appear by the office to a magistrate having jurisdiction over the offense.

CHAPTER 3. RULES OF CONSTRUCTION

Sec. 1-3.01. Scope.

The general provisions, rules of construction and definitions set forth in this chapter shall govern the construction of this Code. This Code and proceedings under are to be constructed with a view to effect its objects and promote justice.

Sec. 1-3.02. Effect of Headings.

Title, chapter, article, and section headings do not govern, limit, modify, or affect the scope, meaning, or intent of any title, chapter, article, or section of this Code.

Sec. 1-3.03. References to Acts or Omissions Within the City.

This Code refers only to the omission or commission of acts within the City and territory outside the City over which the City has jurisdiction or control by virtue of the Constitution of the State, law, or ownership or control of property.

Sec. 1-3.04. References to ordinances: Application to amendments.

Whenever a reference in this Code is made to an ordinance, the reference shall apply to an ordinance of the City unless this Code expressly provides otherwise. Whenever a reference is made to any portion of this Code, or to an ordinance, the reference shall apply to amendments.

Sec. 1-3.05. Notices.

(a) Whenever a notice is required to be given pursuant to this Code, such notice may be given by personal delivery to the person to be notified, by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed, or by facsimile to the actual facsimile number of the person. Service by mail shall be deemed to have been completed at the time the notice is deposited in the post office.

(b) Proof of giving notice may be made by the certificate of an officer or employee or the affidavit of any person over the age of eighteen (18) years, showing service in conformity with this Code or other law applicable to the subject matter.

Sec. 1-3.06. Definitions.

For the purpose of this Code, unless otherwise apparent from the context, certain words and phrases used in this Code are defined as follows:

(a) "City" shall mean the City of California City.

(b) "C.C.M.C." shall mean "The California City Municipal Code", as adopted and subsequently amended.

(c) "Council" shall mean the City Council of the City of California City.

(d) "County" shall mean the County of Kern.

(e) "Fiscal Year" shall mean from July 1 of any given year through June 30 of the following year.

(f) "Person" shall include any person, firm, company, corporation, partnership, association, public corporation, political subdivision, city (except the City of California City), the County, district in the County, the State of California, the United States of America, or any department or agency of the foregoing.

(g) "Section" shall mean a section of this Code, unless some other source is specifically mentioned. "Subsection" shall mean a subsection of the section in which the term occurs, unless some other section is expressly mentioned.

Sec. 1-3.07. Definitions (SDI).

The following terms are defined for the purposes of this Code, unless otherwise apparent from context:

(a) "Subdivision Deferred Improvement Tracts" or "SDI Tracts" are 29 tracts within the City subject to a deferred improvement agreement and identified as tract nos. 2898, 2967, 3060, 3061, 3062, 3070, 3071, 3080, 3081, 3139, 3140, 3186, 3187, 3188, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3243, 3245, 3279, 3280, 3281, 3282, 3288, 3353.

(b) "Subdivision Deferred Improvement Lots" or "SDI Lots" are lots within Subdivision Deferred Improvement Tracts.

(c) "Subdivision Deferred Improvement Agreements, "Deferred Improvement Agreements," or "SDI Agreements" means agreements calling for payments by owners of SDI Lots to finance the subsequent construction of certain improvements for SDI Tracts.

(d) "Subdivision Deferred Improvements," "Deferred Improvements," or "SDI Improvements" means the improvements described in the SDI Agreements.

(e) "SDI Advisory Committee" means the committee created to advise the City on compliance with this Chapter. (Ord. No. 99-569 – July 6, 1999.)

Sec. 1-3.08. Fees.

(a) The council may establish an application fee when this code requires or allows the filing of an application.

(b) The council may establish a permit fee when this code requires or allows a permit or license be obtained from the City.

(c) Application and permit fees shall be established by resolution and shall not exceed the reasonable cost of processing the application or issuing the permit or license, as the case may be. The fee shall be paid when the application is filed and when the permit or license is issued. (Ord. NO. 99-569 – July 6, 1999.)

CHAPTER 4. APPEALS

Sec. 1-4.01. Right of Appeal.

A person objecting to a decision made by an officer or employee involving the exercise of discretion may request the council to review such decision by filing a written appeal with the City Clerk setting forth the specific grounds thereof.

Sec. 1-4.02. Time Limit for Filing.

The appellant shall file a notice of appeal with the City Clerk within fourteen days after the administrative decision.

Sec. 1-4.03. Hearings: Notices.

Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on the Council agenda for the next regular meeting of the Council held at least five days after the filing of the notice of appeal. Except in cases of emergency when the Council may determine the matter immediately, the Council shall set the matter for hearing at a subsequent meeting, within thirty days after the date of the filing of the notice of appeal. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than five days prior to such hearing, unless such notice is waived in writing by the appellant.

Sec. 1-4.04. Hearings.

At the hearing the appellant shall show why the action appealed from should not be approved. The Council may continue the hearing. The Council=s findings on the appeal shall be final and conclusive in the matter.

Sec 1-4.05. Conduct of Hearing: Subpoena.

The Council may subpoena witnesses to testify under oath and require production of evidence. Subpoenas shall be issued in the name of the City and attested by the City Clerk.

Sec. 1-4.06. Evidence.

The hearings shall be formal, but need not be conducted according to technical rules of evidence relevant evidence shall be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might prevent admission of such evidence over objection in civil action.

Hearsay evidence may be admitted for any purpose but shall not be sufficient alone to support a finding unless it would be admissible over objections in civil actions. The rules of privilege and official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant or repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation. Council members may administer oaths to witnesses.

Sec. 1-4.07. Findings and Decisions.

The Council shall announce its intended decision within fourteen days after the date of the hearing. The Council shall order the preparation of proposed findings and facts and conclusions of law setting forth the grounds upon which it acted. The findings and conclusions shall be prepared within ten days after the Council announces its intended decision.

The intended decision and the proposed findings and conclusions shall be mailed to the petitioner and interested parties. The petitioner and interested parties shall have ten days after the council mails the findings and conclusions to object.

If objections to the findings are filed, and the Council believes the objections are valid, the Council shall amend the findings and take such further action it deems appropriate within fifteen days after receipt of the objections.

Sec. 1-4.08. Final Decisions.

If no objections to the proposed findings of fact and conclusions of law are received by the Council within ten business days after the findings and conclusions are mailed, the findings, conclusions, and decisions shall be deemed final and conclusive.

Sec. 1-4.09. Judicial Review.

The provisions of Code of Civil Procedure Section 1094.6 shall be applicable to the judicial review of the decisions of the City Council or any board, body, commission or officers of the City empowered to render final decision.

CHAPTER 5. ADMINISTRATIVE CITATIONS[2]

Sec. 1-5.01. Purpose.

This Chapter sets forth the process to levy and collect administrative penalties. The procedures in this chapter are in addition to criminal, civil or other remedies established by law.

Sec. 1-5.02. Definitions.

The following terms are defined for the purposes of this chapter:

(a) "Administrative Citation" is a written notice of violation issued for a violation of this Code, any ordinance adopted by the City, or State code(s).

(b) "Enforcement Officers" are the persons designated by the City Manager to issue Administrative Citations pursuant to this chapter. Enforcement Officers include, but are not limited to the following persons employed by the city:

(1) Peace Officers,
(2) Firefighters,
(3) Code Enforcement Officers,
(4) Animal Control Officers, and
(5) Building Inspectors.

(c) "Responsible Person" means an individual who is the owner, occupant or authorized agent of the owner or occupant of real property, or business, or the parent or legal guardian of such person under the age of eighteen (18) years, who violates any provision of this code or aids, abets, coerces, compels, councils, advises, employs, or encourages another person to violate the provisions of this Code.

Sec. 1-5.03. General.

(a) The City may penalize a responsible person for violation of this Code, including Uniform Codes adopted by the council, State laws which may be enforced by the City.

(b) Each and every day a violation exists constitutes a separate and distinct offense.

(c) The process for levying an administrative penalty shall be initiated by an administrative citation issued by the Enforcement Officer.

(d) The Finance Department shall collect administrative penalties. The City may contract with a private vendor, or with any other city or county processing agency for the processing of citations, notices of violations and notices of delinquent violations.

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[2] Amended §§1-5.01 through 1-5-10 by Ord. 05-631 on 8/16/05.

Sec. 1-5.04. Administrative Fines: Amount.

(a) Penalties enforced by Administrative Citations shall be:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation;
(2) A fine not exceeding two hundred dollars ($200.00) for a second violation of the same ordinance or permit within one year from the date of the first violation; and
(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation of the same ordinance or permit within one year from the date of the first violation.

(b) The City may charge a fee to recover the costs of handling an Administrative Citation in amount from time to time established by resolution.

(c) No fine shall be imposed if the violation(s) pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety and the condition is corrected before the date provided on the citation, and no citation(s) have been issued in the preceding 12-months for the same offense.

(d) If the Responsible Person fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the penalty for failure to correct the violation shall increase at a rate specified herein.

Sec. 1-5.05. Administrative Citations: Service.

(a) An Administrative Citation shall be issued to the Responsible Person in the one of the following manners:

(1) The Enforcement Officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation. The failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.
(2) The Administrative Citation shall be mailed to the Responsible Person by certified mail, postage prepaid with a requested return receipt if the Enforcement Officer is unable to locate the Responsible Person, simultaneously, the citation may be sent by first class mail. Service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.
(3) An Enforcement Officer shall post the Administrative Citation on real property in which the City has knowledge the Responsible Person has a legal interest, and such posting shall be deemed effective service. Failure of a posted notice to remain in place after posting shall in not affect the validity of the notice.

(b) A person, other than the cited Responsible Person, who alters, mutilates, defaces, conceals, modifies, nullifies, destroys, removes, or otherwise interferes with the Enforcement Officers intent to provide service of notice of an Administrative Citation posted pursuant to this section is guilty of a misdemeanor.

Sec. 1-5.06. Administrative Citation: Contents.

(a) The Administrative Citation shall contain at least the following information:

(1) Date, approximate time, and address or definite description of the location where the violation(s) was observed;

(2) A brief reference to the provision which has been violated and a description of the violation(s);

(3) If the violation is correctable, an order to the responsible person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);

(4) The amount of the fine for the violation(s);

(5) An explanation of how the fine shall be paid and the time period by which it shall be paid;

(6) A description of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for hearing form to contest the Administrative Citation; and

(7) The name and signature of the Enforcement Officer and if possible the signature of the Responsible Person.

(b) The Administrative Citation or copy thereof, shall be kept in the ordinary course of business of the issuing Department and shall be *prima facie* evidence of the facts contained therein.

(c) The notice shall be prepared in quadruplicate and distributed as follows:

(1) The original shall be held by the issuing Department.

(2) The first copy shall be forwarded to the Finance Department for tracking and pursuit of collection of fines.

(3) The second copy may be retained by the issuing officer.

(4) The third copy shall be issued to the violator. The paper stock of the violator copy shall be of a weight appropriate for outdoor posting of the copy.

Sec. 1-5.07. Satisfaction of Administrative Citation.

(a) Upon receipt of an Administrative Citation, the Responsible Person shall:

(1) Pay the fine to the City within twenty-one (21) days from the issue date of the Administrative Citation. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action.

(2) Remedy the violation(s), if the violation(s) is/are of such a nature that it/they can be remedied.

(b) When a Responsible Person is issued an Administrative Citation for violation which pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety, the violation shall be corrected within ten days.

(c) Violations that create a danger to health and/or safety shall be corrected immediately.

(d) An issuing Department may grant an extension to complete required corrections if the Responsible Person has shown a good faith effort and progression in correcting the violation and no immediate danger to health or safety exists. The extension shall not extend beyond twenty-one (21) days from the date of issuance of the citation.

Sec. 1-5.08. Appeal.

(a) Initial review:

(1) A person issued an Administrative Citation may request an initial review of the citation Within 21 days of receiving an Administrative Citation or within 14 days from the mailing of a notice of delinquent violation. A request for a review may be made in person, by telephone, or in writing. There shall be no charge for the initial review.

(2) The head of the issuing Department shall designate an employee who is not connected with the case, to review the citation. The initial review must occur within 5 days of the request. The issuing Department shall cancel the notice of violation or notice of delinquent violation if the reviewer determines the violation did not occur, or that the person cited was not responsible for the violation. The decision of the review shall be mailed to the cited person via first class mail. The City Manager shall designate an alternative employee to review the citation when a Department Head is the issuing Officer.

(b) Hearing:

(1) After the review described in 1-5.08(a), a person issued an Administrative Citation may request a hearing by completing a form and returning it to the City Clerk within 21 days from the issue date of the citation, with a deposit of the fine. The fine shall be refunded if it is determined the person charged in the Citation was not responsible for the violation(s), extenuating circumstances make dismissal of the citation appropriate in the interest of justice, or there was no violation(s). A person may request a waiver of deposit of fine due to financial hardship. The person requesting the waiver bears the burden of establishing lack of financial ability to make the deposit. Finance Director shall decide whether to approve or deny the request.

(2) The City Manager shall designate the hearing officer for the hearing. The City Manager may maintain a list of qualified hearing officers. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of Administrative Citation penalty upheld by the hearing officer.

(3) A hearing shall be set for not less than fifteen (15) and not more than sixty (60) days from the date the request for hearing is filed. The person requesting the hearing shall be notified of the time and place for the hearing at least ten days prior to the date of the hearing.

(4) As nearly as practical, the hearing officer shall conduct the hearing consistent with the Administrative Procedures Act. The person contesting the citation may testify and present witnesses and evidence.

(5) The failure of any recipient of an Administrative Citation to appear at the hearing constitutes a forfeiture of the fine unless that person has requested a hearing by written declaration.

(6) The citation and documents submitted by the Enforcement Officer shall constitute *prima facie* evidence of the respective facts contained in those documents.

(7) The hearing officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the citation prior to issuing a written decision.

(8) The hearing officer shall issue a written decision within ten days of the hearing to uphold or deny the citation and shall explain the reasons for the decision. The decision of the hearing officer shall be final. If the hearing officer determines the citation should be upheld, the fine amount on deposit with the City shall be retained by the City. If the hearing officer determines the citation should not be upheld, the deposit shall be refunded.

Sec. 1-5.09. Right of Judicial Review.

A person aggrieved by the decision of a hearing officer may obtain review by filing a petition for writ of mandate under Code of Civil Procedure Section 1094.6 within the time stated in Government Code Section 53069.4(a)(1).

Sec. 1-5.10. Failure to Pay Fines.

(a) Unless contrary to any other provision of law, citations not under appeal, and delinquent over 20 calendar days, shall be subject to an additional charge every calendar month. The amount is to be set forth by resolution of the City Council.

(b) The Finance Director shall establish procedures for the collection of delinquent administrative fines.

CHAPTER 6. PROGRAM DURATION[3]

Sec. 1-6-01. Adoption and Termination of Programs.

(a) Programs shall be adopted by the council with a written statement of the purpose of the program, specific goals to be completed within at least five years, and a budget for the duration of the program. As used in this Article, "program" is an activity involving an expenditure approved by the council. A term in excess of five years may be approved by the council on a finding by at least four affirmative votes that the longer term is necessary to properly evaluate the success of the program.

(b) Programs shall terminate five years from adoption unless a shorter term is stated when the program is adopted. The council may extend the term of a program by at least four affirmative votes if the program has satisfied its purpose and some goals and the remaining goals have not been accomplished for reasons beyond the control of the City. The council may extend the term of a successful program by adopting an additional statement of purpose and goals and budget.

(c) The City shall implement county, regional, state and federally mandated programs when the appropriate county, regional, state or federal agency provides a statement of the purpose of the program and specific goals to be achieved. Programs mandated by county, regional, state or federal government shall be extended, notwithstanding failure to satisfy purposes of the program or the goals, but the council shall transmit its findings to the presiding officer of each legislative body responsible for the mandate and to each state and federal legislator representing territory within the City.

Sec. 1-6-02. Implementation of Programs.

(a) The City Manager shall use best efforts to accomplish the purpose of programs and complete specific goals of programs in a timely fashion. The City Manager shall inform department heads of the purpose and goals of programs.

(b) The City Manager shall provide reports to the council at least annually on the progress in achieving the purpose and goals of each program.

WKL: Insert Administrative Hearings here????

Sec. 1-6.03. Administrative Hearings.

The following governs administrative hearings.

(a) Materials received by the agency from a person who requests an administrative hearing or materials agency staff desires to submit to the tribunal shall be filed with the clerk. The clerk shall distribute copies of the materials to the parties before the proceedings. Except for agency briefs, the materials shall not be distributed to the tribunal except during the hearing.

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[3] Added by Ord. No. 09-673 on March 3, 2009.

(b) Members of the tribunal shall avoid private, oral communications with any person who seeks or may seek an administrative review of an agency decision. When such communications occur, despite the member's best efforts to avoid them, the member shall announce the occurrence of such communication and, depending on the communications, may be asked to refrain from taking part in the proceedings.

(c) At the hearing, the agency counsel shall advise the tribunal and an attorney from agency counsel's office may represent agency staff if:

(1) There are no communications between agency counsel and the staff attorney on the subject matter of the appeal outside the presence of opposing counsel. Provided; after a decision has been rendered, agency counsel may inform the attorney for the prevailing party to prepare a draft decision. The draft decision shall be transmitted to both attorneys before submitting it to the tribunal.

(2) A person shall not advise the members of the tribunal in an administrative hearing in any of the following circumstances:

(a) The person has served as investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

(b) The person is subject to the authority, direction, or discretion of a person who has served as investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

(d) A person may serve as an advisor at successive stages of an adjudicative proceeding.

TITLE 2. ADMINISTRATION

CHAPTER 1. CITY COUNCIL

ARTICLE 1. ROLE OF THE COUNCIL

Sec. 2-1.101. General

The City Council is responsible for establishing the policies of the City and ensuring the policies are implemented.

Sec. 2-1.102. Council Relationship with Management

The Council, the Mayor and individual council members shall deal with the administrative services of the City only through the City Manager. Except for the purposes of inquiry, the Mayor and/or Council members shall not give orders or instructions to any subordinate of the City Manager. The City Manager shall take orders and instructions from the Council, only when sitting in a duly held meeting of the Council. Neither the Mayor nor any individual Council member shall separately give any orders or instructions to the City Manager.

Sec. 2-1.103. Council Relationship with Commissions

The council will seek the advice of commissions on a variety of subjects for the purpose of assisting in the formulation of policies.

Sec. 2-1.104. Presiding Officer.[4]

(a) The Mayor shall preside over meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside over meetings of the City Council.

(b) Each time a Mayor is seated, the most senior member of the council who has not yet served as Mayor Pro Tempore shall serve as Mayor Pro Tempore. The council member who has received the most votes during the most recent election shall serve as Mayor Pro Tempore if two council members have equal seniority. The council member who declines to serve as Mayor Pro Tempore shall be deemed to have served for the purpose of determining succession. Mayor Pro Tempore shall serve at the pleasure of the council and may be removed by the affirmative vote of majority of the council, in which event, a majority of the council shall select a successor.

ARTICLE 2. ELECTIONS

Sec. 2-1.201. General

This Article regulates municipal elections to the extent permitted by law.

Sec. 2-1.202. Nominations

(a) Pursuant to Elections Code Section 22843, candidates for elective office shall deposit a fee to defray the cost to the City of processed nomination papers. The amount of the fee shall be established from time-to-time by the Council by resolution.

(b) Pursuant to Elections Code Section 10012, statements of qualifications by candidates for City office shall not exceed 200 words in length and shall be paid for by the candidate.

Sec. 2-1.203. Campaign Contributions

Pursuant to Elections Code Section 22808, candidates for the City Council, Mayor, City Clerk, or City Treasurer Office shall file a written report with the City Clerk disclosing campaign contributions of $50.00 or more. To the extent practicable, this report shall be filed on the same form and at the same time as campaign disclosure statements filed pursuant to State law.

Sec. 2-1.204. Ties.

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[4] Added by Ord. No 08-663 on June 3, 2008.

If more than one candidate for elective office receives the same number of votes, the election shall be decided by lot.

ARTICLE 3. COMPENSATION AND BENEFITS

Sec. 2-1.301. Council members and Mayor Salary.

(a) Each member of the Council shall receive a salary of $300.00 per month.

(b) The Mayor shall receive a salary of $500.00 per month.

Sec. 2-1.302. Council Member and Mayor Expense Reimbursement.

(a) The City shall reimburse council members and the Mayor for reasonable and necessary expenses incurred in the performance of City business. Except in the case of an emergency, threatening the health, welfare or safety of the City, no reimbursement shall be paid for an expense incurred without prior Council approval.

(b) Council members and the Mayor shall provide the Finance Director with written documentation of the amount expended and a statement the expenditure was approved by the Council.

ARTICLE 4. MEETINGS

Sec. 2-1.401. General

(a) Meetings of the Council and advisory bodies shall be open to the public and the public shall be permitted to attend. No action shall be taken by secret ballot.

(b) The following terms are defined for the purposes of this article:
Advisory body means a decision-making or advisory body created by formal action of the Council. An ad hoc committee composed solely of two or less uncompensated members is an advisory body only if the committee has continuing jurisdiction or meets pursuant to a schedule fixed by the Council.

Meeting includes any congregation of a quorum of the Council of an advisory body at the same time and place to hear, discuss or deliberate on any ruling within the jurisdiction of the City; and any use of direct communication, personal intermediaries or technological devices by a quorum of the Council or an advisory body to develop a collective concurrence to action by the Council or advisory body.

Meeting does not include: individual contacts between members and any other person; attendance at a conference or similar gathering open to the public involving discussions of issues of interest to the public generally by public agencies specifically, if members do not discuss City business; attendance at open and publicized meetings addressing topics of community concern by someone not associated with the City, if members do not discuss City business; or attendance at social or ceremonial events, if members do not discuss City business.

Member means a City Council member or a member of an advisory body.

(c) Meetings of the Council and meetings of advisory bodies shall be held within the City; except to: comply with State or Federal law in court order; inspect real property or personal property which cannot be moved; meet with another public agency at the other agency on multi-agency matters; discuss legislative or regulatory matters with state or federal officials; discuss matters relating to a City facility in the facility; and visit legal counsel if necessary to reduce fees.

(d) City Clerk shall provide each member a copy of this Article.

Sec. 2-1.402. Regular and Special Meetings[5]

(a) The Council shall hold regular meetings on the first and third Tuesday of each month at 6:00 o"clock p.m. at City Hall located at 21000 Hacienda Boulevard, California City. A regular meeting may be adjourned by the Council or by less than a quorum to another time. An adjourned regular meeting is a regular meeting for all purposes if held within five days of the regular meeting. If the adjourned meeting is held more than five days after the regular meeting, a new agenda shall be posted.

(b) Special meetings of the Council may be called by the Mayor, Vice Mayor or City Clerk upon 24-hour notice to each member.

(c) An emergency meeting may be called without 24-hour notice or agenda if necessary due to disruption or threatened disruption of City facilities by work stoppage or crippling disaster or other activity severely impairing public health or safety as determined by a majority of the members.

(d) Each advisory body may establish a time and place for regular meetings and may call special meetings in the same manner as the Council.

Sec. 2-1.403. Record of Proceedings

(a) The minutes of public meetings shall be available for public inspection when approved by the body. If meetings are recorded on audio tape, the tape shall be available for public inspection on a tape player provided by the City for at least 30 days before the tape is erased.

(b) Persons attending meetings may record the proceeding on audio or video media unless the body finds the recording is a persistent disruption of proceedings.

Sec. 2-1.404. Rules of Conduct

(a) The affirmative vote of at least three Council members is necessary for the Council to approve ordinances or resolutions orders for the payment of money. The Council shall take action by motion, resolution or ordinance. Motions and resolutions may be adopted on voice vote, but roll call shall be taken if requested by a member. Ordinances shall be adopted on roll call vote.

(b) The Council may teleconference to receive public comment and for deliberations of the Council. If teleconferencing is used, the agenda shall be posted at teleconference locations and reasonable rules shall be adopted to protect the statutory and constitutional rights of the parties and the public.

(c) Except as otherwise required by law, and unless waived, proceedings of the Council shall be conducted in accordance with Robert's Rules of Order. Advisory bodies shall adopt rules of order appropriate to their work.

(d) If any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Council may order the meeting room cleared and continue in closed session. Only matters appearing on the agenda may be considered in such a session. The Council may establish a procedure for readmitting individuals not responsible for disturbing the meeting.

(e) The Council shall not prohibit public criticism of the policies, procedures, programs or services of the City or of the acts or decisions of the Council. However, no privilege or protection is hereby conferred for expression beyond that otherwise provided by law.

Sec. 2-1.405. Agenda

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[5] Amended by Ord. 11-695 on 1/17/11.

(a) At least 72 hours before a regular meeting, or at least 24 hours prior to a special meeting, the City Manager, or designee, shall post an agenda containing a brief, general description of each item of business to be transacted or discussed at the meeting, including the items to be discussed in closed session. The posting shall be freely accessible to the public.

(b) The agenda shall include the opportunity for the public to address the Council prior to taking action on any matter. The agenda for regular and adjourned regular meetings shall include the opportunity for the public to address the Council on matters within the jurisdiction of the City but not on the agenda.

(c) No action shall be taken on matters not shown on the agenda, except members may briefly respond to statements made or questions posed during public comment; request clarification; provide a reference to staff or other resources for factual information; request staff to report back to the Council at a subsequent meeting or direct staff to place a matter of business on a future agenda.

(d) The Council may add matters to the agenda upon a majority finding an emergency exists or upon at least a two-thirds vote finding there is a need to take immediate action and the need for action came to the attention of the City subsequent to the posting of the agenda. If only three Council members are present, the finding of the need for action shall be by unanimous vote.

(e) The agenda shall describe matters to be discussed in closed session in substantially the following form:

(1) For closed session under Government Code Section 54956.7: "License/Permit Determination";

(2) For closed session under Government Code Section 54956.8: "Conference with Real Property Negotiator [property identity, negotiating partners, subject of negotiations]";

(3) For closed session under Government Code Section 54956.9: "Conference with Legal Counsel - Existing Litigation [name of case unless disclosure would jeopardize service or settlement]"; or "Conference with Legal Counsel - Anticipated Litigation [potential case name]"; "Liability Claims (name of claimant)";

(4) For closed session under Government Code Section 54956.94: "Liability Claims (name of claimant)";

(5) For closed session under Government Code Section 54957: "Threat to Public Services or Facilities [name of law enforcement agency and title of officer]"; or "Public Employee [specify position]"; or "Public Employee Performance Evaluation [specify position]"; or "Public Employee Discipline/Dismissal/ Release";

(6) For closed session under Government Code Section 54957.6: "Conference with Labor Negotiator [name of agency representative and employee organization or unrepresented employee]".

(f) Meetings to consider new or increased general tax or assessment shall be preceded by at least 45 days notice as specified by law.

Sec. 2-1.406. <u>Closed Sessions</u>

(a) The Council may conduct a closed session to:

(1) Consider a license or permit application;

(2) Consider property acquisition or disposition by eminent domain or otherwise; or

(3) Consider pending or potential claims or litigation;

(4) Consider threats to public services or facilities;

(5) Consider the appointment, promotion or job performance of employees;

(6) Consider charges levied against an employee;

(7) Establish the City's position concerning employee negotiations; (8) Conduct any City business when public session is not possible due to riot or other interruption.

(b) If possible, the Council shall avoid taking action in closed session. Action may be taken in

closed session when necessary to avoid prejudice to the City. Action taken in closed session and the vote, abstention or absent of each member shall be publicly reported as follows:

(1) Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final, as follows:

If the Council's approval renders the agreement final, the Council shall report approval and the substance of the agreement in open session at the public meeting when the closed session is held.

If final approval rests with the other party to the negotiations, the City shall disclose the approval and the substance of the agreement at the next meeting after the other party approves the agreement.

(2) Approval for the city attorney to file or defend an action, or seek or refrain from seeking appellate review, or to appear as an amicus curiae shall be reported in open session at the public meeting when the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify the direction to initiate or intervene has been given. The action taken, the defendants, and the other particulars shall be disclosed once the action is formally commenced, unless to do so would jeopardize the City's ability to effectuate service of process, or would jeopardize ability to conclude successfully existing settlement negotiations.

(3) Approval for the city attorney to settle pending litigation shall be reported after the settlement is final, as follows:

If the Council accepts a settlement offer signed by the opposing party, the Council shall report acceptance and identify the substance of the agreement in open session at the public meeting when the closed session is held.

If final approval rests with another party or the court, the City shall disclose the approval, and identify the substance of the agreement at the next regular meeting after the settlement becomes final.

(4) Disposition reached as to claims discussed in closed session shall be reported in the same manner as the settlement of pending litigation.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee shall be reported at the public meeting when the closed session is held. Such report shall identify the title of the position and specify a change in compensation. A report of dismissal or of nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of the employees administrative remedies.

(6) Approval of an agreement concluding labor negotiations shall be reported after the agreement is final and accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(c) Reports required by this section may be made orally or in writing. The City Clerk shall provide documentation to persons who have submitted a written request to the Council within 24 hours of the posting of the agenda, and persons who have made a standing request for documentation as part of a request for notice of meetings. If the requester is present when the closed session ends, copies of contracts, settlement agreements, or other documents finally approved or adopted in the closed session shall be provided immediately. If the action results in substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours. The Mayor or designee shall orally summarize the substance of the amendments for the benefit of the requester. The documentation shall be available on the next business day following the meeting at which the action occurs, or, in the case of substantial amendments, when necessary retyping is complete.

(d) After completing a closed session, counsel shall prepare a confidential memorandum stating the purpose of the closed session and the action taken. This memorandum is confidential and shall be filed in the office of the City Manager.

CHAPTER 2. COMMISSIONS

ARTICLE 1. GENERAL

Sec. 2-2.101. Scope.

This chapter establishes commissions and boards. This article sets forth provisions common to all commissions and boards.

Sec. 2-2.102. Role of Commissions.

Commissions are established to advise the Council on City policies. Commissions do not establish policy. The scope of a commission"s authority is set forth in this chapter.

Sec. 2-2.103. Qualifications and Appointment.[6]

(a) Commissions shall consist of five highly qualified members who shall be electors of the City at the time of appointment and throughout the term of office. No other qualification shall be imposed.

(b) The City Clerk shall post a notice of anticipated vacancies in the membership of a commission within 10 days after the vacancy. The notice shall identify the vacancy and invite interested persons to apply for appointment.

(c) The Mayor shall appoint a qualified person to fill each vacancy with the advice and consent of the Council not sooner than 10 days after the notice of vacancy is posted.

Sec. 2-2.104. Terms: Vacancies: Removal.

Commissioners shall serve for two years. The terms of two members shall commence on May 1 in even-numbered years, and the terms of the other three members shall commence on May 1 of odd-numbered years. Unscheduled vacancies shall be filled by appointment for unexpired terms only. Commissioners may be removed without cause by a majority of the council.

Sec. 2-2.105. Secretary: Compensation.

The City Manager shall appoint a Secretary for the Commissioners who shall maintain the records of the Commission and the minutes of meetings. The Secretary shall receive such compensation as may be fixed by the Council by resolution.

Sec. 2-2.106. Chair and Vice-Chair.

At its first meeting in the month of May of even-numbered years, Commissions shall elect one of its members as Chair and one of its members as Vice-Chair. If the Chair is absent or unable to act, the Vice-Chair shall conduct the meeting of the Commission and exercise the powers of the Chair.

Sec. 2-2.107. Meetings.

Commissions shall provide for the time and place of holding of its regular meetings. Meetings shall be conducted in accordance with the Ralph M. Brown Act.

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[6] Amended by Ord. No. 09-678 on July 21, 2009.

Sec. 2-2.108. Quorum: Majority Vote.

A majority of the Commissioners shall constitute a quorum for the transaction of business. Commissions shall act only by resolution or motion.

Sec. 2-2.109. Procedure: Records: Reports.

Commissions shall adopt rules and regulations of procedure consistent with this Code and State law. Commissions shall keep written records of proceedings. Commissions shall file their recommendations with the Council. Commissions shall also file an annual report with the Council setting forth the transactions and recommendations of the Commission.

Sec. 2-2.110. Funds, Equipment, and Accommodations.

The Council shall provide the funds, equipment, and accommodations necessary for the work of Commissions.

Sec. 2-2.111. Availability of Information.

Upon request by a Commission, employees shall furnish to each Commissioner within a reasonable time such information as may be required for the work of the Commission.

Sec. 2-2.112. Cooperation with Other Agencies.

Commissions shall cooperate with Commissions of other agencies charged with similar responsibilities in the formulation of its plans and recommendations to the Council.

Sec. 2-2.113. Fees for Special Meetings.

Whenever a person requests a special meeting by a Commission to consider a matter or take an action for that person"s private benefit, such person shall reimburse the City for compensation paid to Commissioners for attendance at such meeting. The City Manager shall determine whether a special meeting is requested for "private benefit" within the meaning of this section.

ARTICLE 2. PLANNING COMMISSION

Sec. 2-2.201. Planning Commission

Pursuant to Chapter 3 of Title 7 (commencing with Section 65100) of the Government Code, there is established a planning agency for the City. The planning agency of the City shall be the Planning Commission composed and organized as set forth in this section.

Sec. 2-2.202. Compensation

Planning Commissioners shall receive $50.00 for each meeting of the Commission attended to a maximum of two meetings in a calendar month. If approved by the Council, Commissioners may also receive traveling and other expenses incurred on City Planning business.

Sec. 2-2.203. Functions

The functions of the Planning Commission shall be as follows:

(a) To develop and maintain a general plan;

(b) To develop such specific plans as may be necessary or desirable;

(c) To periodically review the Capital Improvement Program of the City; and

(d) To perform such other functions as the Council may provide.

Sec. 2-2.204. Right-of-Entry

In the performance of its functions, Planning Commission personnel may enter land and make examinations and surveys. Such entries, examinations and surveys shall not interfere with the use of land by those persons lawfully entitled to the possession.

ARTICLE 3. REDEVELOPMENT AGENCY

Sec. 2-2.301. Redevelopment Agency

The Redevelopment Agency of the City of California City is established. The City Council shall act as the governing body of the Redevelopment Agency.

Sec. 2-2.302. Compensation

Members of the Redevelopment Agency shall be reimbursed for expenses incurred on agency business in accordance with the by-laws of the agency.

ARTICLE 4. AIRPORT ADVISORY COMMISSION

Sec. 2-2.401. Scope

This article reestablishes the California City Airport Advisory Board to provide advice concerning the operation of the California City Municipal Airport.

Sec. 2-2.402. Description

The California City Airport Advisory Board ("Board") shall consist of five residents of the City who are qualified by virtue of their interest in the community and interest in the operations of the municipal airport. (Ord. 99-567, June 1, 1999.)

Sec. 2-2.403. Periodic Report

The Board shall advise the Airport Manager, City Manager and City Council on matters affecting the California City Municipal Airport. The Council may refer specific issues to the Board for response.

Sec. 2-2.404. Other

The City Manager, or designee, shall assist the Board. The City Attorney or designee, shall provide legal advice to the Board.

ARTICLE 5. EMERGENCY ORGANIZATION

Sec. 2-2.501. Scope.

(a) This article provides for the preparation and carrying out of plans for the protection of persons and property within the City in the event of an emergency; the direction of the Emergency Organization; and the coordination of the emergency functions of the City with others.

(b) As used in this article, "emergency" means the actual or threatened conditions of disaster or extreme peril to the safety of person and property caused by conditions likely to be beyond the control of the services, personnel, equipment, and facilities of the City, and requiring the combined forces of other political subdivisions to combat.

Sec. 2-2.502. Disaster Council: Membership.

(a) The California City Disaster Council shall consist of the following:

(1) Mayor, who shall be chair;

(2) The Director of Emergency Services who shall be the vice-chair of the Council;

(3) The assistant Director of Emergency Services;

(4) Chiefs of emergency services provided in the current Emergency Plan of the City, adopted pursuant to this chapter; and

(5) Representatives of civic, business, labor, veteran, professional, or other organizations having an official emergency responsibility appointed by the Director of Emergency Services with the advice and consent of the City Council.

(b) The Disaster Council shall recommend to the City Council emergency and mutual aid plans, ordinances, resolutions, rules, and regulations necessary to implement emergency plans and agreements.

(c) The Disaster Council is responsible for the development of the City of California City Emergency Plan to provide for the effective mobilization of resources of the City, public and private, to meet local emergencies, a state of emergency, or a state of war emergency. The plan shall also provide for the organization, powers and duties, services, and staff of the emergency organization. The plan shall take effect upon adoption by resolution of the City Council.

Sec. 2-2.503. Director of Emergency Services: Powers and Duties.

(a) The office of Director of Emergency Services is created and the City Manager shall be the Director. The Assistant Director shall, under the supervision of the Director and with the assistance of emergence service chiefs, develop emergency plans, manage the emergency programs of the City, and have powers and duties as assigned by the Director. The office of Assistant Director of Emergency Services is created. The assistant director shall be appointed by the Director.

(b) The Director may:

(1) Request the City Council to proclaim an existing or threatened "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. If a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days, or the proclamation shall have no further force or effect;

(2) Request the Governor to proclaim a "state of emergency" when the locally available resources are inadequate to cope with the emergency;

(3) Control and direct the effort of the emergency services of the City for the accomplishment of the purposes of this chapter; and

(4) Represent the City in dealing with public or private agencies on matters pertaining to emergencies.

(c) In the event of the proclamation of a "local emergency" or "state of emergency" by the Governor or the Director of the Office of Emergency Services of the State, or the existence

of a "state of war emergency," the Director may:

(1) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency. Rules and regulations shall be confirmed at the earliest practicable time by the City Council.

(2) Obtain vital supplies, equipment, and other properties lacking and needed for the protection of life and property; bind the City for the fair value and, if required immediately, commander the same for the public use;

(3) Require the emergency services of officers or employees and to command the aid of as many citizens of the community as necessary. Such persons shall be entitled to the privileges, benefits and immunities as provided by law for registered disaster service workers.

(4) Requisition necessary personnel or material of City departments; and

(5) Execute ordinary powers as City Manager, the special powers conferred by this chapter, by resolution of an emergency plan adopted by the City Council, and powers conferred by statute, agreements approved by the City Council, or other lawful authority.

(d) The Director shall designate the order of succession to take effect in the event the Director is unavailable to attend meetings and otherwise perform duties during an emergency. The order of succession shall be approved by the City Council.

Sec. 2-2.504. Emergency Organization.

Officers and employees of the City, together with those volunteer forces enrolled to aid them during an emergency, and groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service pursuant to the provisions of this chapter, are charged with duties incident to the protection of life and property in the City during such emergency, shall constitute the Emergency Organization of the City.

Sec. 2-2.505. Violations: Penalties.[7]

It is a misdemeanor for a person during an emergency to:

(a) Willfully obstruct, hinder, or delay a member of the Emergency Organization in the enforcement of a lawful rule or regulation issued pursuant to this chapter, or in the performance of a duty imposed by this chapter;

(b) Do any act forbidden by lawful rule or regulation issued pursuant to this chapter if such act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the City, or to prevent, hinder, or delay the defense or protection thereof; or

(c) Wear, carry, or display, without authority, identification specified by the Emergency Agency of the State.

ARTICLE 6. SDI ADVISORY COMMITTEE

Sec. 2-2.601. General.

(a) The SDI Advisory Committee shall consist of two members serving four year terms. One member shall be appointed by the City. One member shall be appointed by Mojave County Landowners News, Inc., dba California City Landowners Association (hereafter The Association). Vacancies shall be filled in the same manner. The member appointed by the City shall be a resident of the City. The member appointed by The Association shall be an SDI Lot Owner.

(b) The SDI Advisory Committee shall monitor the investment and expenditure of money in the SDI Fund as set forth in this chapter. The SDI Advisory Committee may consult with the City on land use issues affecting SDI Tracts and may consult with the City of California City Redevelopment Agency concerning redevelopment issues affecting SDI Tracts. The SDI Advisory

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[7] Amended by Ord. No. 99-569 on July 6, 1999.

Committee may request the city manager engage services of consultants to assist the SDI Advisory Committee in connection with its responsibilities defined herein. The City Manager shall act on this request within twenty days.

(c) The City shall provide the SDI Advisory Committee with reports and information as requested and access to a meeting place. Environmental documents for SDI projects shall be provided to the SDI Advisory Committee. The Committee shall be compensated at the same rate and manner as the City Planning Commission.

(d) The SDI Advisory Committee shall comply with laws affecting public agency committees, including conflicts of interest laws and secret meeting laws. At least two affirmative votes are needed for the SDI Advisory Committee to act. If the two members of the SDI Advisory Committee cannot agree, they may jointly engage a mediator or arbitrator. If the two members of the SDI Advisory Committee cannot agree on the appointment of a mediator or arbitrator or if they do not both agree with the outcome of the mediation or arbitration, either member may petition the Federal Court to resolve the dispute as the Court deems appropriate.

Sec. 2-2.602. Council Review.

(a) The SDI Advisory Committee may request the City Council"s review of:

(1) The policy for investment of SDI Fund money;

(2) Investment of SDI Fund money;

(3) The annual certification of the money available for maintenance of SDI Improvements;

(4) The decision of the City Council concerning the need for constructing SDI Improvements;

(5) Disbursements/expenditures from the SDI Fund;

(6) The hiring of consultants

(7) Any other matter concerning the investment of the SDI Fund, disbursement from the SDI fund, or the development of or construction of improvements within the SDI tracts.

(b) The request for review shall be written and shall be submitted to the City Clerk. The request may include a request to stay any pending action, pending the City Council"s decision. The City Manager may grant the stay request if the request for review is timely and the delay will not prejudice the SDI Fund or owners of SDI Lots.

(c) The City Council shall consider the request for review at a public hearing between fifteen and thirty days after request for review is filed with the City Clerk. All interested persons shall be heard. The hearing may be continued from time-to-time. The City Council shall render a written decision within fifteen days after the conclusion of the hearing.

Sec. 2-2.603. Court Review.

(a) The City or the SDI Advisory Committee may petition the Federal District Court, Eastern District, in *Fitzpatrick, et al. v. City of California City* (USDC Case No. SV-F-96-5411-REC-SMS), herein "Fitzpatrick Case," or the court"s designee and respond to a petition by the City or Committee (as the case may be);

(1) to overturn the City Manager"s decision on a request for stay; or

(2) to overturn the City Council"s decision on the merits of the request for review;

(3) to determine action or proposed comments to the SDI Agreements or this chapter;

(4) to obtain approval of amendments to this chapter;

(5) to resolve a dispute as between the two members of the SDI Advisory Committee as set forth in section 9-6.401(d).

(b) The Court, or the court" designee, shall promptly hear the petition. The designee"s decision may be appealed to the Court. The unappealed designee"s decision or the Court"s decision is final (subject to review by appeal or writ).

(c) The Court or designee shall reverse the decision by the City Manager (concerning a stay request) or the City Council (concerning the merits of the request for review) if the actions of the City Manager or City Council (as the case may be) were arbitrary, capricious, not supported by substantial evidence, or contrary to the terms of SDI Agreements or this ordinance.

(d) The Court shall order the SDI Fund to pay reasonable attorney fees to the prevailing party.

Sec. 2-2.604. Termination or Modification.[8]

(a) The SDI Committee shall have no further force or effect when the SDI Agreements have been fully performed.

(b) The City may, but is not obligated to, petition the Court in the *Fitzpatrick Case* for a determination the SDI Agreements have been fully performed.

(c) The City shall obtain Court approval in the *Fitzpatrick Case* before amending this Chapter.

ARTICLE 8. Parks and Recreation Commission[9]

Sec. 2-2.801. Purpose.

This Article establishes a Parks and Recreation Commission ("Commission").

Sec. 2-2.802. Scope.

The Commission shall provide recommendations to the Council for policies, procedures, and funding to establish, develop and maintain parks and recreational needs within the City.

Sec. 2-2.803. Functions.

(a) Commission shall work closely with the public and staff to develop:

(1) A Master Plan for parks and recreational facilities;

(2) Recommendations for rules and regulations governing the use of parks and recreational facilities;

(3) Recommendations for alterations, ornamentation, upgrades or additions to parks and recreational facilities;

(4) Recommendations for City sponsored recreational activities; and

(5) Annual budget recommendations.

(b) Commission shall perform other such functions as directed by the Council.

Sec. 2-2.804. Compensation.

Provided money is available from special tax proceeds, members shall receive fifty dollars ($50.00) for each day's attendance at a regular or special meeting. Members may also be reimbursed under such circumstances for travel, meals and lodging when approved by the City Manager.

Sec. 2-2.805. Secretary Compensation.

The City Manager shall appoint a secretary to serve for the Commission. The Secretary shall maintain records of the Commission and minutes of the meetings. Provided money is available from special tax proceeds, the Secretary shall receive such compensation as may be fixed from time to time by the Council by resolution.

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[8] Section 2-2.604 amended by Ord. No. 99-569 on July 6, 1999.

[9] Article added by Ord. No. 09-678 on July 21, 2009.

Sec. 2-2.806. Procedures, Records, and Reports.

The Commission shall provide a quarterly report to the Council at a regular Council meeting.

ARTICLE 9. Special Tax Commission[10]

Sec. 2-2.901. Purpose.

This Article establishes the Special Tax Commission ("Commission").

Sec. 2-2.902. Scope.

The Commission shall ensure the receipt and expenditure of special tax proceeds complies with law, including ballot measures approving a special tax.

Sec. 2-2.903. Function.

(a) A separate fund is established for each special tax entitled "Special Tax Fund [year]." Proceeds from special taxes shall be deposited in such funds. The Commission shall confirm proceeds have been deposited in the appropriate special tax fund.

(b) Special tax proceeds shall be spent only for the purposes approved by the voters. The Finance Director shall report monthly on expenditures of special tax proceeds to the Commission. The Commission shall determine if the purpose of the expenditure is consistent with the voter approval for the measure.

(c) The Commission shall present an annual report summarizing receipts and expenditures from the special tax fund.

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[10] Added by Ord. No. 10-689 on October 5, 2010.

CHAPTER 3. MANAGEMENT

ARTICLE 1. GENERAL

Sec. 2-3.101. Scope

This chapter deals with management officials of the City.

Sec. 2-3.102. Role

The Management of the City is delegated to the officers described in this chapter. Officers are responsible for complementing the policies established by the Council, and recommending changes in policy as appropriate. Officers do not make policy.

Sec. 2-3.103. Personnel Rules

(a) Persons holding the following offices or positions are at-will management employees and not subject to the Personnel Rules affecting other employees: City Manager, Chief of Police, Fire Chief, Director of Finance, City Engineer, City Attorney, City Clerk, and Public Works Director.

(b) Persons holding the following offices or positions occupy "exempt positions" within the meaning of the Fair Labor Standards Act:

(1) Administrative: City Manager, Chief of Police, Fire Chief; Finance Director, City Clerk, Human Resources Specialist, Parks and Recreation Supervisor, Accounting Manager, Housing Manager, and Airport Manager.

(2) Professional: City Engineer, City Attorney, Finance Director, Public Works Director.

(c) Persons holding the following offices or positions occupy “confidential positions”: City Manager, Chief of Police, Fire Chief, Finance Director, Public Works Director, Administrative Clerk to City Manager, and Human Resources Specialist

(Amended by Ord. 07-654 on Nov 6, 2007.)

ARTICLE 2. CITY MANAGER

Sec. 2-3.201. General

The chief executive officer of the City is the City Manager.

Sec. 2-3.202. Role

The City Manager shall report to the Council on the implementation of policies established by the Council and make recommendations for policy changes. The City Manager shall coordinate the reports and recommendations of other management officials. The City Manager shall not make policy.

Sec. 2-3.203. Eligibility

Council members and the Mayor shall not be eligible for appointment as City Manager until one year has elapsed after ceasing to be a member of the Council or Mayor.

Sec. 2-3.204. Appointment

The City Manager shall be appointed by the Council wholly on the basis of administrative and executive ability and qualifications and shall hold office during the pleasure of the Council.

Sec. 2-3.205. Subordinates

Subordinate officers and department heads shall assist the City Manager in administering the affairs of the City efficiently, economically, and harmoniously.

Sec. 2-3.206. City Manager Pro Tempore

The City Manager shall designate a qualified City employee to exercise the powers and perform the duties of the City Manager during temporary absence or disability. If an absence or disability of the City Manager extends over a two-month period, the Council may appoint an Acting City Manager.

Sec. 2-3.207. Bond

The City Manager and Acting City Manager shall be covered by a fidelity bond purchased by the City in an amount and form approved by the City attorney.

Sec. 2-3.208. Compensation and Benefits

(a) The City Manager shall receive such annual compensation as the Council shall determine.

(b) The City Manager shall be reimbursed for the actual and necessary expenses incurred in the performance of official duties.

(c) On the termination by reason of involuntary removal from service, other than for willful misconduct in office, the City Manager shall receive cash severance pay in a lump sum equal to six months" pay if the termination occurs during the first three years of employment and eight months" pay thereafter. Such pay shall be computed at the highest salary received by the City Manager during service with the City. For the purposes of this section, "involuntary removal from service" shall mean and include reductions in pay not applicable to all employees.

Sec. 2-3.209.[11] **Powers and Duties**

The City Manager is the administrative head of the City under the direction and control of the Council. The City Manager is responsible for the efficient administration of the affairs of the City. In addition to general powers as administrative head, the City Manager shall have the following powers and duties:

(a) To enforce the laws and regulations of the City;

(b) To ascertain franchises, contracts, permits, and privileges granted by the Council are faithfully observed;

(c) To control, order, and give directions to heads of departments and subordinate officers and employees through department heads;

(d) To appoint, remove, promote, and demote any and all officers and employees of

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[11] Amended by Ord. No. 07-649, July 3, 2007.

the City, subject to personnel rules and regulations (provided the City Attorney and the City Clerk shall be appointed by the City Council and City Treasurer shall be elected; provided further, the City Manager shall seek the advice and consent of the City Council prior to the appointment of the Chief of Police and Fire Chief; the City Council shall review the City Manager"s recommendations in closed session and the decision of the City Council shall be memorialized in written minutes);

(e) To conduct studies and effect such administrative reorganization of offices, positions, or units as may be in the interest of the efficient, effective, and economical conduct of the City"s business;

(f) To recommend to the Council for adoption of measures and ordinances;

(g) To attend meetings of the Council;

(h) To keep the Council fully advised as to the financial conditions and needs of the City;

(i) To prepare and submit the proposed annual budget and the proposed annual salary plan to the Council;

(j) To ascertain no expenditures shall be submitted or recommended to the Council except on approval of the City Manager or the approval of City Manager"s authorized representative;

(k) City Manager or authorized representative shall be responsible for the purchase of supplies for all departments or divisions of the City;

(l) To make investigations into the affairs of the City, and investigate all complaints concerning the administration of the City;

(m) To exercise general supervision over public buildings, public parks, and other public property under the control and jurisdiction of the Council; and

(n) To perform other duties and exercise other powers delegated by the Council.

Sec. 2-3.209A.[12] **Emergency Service and Property Damages Cost Recovery.**

(a) Under state law, the City may recover the cost of traffic signals and similar facilities damaged by negligent vehicle operations, the cost of emergency response to an accident caused by a motor vehicle operator under the influence of alcohol or drugs, the cost of hazardous waste cleanup and the cost of search and rescue in closed areas. The City Manager, or designee, shall take action as necessary to recover costs whenever authorized by law.

(b) The City shall initiate mitigation fees for the delivery of emergency services by the fire department for personnel, supplies and equipment to the scene of motor vehicle incidents and other emergency incidents as listed in "EXHIBIT A". The rate of mitigation fees shall be based on actual costs of the services and that which is usual, customary and reasonable (UCR) as shown in "EXHIBIT A", which may include any services, personnel, supplies, and equipment and with baselines established by addendum to this document.

(c) The City Manager, or designee, shall also take action to recover damage to City real or personal property, regardless of cause. Provided, the City Manager shall not commence litigation except in small claims court without prior council approval.

(d) As used herein, "cost" includes replacement cost of goods consumed by the City or damaged by the third party when providing services, actual labor costs, and a reasonable allocation of administrative expenses incurred by the City. The council shall establish administrative expense allocation by resolution."

Sec. 2-3.210. Personnel Matters

The City Manager shall also have the following powers and duties, subject to Council review:

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[12] Added by Ord. No. 10-687 on May 18, 2010.

(a) To prepare and revise Personnel Rules;

(b) To prepare, or cause to be prepared, position classification plans, including class specifications and revisions;

(c) To prepare, or cause to be prepared, a plan of compensation and revisions covering classifications in the competitive service; and

(d) To contract with qualified persons or agencies for the performance of the Personnel Rules not specifically reserved to the Council.

Sec. 2-3.211. Attendance at Commissions and Meetings

The City Manager may attend meetings of Commissions. At the meetings, the City Manager shall be heard and shall cooperate to the fullest extent with Commissioners.

Sec. 2-3.212. Removal: Notice

The City Manager may be removed from office by a majority vote of the whole Council convened in a regular Council meeting, subject, however, to the provision of Sections 2-2.110 through 2-2.113 of this Article. If removal is considered by the Council, the City Manager shall be furnished with a written notice, stating the Council‟s intention to remove at least thirty days before the effective date of removal. If the City Manager requests, the Council shall provide in writing reasons for the intended removal within seven days after the receipt of such request from the City Manager and at least fifteen days prior to the effective date of such removal.

Sec. 2-3.213. Removal: Hearing

After receipt of notice of intention to remove the City Manager from office, the City Manager may file a written appeal and request a hearing before the Council, pursuant to Title 1.

Sec. 2-3.214. Removal: Suspension

The Council may suspend the City Manager from duty after furnishing a written notice of intended removal. Compensation shall continue until the removal by the Council after the hearing provided for in Section 2-2.211 of this Article.

Sec. 2-3.215. Removal: Council Action

In removing the City Manager, the Council shall use its uncontrolled discretion, and action shall be final and not depend upon a showing or degree of proof at the hearing. The purpose of the hearing is to allow the City Manager an opportunity to present to the Council grounds of opposition to removal prior to the action of the Council.

Sec. 2-3.216. Removal: Limitation

The City Manager shall not be removed from office, other than for misconduct in office, during or within a period of six months next succeeding a municipal election held in the City at which election a member of the Council is elected or when a new Council member is appointed. This allows a newly elected or appointed member of the Council or a reorganized Council to observe the actions and ability of the City Manager in the performance of the powers and duties of office. After the expiration of such six-month period, the provisions of this Article for the removal of the City Manager shall apply.

Sec. 2-3.217. Supplemental Employment Agreements

This Article does not limit the power of the Council to enter into supplemental agreements with the City Manager delineating additional terms and conditions of employment consistent with this Article.

ARTICLE 3. OTHER OFFICERS

Sec. 2-3.301. Chief of Police

(a) The Chief of Police shall be appointed by the City Manager with the advice and consent of the council.

(b) The Chief of Police shall be in control of the operation of the Police Department, subject to the supervision of the City Manager, and shall direct the Department so it fulfills the duties delegated to it by law as follows:

(1) Under the administrative direction of the City Manager, to plan, organize, and direct the activities of the Police Department in law enforcement and crime prevention; and

(2) To do related work as required.

(c) Pursuant to Section 15310(c), Chapter 1, the California City Police Department will adhere to standards for recruitment and training established by the California Commission on Police Officer Standards and Training (POST).

(d) Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain the California City Police Department"s public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training (POST).

Sec. 2-3.302. Fire Chief: Powers and Duties

(a) The Fire Chief shall be appointed by the City Manager with the advice and consent of the council.

(b) The Fire Chief shall be in charge of the operation of the Fire Department, subject to the supervision of the City Manager, and shall direct the Department so it fulfills the duties delegated to it by law. The Commander, Fire Protection Services, is the ex officio Fire Chief.

(c) The Fire Chief is hereby authorized and empowered to issue citations to any person who creates or maintains a public nuisance or maintains property in violation of the provisions of this Code.

(d) The Fire Chief, or his designee, shall also issue such permits and perform such inspections as are necessary or proper in performing the duties delegated to the Fire Department under this Code.

Sec. 2-3.303.[13] City Clerk

(a) The City Council shall appoint the City Clerk.

(b) The City Clerk shall perform duties mandated by State law, including:

(1) keep accurate records of the proceedings of the City Council in books bearing appropriate titles, containing a comprehensive general index and devoted exclusively to such purpose;

(2) cause ordinances to be posted or published as required by law;

(3) keep a book marked "ordinances" and record in it all City ordinances with

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[13] Amended by Ord. No. 07-649, July 3, 2007.

the Clerk"s affidavit annexed to each or made a part of, stating:

(i) it is a true and correct copy of a City ordinance;

(ii) the ordinance number, and

(iii) it has been published or posted pursuant to law;

(4) cause a written notice of adjournment of a Council meeting to be posted;

(5) certify and maintain at least three copies of the Municipal Code in the Clerk"s office as the official copies of the Code;

(6) keep the City seal;

(7) prepare and publish notices and other election material, conduct elections, canvass and report returns to the Council except when services are provided by the County Clerk

(8) acknowledge oaths and certify affidavits pertaining to City business; and

(9) the duties imposed on the City Clerk by Government Code Sections 37201 through 37205, 37207, and 40802 through 40805 are transferred to the Director of Finance.

(c) Before entering upon the duties of the office, the City Clerk shall execute a corporate surety bond, conditioned upon the faithful performance of the duties of the City Clerk in the penal sum of a reasonable amount as recommended by the City Attorney and fixed by the City Council by resolution. The amount of the bond may be changed during the term of office of the City Clerk.

Sec. 2-3.304. <u>City Treasurer</u>

(a) The City Treasurer is an elective office.

(b) The City Treasurer shall perform the duties mandated by State Law.

(c) Before entering upon the duties of the office, the City Treasurer shall executed a corporate surety bond, conditioned upon the faithful performance of the duties of the City Treasurer in the penal sum of a reasonable amount as recommended by the City Attorney and fixed by the City Council by resolution. The amount of the bond may be changed during the term of office of the City Treasurer.

Sec. 2-3.305.[14] **<u>Director of Finance</u>**

(a) The City Council shall appoint the Director of Finance.

(b) The Director of Finance has the following powers and duties:

(1) To audit demands prior to submittal to the Council for approval or rejection;

(2) To countersign City warrants;

(3) To endorse and number an order or demand "Not Approved for Want of Funds" with the date of the presentation and signature, when an order or demand is not approved for want of funds and its amount does not exceed the income and revenue for the year in which the indebtedness was incurred;

(4) To certify or approve payrolls or attendance records of other officers and employees of the City;

(5) To maintain records readily reflecting the financial condition of the City;

(6) To prepare and present to the Council at the end of each fiscal year a summary statement of the receipts and disbursements by departments and funds, including opening and closing fund balances in the treasury;

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[14] Amended by Ord. No. 07-649, July 3, 2007.

(7) To cause the financial statement to be posted at the places for public notices not later than October 1 of each year in a form prescribed by the State Controller;

(8) To account for expenditures;

(9) To exercise continuous scrutiny of revenues;

(10) To transfer moneys within a fund to prevent the over-expenditure of accounts where approved by the Council;

(11) To prepare monthly budget reports by funds, character, object, and classification for the use of department heads and the Council;

(12) To prepare and distribute working schedules to City department heads for the preparation of the ensuing year"s budget;

(13) To schedule and attend budget hearings to assist the council and the department heads in budgetary matters;

(14) To administer the daily transactions of the City;

(15) To post revenues and expenditures to the general fund ledger and determine the monthly and year-to-date totals at the close of each month. Such fund balances shall be verified with the City treasurer"s fund balances monthly and must agree;

(16) To prepare monthly reports for the management and the Council which shall include the following:

(i) The comparative statement of revenue;

(ii) The monthly report of appropriations, encumbrances, expenditures, and unencumbered balances; and

(iii) The combined fund balance sheet;

(17) To analyze and verify listings of impound note payments received;

(18) To supervise the preparation of the bi-weekly payroll and payroll registers;

(19) To prepare and certify all reports to other governmental agencies relating to payroll activities;

(20) To prepare and certify all other monthly, quarterly, and annual reports to the State and other governmental agencies;

(21) To establish accounting records and to create and maintain active and inactive files for the transaction of City business;

(22) To be available to the Council and the individual members for consultation and advice at reasonable times; and

(23) To perform the duties set forth in Government Code Sections 37203 through 37205, 37207, and 40802 through 40805.

(c) Before entering upon the duties of office, the Director of Finance shall execute a corporate surety bond, conditioned upon the faithful performance of duties, in a penal sum in a reasonable amount as recommended by the City Attorney and fixed by the Council by resolution, which may be changed during the term of office of the Director of Finance.

Sec. 2-3.306 <u>City Attorney</u>

(a) The City Attorney shall be appointed by the City Council.

(b) The City Attorney shall perform the duties mandated by law.

CHAPTER 4. EMPLOYEES

ARTICLE 1. GENERAL

Sec. 2-4.101. General

This chapter contains rules affecting employees individually and collectively.

Sec. 2-4.102. Role

Employees shall perform work assigned by management. Employees may recommend ways to improve the efficiency of the City by working through the chain of command.

Sec. 2-4.103. Definitions

The following terms are defined for the purposes of this chapter:

(a) "Confidential employee" means an employee privy to the decisions of management affecting employee relations.

(b) "Consult or Consultation" means to communicate verbally or in writing to present and obtain views or advise of intended action.

(c) "Competitive service" means persons engaged to work for the city, except:
- (1) independent contractors;
- (2) management officials;
- (3) volunteers;
- (4) persons hired for the duration of an emergency; and
- (5) part-time employees.

(d) "Employee" means a permanent full-time employee.

(e) "Employee organization" means an organization which includes employees of the City and has as one of its primary purposes representing such employees in their relations with the City.

(f) "Fact finding" means identification of major issues in a dispute, review of the positions of the parties, resolution of factual differences by one or more impartial fact finders and, the making of recommendations to the Council for settlement.

(g) "Grievance" means dispute concerning the interpretation or application of this Article, a written memorandum of understanding, rules and regulations governing personnel practices, or working conditions. A dispute concerning an initial or renewed memorandum of understanding does not constitute a grievance.

(h) "Impasse" means a deadlock in negotiations between a recognized employee organization and the City over a matter required to be negotiated over the scope or the subject matter of negotiations.

(i) "Management representative" means the City Manager or authorized representative.

(j) "Mediation" means efforts by an impartial third party, functioning as an intermediary, to assist the parties in reaching a voluntary resolution of an impasse through suggestion and advice.

(k) "Memorandum Of Understanding" means a written document prepared by the parties incorporating matters of which agreement is reached following negotiations. The memorandum shall be presented to the Council for determination.

(l) "Negotiation" means the performance by management representatives and duly authorized representatives of recognized employee organizations of their mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment and includes the mutual obligation to execute a memorandum of understanding incorporating any agreement reached to be presented to the Council for determination. This obligation does not compel either party to agree to a proposal or make a concession.

(m) "Professional employee" means any employee engaged in work which is:

(1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;

(2) involving the consistent exercise of discretion and judgment in its performance;

(3) of such a character that the output cannot be standardized in relation to a given period of time; and

(4) Requiring knowledge of an advanced type in a field of science or learning requiring a prolonged course of specialized instruction and study in an institution of higher learning.

(n) "Recognized employee organization" means an employee organization formally certified by the City as representing a majority of the employees in a particular representational unit.

(o) "Representational unit or units" means a grouping of employee classifications for the purpose of establishing the employee classifications the subject of a particular negotiation.

(p) "Safety personnel" means persons employed by the police department or fire department as peace officers or firemen, respectively.

Sec. 2-4.104. Personnel Rules

Personnel Rules shall be adopted by resolution after at least five days prior notice.

Sec. 2-4.105. Volunteers

Volunteer members of the Police or Fire Department reserves are employees for workers" compensation coverage. Other volunteers are employees for workers" compensation purposes if the volunteer is identified in writing by the City and the volunteer agrees to such coverage before activities commence.

Sec. 2-4.106. Salary and Benefits

Salary and benefits for employees shall be negotiated annually and set forth in memoranda of understanding.

Sec. 2-4.107. Expense Reimbursement

(a) City personnel, including the Council, Commissioners, Board members and Employees, whether full-time, part-time, temporary, contract or otherwise, shall be reimbursed for actual expenses incurred on City business at the direction of the City Council or City Manager.

(b) As used herein, "actual expenses" include:

(1) Transportation costs actually incurred, including transportation to and from the point of destination and the City Hall; necessary business related transportation at the point of destination, and costs incidental to transportation at the point of destination, including parking costs and tolls. If the mode of transportation is a private automobile, reimbursement shall be at the rate of $0.315 per mile.

(2) Registration fees.

(3) Costs of lodging at the point of destination for City personnel only.

(4) Cost of meals not to exceed $50.00 per day.

(c) The City Council shall approve the budget for expense reimbursement for officers and employees, including elected officers. The City Manager shall approve specific requests for expense reimbursement for officers and employees other than elected officials. Except in the case of emergencies threatening the health, welfare or safety of the City, expense reimbursement shall not be paid without prior Council approval.

(d) Arrangements for expense reimbursement shall be made by with the City Manger at least three working days prior to leaving the City, unless for good cause, the City Manager deems is in the best interest of the City to allow a later request. The officer or employee shall provide the Finance Officer with a complete accounting of expenses, including expenses paid in advance, and shall refund any excess advance payment within ten days after the event.

(e) Requests for reimbursement for expenses not paid in advance by the City shall be reviewed by the City Manager for compliance with the requirements of this resolution. Requests for reimbursement of expenses not paid in advance by an elected officer shall also be reviewed by the City Council.

Sec. 2-4.108. P.O.S.T. Certification.

(a) The Council hereby declares that it desires to qualify to receive aid from the State pursuant to the provisions of Chapter 1 of Title 4 of Part 4 of the Penal Code of the State.

(b) Pursuant to the provisions of Section 13522 of said Chapter 1, the City, while receiving aid from the State pursuant to said Chapter 1, shall adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training. (Ord. No. 99-569 – July 6, 1999.)

ARTICLE 2. INDIVIDUAL RIGHTS

Sec. 2-4.201. Appointments and Promotions

(a) Appointments or promotions to vacant positions in the competitive service shall be based on merit and fitness ascertained so far as practicable by competitive examination. Such examinations shall fairly test the qualifications of candidates, such as achievement and aptitude, and may include minimum standards for the position.

(b) Appointments to competitive service shall be made by the department head from among one of the three candidates who scored highest in the competitive examination for the position.

(c) Whenever it is necessary to fill a position before it is possible to assemble a competitive examination and test applicants, a provisional appointment may be made of a person meeting minimum training and experience qualifications for the position. Such provisional appointment shall not exceed six months. A provisional employee may be removed at any time without cause. A provisional appointment may also be made during the pendency of a suspension of an employee or pending final action on a proceeding to review the suspension, reduction or discharge of an employee.

(d) The immediate family of the Mayor, Council members, City Manager, City Attorney and Department Heads are not eligible for appointment to a position in the competitive service. The immediate family of other officers or employees are not eligible for appointment to the competitive service if the family member"s activities would be subject to review or supervision by such officer or employee. As used herein, "family member" includes spouse, sibling, parent, child, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent or step-child or such officer or employee.

Sec. 2-4.202. **Probationary Periods**

(a) Regular appointments, including promotional appointments, shall be for a probationary

period of six months. Appointments, including promotional appointments of safety employees shall be for a probationary period of twelve months. During the probationary period, the employee may be rejected without cause or hearing.

(b) An employee rejected during the probationary period from a promoted position shall be reinstated to the employee"s former position in the classification of service unless the employee is discharged as provided in this Article.

(c) An employee in the competitive service promoted or transferred to a position not included in the competitive service shall be reinstated to the position in the competitive service if the employee is rejected during the probationary period, unless the employee is discharged as provided in this Article.

Sec. 2-4.203. **Disciplinary Action: General**

(a) An employee may be disciplined by the City Manager. Such discipline may consist of counseling, oral or written reprimands, suspensions, reductions in pay or rank or discharge. Proposed suspension, reduction in pay or rank or discharge shall be preceded by the notice required in subparagraph (b).

(b) When a Department Head proposes to suspend, reduce or discharge an employee, the Department Head shall first provide the employee with an unsigned written statement of the reasons for such discipline and invite the employee to respond to such statement. The amount of time given an employee to respond shall depend on the nature of the charges, the length of service, and the nature of the proposed disciplinary action. If the employee accepts the invitation and provides a response, the City Manager shall consider such response before action is final. The City Manager may affirm, modify or reject the proposed discipline.

(c) An employee may be suspended for not to exceed thirty days pending investigation, filing of formal charges and hearing on charges or as a part of a disciplinary action. The reasons for suspension shall be furnished in writing to the employee. A suspended employee may answer, explain or deny the charges in writing within ten business days from the receipt thereof.

(d) An employee may be discharged or reduced in rank or compensation. The reasons for the reduction or discharge shall be furnished in writing to the employee. The employee may answer, explain or deny the charges in writing within ten business days after the date of receipt of the charges.

Sec. 2-4.204. **Disciplinary Action: Appeals**

(a) An employee may appeal disciplinary action, interpretation or alleged violation of this Article or Personnel Rules to the Council if grievance procedures covering the subject matter of the appeal have been exhausted.

(b) At the discretion of the Council, in cases other than discharge, reduction or suspension in excess of five days, a decision may be made after a review of written material submitted by parties.

(c) Appeals shall state in plain language the facts and reasons why the ruling is being appealed. A hearing on the merits may be denied if the petitioner fails to state specific facts or reasons, or if in the opinion of the Council the facts or reasons if true would not entitle the petitioner to relief, provided, such denial shall be without prejudice to the filing of an amended petition.

(d) Appeals shall be filed with the City Clerk within ten working days of receipt of notice of disciplinary action from the City Manager.

(e) The burden of proof shall be on the City Manager in appeals concerning discharges, reductions or suspensions. In other types of appeals, the burden of proof shall be on petitioner.

Sec. 2-4.205. **Abolition of Positions**

(a) The City Council may abolish a position in the competitive service. Employees transferred, demoted or laid off because of the abolishment of a position shall not be entitled to a written statement of the reasons nor the right to appeal such decision.

(b) Seniority shall be observed in effecting a reduction in personnel and the order of lay-off shall be in the reverse order to the total cumulative time served in permanent and probationary status in the competitive service as of the effective date of the lay-off. The lay-off shall be made within classifications of position and provisional employees in the effected classification shall be laid off prior to

the lay-off of probationary or permanent employee. For the purpose of determining the order of lay-off, total cumulative time shall include time served on military leaves of absence.

(c) The names of probationary and permanent employees laid off shall be placed on a re-employment list for classification which, in the opinion of the personnel officer, require basically the same qualifications, duties and responsibilities of those in the classification from which the lay-off is made. The names of persons laid off shall be placed upon re-employment lists in the order of total cumulative time served and probationary and permanent status and shall remain on such list for a period of one year unless re-employed sooner.

(d) When a non-competitive position is abolished, the person holding the position shall be entitled only to the benefits described in this subsection. The person holding the abolished position shall receive cash severance pay in a lump sum equal to one month"s pay for each year of continuous service, or fraction thereof, up to a total of six months" pay. Such pay shall be computed at the highest salary received by the person holding the position during his or her service with the City. A person in non-competitive service who has been removed from the position prior to the abolishment of the position shall not be eligible to receive such severance pay.

Sec. 2-4.206. **Abandonment of Position**

A permanent, full-time employee absent from work for a period of three consecutive working days without prior written permission from the Department Head is deemed to have abandoned the position. If abandonment is caused by accident or illness, the employee shall not be deemed to have abandoned the position if:

(a) Employee notifies the Department Head or causes the Department Head to be notified as soon as physically able to do so; and

(b) Employee presents the Department Head with adequate evidence such accident or illness caused such absence and such evidence is presented prior to reporting for work.

Sec. 2-4.207. **Discrimination**

No person in the employment of the City, or seeking employment, shall be employed, promoted, demoted, discharged or favored or discriminated against because of political opinions, race, creed, color, sex, age, handicap, ancestry, national origin, or religious belief.

Sec. 2-4.208. **Harassment**

(a) Harassment of an applicant or employee by a supervisor, management employee or co-worker on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual preference, or age (herein "protected status" or "protected class") is against the law and will not be tolerated.

(b) Disciplinary action, up to and including termination, will be instituted for such harassment.

(c) For purposes of this section, harassment of a protected member or class includes, but is not limited to:

(1) Verbal Harassment - For example, epithets, derogatory comments or slurs on the basis of protected status.

(2) Physical Harassment - For example, assault, impeding or blocking movement, or any physical interference with normal work or movement on the basis of protected status.

(3) Visual Forms of Harassment - For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of protected status.

(4) Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned on an employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment.

(d) To accommodate the unique nature of harassment complaints, the following pre-grievance process is provided to resolve complaints at the earliest possible date:

(1) An employee who believes he or she is the victim of harassment should inform a supervisor and the City Manager of the harassment in writing.

(2) City Manager, or designee, will:

(i) Obtain a written statement from the employee for review by appropriate department head;

(ii) Interview the accused party(ies), witnesses, and supervisors as appropriate; and

(iii) Counsel employee and impose discipline as appropriate.

(e) The following formal grievance procedures are available for resolution of complaints alleging harassment if the complaint is not concluded to the satisfaction of the employee during the pre-grievance process:

(1) This formal process starts when written notification is given to the City Manager that the pre-grievance process was not satisfactory. A formal grievance complaint must be filed within 30 working days of notice of the conclusion of pre-grievance procedure.

(2) The City Manager shall expedite and direct an investigation to determine whether the alleged conduct constitutes harassment, giving consideration to the record and the totality of circumstances. Complaints about the City Manager shall be expedited by the Mayor who shall engage an independent consultant, with the advise and consent of the Council, to conduct the investigation.

(3) The City Manager shall take appropriate action as soon as possible but no longer than thirty calendar days from receipt of the formal complaint.

(g) All employees, supervisors and managers shall be given copies of this policy and this policy shall be posted in appropriate places in the City.

Every effort will be made to protect the privacy of parties involved in a complaint. Unless required by law, files pertaining to complaints will not be made available to the general public.

ARTICLE 3. COLLECTIVE RIGHTS

Sec. 2-4.301. **Title**

This Article may be called the California City employee relations regulations.

Sec. 2-4.302. **Purpose and Scope**

This Article establishes the policies and procedures for the administration of employer-employee relations in an orderly fashion so efficiency of government is promoted. Such policies and procedures include provisions for: determination of representation of units, recognition of majority representatives, procedures for meeting and conferring and impasse resolution, and resolution of grievances and other disputes regarding wages, hours and other terms and conditions of employment.

Sec. 2-4.303. **Employee Rights**

Employees may form, join and participate in the activities of employee organizations of their choosing for the purpose of representation on matters of employee relations. Employees may refuse to participate in the activities of employee organizations and may represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.

Sec. 2-4.304. **City Rights**

It is the exclusive right of the City to determine the mission of constituent departments, boards and commissions and set standards of service offered to the public and exercise control and discretion over organization and operations. It is also the exclusive right of the City to direct employees, to take disciplinary action for proper cause, relieve employees from duty because of lack of work or for other legitimate reasons, and determine the methods, means and personnel by which the City"s operations are to be conducted. The exercise of City rights does not preclude employees, or their representatives, from conferring with the City or raising grievances about the practical consequences that decisions on these matters may have on wages, hours and other terms and conditions of employment.

Sec. 2-4.305. **Representational Units**

(a) A representational unit may be established in connection with a petition for certification or decertification of an employee organization or, if no petition for certification is pending and if none of the employees in the proposed unit are represented by an employee organization, the unit may be established at the direction of the City Manager.

(b) The appropriateness of a representational unit shall be determined by the City Manager after considering the following:

(1) Community of interest of employees;

(2) The history of employment relations in the unit;

(3) The effect of the unit on the efficient operations of the public services and sound employee relations; and

(4) The effect upon existing classification structure.

(c) In establishing units, professional employees shall not be included within a unit with non-professional employees unless a majority of such professional employees vote for inclusion in such unit. Safety employees shall not be included within the unit with non-safety employees under any condition.

(d) City Manager shall determine disputes concerning the relationship between existing units involving the addition or deletion of job classification.

Sec. 2-4.306. **Recognition**

(a) Following establishment of appropriate representational unit, the City shall conduct a secret ballot election to determine whether the employees within the unit wish to be represented by an employee organization, and if they wish to be represented, their choice of representative.

(b) If a majority of the employees within a unit vote in favor of a particular employee organization representing them, such organization shall be designated the recognized employee organization.

(c) A petition alleging a recognized employee organization is no longer the majority representative of the employees in the unit may be filed with the City Manager by an employee, group of employees or their representatives. Such a petition may be filed after completion of the recognized employee organization"s first year of recognition. If the City Manager determines the allegations in the petition are true, the City Manager may order another election as set forth in this section.

Sec. 2-4.307. **Consultation and Negotiation**

(a) Matters affecting employee relations, including those not subject to negotiations, are subject to consultation between management representatives and the duly authorized representatives of affected employee organizations. Every reasonable effort shall be made to have such consultation prior to affecting basic changes in a rule or procedure affecting employee relations.

(b) The scope of negotiations between management representatives and the representatives of recognized employee organizations include wages, hours and other terms and conditions of employment within the employee representational unit.

(c) Negotiations shall not be required on subjects preempted by State or Federal law, nor shall negotiations be required on employee or employer rights. Amendments to this Article are excluded from the scope of negotiation.

(d) Management representatives and representatives of recognized employee organizations may, by mutual consent, negotiate on matters of employment concerning which negotiation is neither required nor prohibited.

Sec. 2-4.308. **Impasse Resolution**

(a) If management representatives and representatives of a recognized employee organization reach an impasse, the matter may be submitted to the Council for impasse resolution.

(b) If the Council determines there has been insufficient effort to overcome the impasse, it may deny the request for impasse resolution and remand the matter to the parties for further

consideration.

(c) If the Council determines further consideration will not result in settlement, it may refer the matter to mediation or fact finding or it may determine the matter itself.

Sec. 2-4.309. **Mediation**

Mediation is authorized, prior to fact finding, on disputed matters. Mediation shall be private. A mediator shall be appointed in a manner mutually agreeable to parties.

Sec. 2-4.310. **Fact Finding**

Fact finding is authorized on disputed matters. The recommendation of the fact finder shall be limited to the issues originally referred for dispute settlement. The fact finder"s report shall be filed with the Council which shall transmit copies to management representatives and representatives of the recognized employee organization. Fact finders shall be appointed in a manner mutually agreeable to the parties.

Sec. 2-4.311. **Unfair Practices**

(a) It shall be an unfair employee relations practice for the City to:

(1) Interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this Article;

(2) Dominate or interfere with the formation of an employee organization or contribute financial support to it, provided the City may permit the use of City facilities, make dues deductions and permit employees who are officers or representatives of employee organizations to confer with City officials during working hours without loss of time or pay subject to applicable regulations; and

(3) Refuse to negotiate with representatives of recognized employee organizations on negotiable matters.

(b) It shall be an unfair employee relations practice for an employee organization, or their representatives or members to:

(1) Interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this Article; and

(2) Refuse to negotiate with City officials on negotiable matters, when the employee organization involved has been recognized as a majority representative.

(c) With respect to the impasse procedures, it shall be an unfair employee relations practice for the City or a recognized employee organization to fail or refuse to cooperate with the Council or with mediators or fact finders.

(d) Charges of violation of this Article or rules and regulations may be initiated by a management representative, by a representative of an employee organization, or by an employee or group of employees. Such charges shall be filed in writing with the City Manager and shall be processed in accordance with the rules and regulations of the City.

(e) The Council shall convene a hearing to determine whether the charges are true.

(f) If the Council"s decision is the City has engaged in an unfair employee relations practice or has violated this Article or any rule or regulation issued hereunder, the City shall direct management representatives to take appropriate corrective action. If the Council"s decision is an employee organization or its representative or members have engaged in an unfair employee relations practice, or have otherwise violated this Article or any rule or regulation issued thereunder, the Council shall direct the offending party to take appropriate corrective action. If compliance with the Council"s decision is not obtained within the time specified by the Council, it shall so notify the City Manager, who may then take appropriate action.

Sec. 2-4.312. **Grievances**

Inclusion of a grievance procedure within a memorandum of understanding is a matter for negotiation. Such procedure may include binding arbitration subject to the limitations imposed by law.

Sec. 2-4.313. **Procedural Rights**

(a) The City Manager shall adopt rules and regulations regarding the activity of recognized employee organizations on City property including procedures for conferring with management the use of bulletin boards and solicitation of membership.

(b) Payroll deductions may be made for membership dues in accordance with applicable law and City rules.

(c) To facilitate negotiations, the City shall provide to the recognized employee organizations, the published data regularly available concerning salaries and other terms and conditions of employment by comparable public and private employers. When such data is gathered on a promise to keep its source confidential, the data may be provided in statistical summaries and the sources shall not be revealed.

(d) If an election for certification as an employee representative has been ordered, the City Manager shall provide the names and departments of employees in the unit to the employee organization qualified to appear on the ballot not later than fifteen days prior to the election.

(e) Reasonable time off without loss of pay shall be granted to employees serving organizations when formal negotiations occur during regular working hours. Only employees whose active participation in the conduct of such negotiation is necessary shall be authorized paid time off.

Sec. 2-4.314. **Construction**

(a) This Article shall not be construed to deny rights granted by Federal or State law.

(b) The enactment of this Article shall not be construed as making the provisions of Labor Code Section 923 applicable to City employees.

(c) This Article is not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code (commencing with Section 3500) as amended.

(d) If this article or the application of a provision to any person or circumstances is held invalid, the remainder of this Article, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(e) The rights, powers and authority of the council in matters including the right to maintain any legal action shall not be modified or restricted by this Article.

CHAPTER 5. OFFICIAL DOCUMENTS AND NOTICES

ARTICLE 1. DOCUMENTS

Sec. 2-5.101. **Removal of Papers and Documents From the City Hall**

Unless authorized by the City Manager, City Clerk, or City Attorney, no person shall remove writings from the City Hall. As used herein, "writing" includes tangible forms of communications, including but not limited to, papers, microfilm, audio and video tapes and computer media.

Sec. 2-5.102. **Filing Documents**

The City Manager, the City Clerk, and the City Attorney are authorized agents of the City for filing certified copies of ordinances and resolutions and such other documents as may be required for the proper and efficient conduct of the business of the City.

ARTICLE 2. NOTICES

Sec. 2-5.201. **Posting: Required**

Ordinances and resolutions required by law to be posted and notices adopted or issued by the City shall be posted in three public places within the City as follows:

(a) The bulletin board and foyer of the City Hall located at 21000 Hacienda Boulevard.
(b) The bulletin board of California City Promotions located at 8001 California City Boulevard.
(c) The bulletin board at the Tierra Del Sol Pro Shop located at 10300 North Loop Boulevard.

Sec. 2-5.203. **Publication: Required.**

Ordinances and City resolutions required by law to be published shall be within fifteen days after passage, once in a newspaper of general circulation, published and circulated in the City.

ARTICLE 3. RECORDS RETENTION, INSPECTION & DESTRUCTION

Sec. 2-5.301. **General**

This Article is intended to assist in the implementation of the California Public Records Act and other state laws relating to the retention, inspection and destruction of public records. This Article shall be interpreted consistently with such statutes.

Sec. 2-5.302. Retention of Records[15]

(a) The following records, herein "permanent records," shall be retained in perpetuity or for the period stated:

(1) Certificates of incorporation, annexation, detachment, merger, consolidation, subsidization or dissolution;

(2) Minutes of meetings, ordinances and resolution of the city council and city boards or commissions, including the planning commission;

(3) Records affecting title to real property or liens thereon;

(4) Court records;

(5) Records for at least two years;

(6) Records relating to a pending claim or litigation;

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[15] Amended by Ord. No. 08-662 on May 20, 2008.

(7) Records pending public records request;

(8) Records pending construction, including a project for which a stop notice has been filed;

(9) Non-discharged contracts or contracts which have not been fully performed;

(10) The administrative, fiscal or legal purpose of the records has not been fulfilled;

(11) Unaccepted bids for a construction project until two years after the project is completed;

(12) Records of expense reimbursement, credit card usage and compensation paid to officers, employees and independent contractors providing personal or professional service less than seven years old;

(13) Insurance policies;

(14) Historical records designated by the City Council;

(15) Records required to be maintained in perpetuity by state law.

(b) A record, other than the foregoing permanent records, shall be retained for two years or until a permanent copy is made, whichever occurs last.

Sec. 2-4.303. Inspection of Records

(a) All records of the City are available for public inspection unless the record is exempt from disclosure under the California Public Records Act.

(b) Upon written request, the City Clerk shall provide an exact copy of an identified record for inspection. Computer data will be provided in a form determined by the City Clerk. Upon written request and payment of applicable fees, the City Clerk shall provide a copy of an identified record.

(c) The City Clerk shall respond to each request to inspect a record within ten days by indicating whether the records will be provided, when the records can be provided and, if a copy is requested, the approximate cost.

(d) The records shall be provided within a reasonable time of the request and upon receipt of the copying fee, if the request is to obtain a copy.

Sec. 2-5.304. Destruction of Records[16]

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[16] Amended by Ord. No. 08-662 on May 20, 2008.

(a) Records, other than permanent records, may be destroyed after two years if a permanent copy of the record is made in compliance with California law and the standards established by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) The City Clerk shall submit an annual recommendation for destruction of records to the City Attorney. The City Clerk may destroy records not listed in Section 2-5.302 which are more than two years old without reserving a copy upon request of the department head and with the written consent of the City Attorney.

(c) The City may destroy the regular and ongoing video of the operations of departments after one year and recordings of telephone and radio communications after one hundred days unless either are the subject of pending litigation.

CHAPTER 6. ENVIRONMENTAL REVIEW[17]

ARTICLE 1.
GENERAL

2-6.101 GENERAL

City projects shall be undertaken with due regard for the environmental consequences as required by this Chapter.

2-6.102 PURPOSE

(a) The regulations contained in this Chapter implement the guidelines promulgated by the Secretary of Resources (hereinafter "State Guidelines") for local agencies to satisfy the California Environmental Quality Act (CEQA).

(b) This Chapter applies if the City has discretion over an activity and:
- (1) The activity is directly undertaken by the City,
- (2) The activity is financed in whole or in part by the City, or
- (3) A private activity requires approval from the City.

2-6.103 SCOPE

(a) Environmental documents shall be prepared by a lead agency and considered by responsible agencies before a decision is made to proceed with a project. The City will sometimes act as the lead agency and sometimes act as a responsible agency.

(b) These guidelines set forth the process for determining:
- (1) Whether the City is a lead agency or responsible agency;
- (2) The City's duties as a responsible agency;
- (3) The City's duties as a lead agency;

[17] Chapter 6 added by Ord. No. 08-665 on Sep 19, 2008.

2-6.104 DELEGATION OF RESPONSIBILITIES

(a) The City Manager or designee shall:

(1) Determine whether the City is a lead agency or responsible agency.

(2) Determine whether an activity is exempt or a project subject to review.

(3) Conduct an initial study.

(4) Prepare or cause a negative declaration or environmental impact reports (EIR) to be prepared.

(5) Respond to public comments.

(6) Provide required notices.

(7) Respond to requests for consultation by lead agencies.

(b) The reviewing body shall:

(1) Consider, approve, and certify the negative declaration, draft and final environmental impact report prior to approving a project.

(2) Make findings as required by this Title.

(c) The reviewing body is the city council except for matters which may be decided by the Planning Commission in which case the reviewing body is the Planning Commission.

ARTICLE 2.
ROLE OF CITY AS RESPONSIBLE AGENCY

2-6.201 LEAD AGENCY CONCEPT

The lead agency shall prepare the negative declaration or EIR for a project carried out or approved by more than one public agency. The determination of which agency is the lead agency shall be made after consultation in accordance with criteria set forth in the State Guidelines.

2-6.202 CONSULTATION WITH LEAD AGENCY

(a) When the City is a responsible agency, the City Manager shall respond to requests for consultation and assist the lead agency in preparing adequate environmental documents.

(b) As soon as possible, but not longer than 45 days after receiving a notice of preparation from the lead agency, the City Manager shall send a written reply by certified mail. The reply shall specify the scope and content of the environmental information relevant to the City 's statutory responsibilities in connection with the proposed project.

(c) Prior to the close of the public review period for a draft EIR or mitigated negative declaration, the City Manager shall submit complete and detailed objectives for mitigation measures addressing significant environmental effects identified by the City Manager, or refer the lead agency to appropriate readily available guidelines or reference documents.

2-6.203 CHALLENGE TO LEAD AGENCY

(a) When the City is a responsible agency, it shall assume the role of the lead agency only when conditions in the State Guidelines exist.

(b) If the City Manager believes the final EIR or negative declaration prepared by the lead agency is not adequate for use by the City, the City must:

(1) Take the issue to court within 30 days after the lead agency files a notice of determination; or

(2) Prepare a subsequent EIR if permitted under the State Guidelines.

2-6.204 USE OF ENVIRONMENTAL DOCUMENTS

(a) Prior to reaching a decision on the project, the Reviewing body must consider the environmental effects of the project as shown in the lead agency's EIR or negative declaration.

(b) When an EIR has been prepared for a project, the Reviewing body shall not approve the project as proposed if the Reviewing body finds any feasible alternative or feasible mitigation measures within its powers would substantially lessen any significant environmental impact. When considering alternatives and mitigation measures, the City is more limited than a lead agency. The City has responsibility for mitigating or avoiding only the environmental effects of those activities which it decides to carry out, finance, or approve.

(c) The reviewing body shall make the findings required for each significant effect of the project.

(d) The City shall file a notice of determination in the same manner as a lead agency except the City does not need to state the EIR or negative declaration complies with CEQA. The City shall state it considered the EIR or negative declaration as prepared by a lead agency.

ARTICLE 3.
ROLE OF CITY AS LEAD AGENCY

2-6.301 GENERAL

The City is a lead agency when a project is only approved or carried out by the City or when the City has been designated the lead agency. This Chapter describes the process used by the City when acting as a lead agency.

2-6.302 REVIEW OF APPLICATION FOR COMPLETENESS

(a) The City Manager shall determine whether an application for a permit or other entitlement for use is complete within 30 days from the receipt of the application. If no written determination of the completeness of the application is made within that period, the application will be deemed complete on the 30th day.

(b) The City Manager shall first determine if a project is ministerial or exempt.

2-6.303 REVIEW FOR EXEMPTION

(a) The City Manager shall first determine whether the activity is exempt from environmental review under CEQA.

(b) Possible exemptions from CEQA include:

(1) The activity is not approved.

(2) The project is ministerial.

(3) The project is an emergency.

(4) The project is exempt.

(5) There is no possibility the activity may have a significant effect on the environment.

2-6.304 MINISTERIAL PROJECT

(a) The following are presumed ministerial activities:

(1) Leasing of property where the use of the premises is not significantly changed.

(2) A project of less than one mile in length within a public street, highway or other public right-of-way for the installation of a new pipeline or the maintenance, replacement or demolition of an existing pipeline. For the purposes of this subsection, 'pipeline' includes subsurface facilities and manholes, but does not include any surface facility even if related to the operation of the underground facility.

(b) Where a project involves a ministerial action and discretionary action, the project will be subject to the requirements of CEQA.

2-6.305 EMERGENCY PROJECTS

The following are emergency projects:

(a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor.

(b) Emergency repairs to public facilities necessary to maintain service.

(c) Specific actions necessary to prevent or mitigate an emergency.

2-6.306 RATES, TOLLS, FARES, AND CHARGES

(a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by the City for the purpose of:

(1) Meeting operating expenses, including employee wage rates and fringe benefits,

(2) Purchasing or leasing supplies, equipment, or materials,

(3) Meeting financial reserve needs and requirements, or

(4) Obtaining funds for capital projects, necessary to maintain service within existing service areas.

(b) Rate increases to finance the expansion of a system are subject to CEQA.

(c) The City shall incorporate written findings in the record of proceedings in which an exemption under this section is claimed setting forth the basis for the exemption.

2-6.307 CATEGORICAL EXEMPTION

(a) The following categorical exemptions are set forth in the State Guidelines:

(1) Class 1: Operation, repair, maintenance or minor alteration of existing facilities involving negligible or no expansion of use.

(2) Class 2: Replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

(3) Class 3: Construction and location of limited numbers of new, small facilities; structures; equipment and facilities; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

(4) Class 4: Minor alterations in the condition of land, water, and/or vegetation not involving removal of mature, scenic trees except for forestry and agricultural purposes.

(5) Class 5: Minor alterations in land use limitations in areas with an average slope of less than 20%, not resulting in any changes in land use or density.

(6) Class 6: Basic data collection, research, experimental management, and resource evaluation activities not resulting in a serious or major disturbance to an environmental resource.

(7) Class 9: Activities limited entirely to inspection, to check for performance of an operation, or quality, health, or safety of a project.

(8) Class 11: Construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.

(9) Class 12: Sales of surplus government property except for parcels of land located in an area of statewide, regional, or area wide concern.

(10) Class 13: Acquisition of lands for fish and wildlife conservation purposes and preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

(11) Class 15: Division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when: the division is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous 2 years; and the parcel does not have an average slope greater than 20 percent.

(12) Class 19: Annexations to the City of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the annexing or detaching governmental agency whichever is more restrictive. However, the extension of utility services to the existing facilities must have a capacity to serve only the

existing facilities; or annexations of individual small parcels of the size for facilities exempted by State Guidelines.

(13) Class 20: Changes in the organization or reorganization of local agencies where the changes do not change the geographical area in which previously existing powers are exercised.

(14) Class 23: Normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose.

(15) Class 25: Transfers of ownership of interests in land to preserve open space.

(16) Class 27: Leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the governing authority determines the building was exempt from CEQA.

(b) Classes 3, 4, 5, 6 and 11 set forth are qualified by consideration of where the project is to be located. A project ordinarily insignificant in its impact on the environment may be significant in a sensitive environment. These classes apply except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. These classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) A categorical exemption shall not be used for an activity where there is a reasonable possibility the activity will have a significant effect on the environment due to unusual circumstances.

2-6.308 NOTICE OF EXEMPTION

(a) When the City Manager decides a project is exempt from CEQA and the City Manager approves or determines to carry out the project, the City Manager or the applicant may file a notice of exemption with the County Clerk.

(b) The notice shall be filed, if at all, after approval of the project. Such a notice shall include:

(1) A brief description of the project,

(2) A finding that the project is exempt, including a citation to the State Guidelines section under which it is found to be exempt; and

(3) A brief statement of reasons to support the finding.

2-6.309 INITIAL STUDY

(a) Unless an exemption applies or unless the City Manager determines an EIR is required for the project, the City Manager shall conduct an "initial study" to determine whether the project may have a significant effect on the environment.

(b) If any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the City shall either:

(1) Prepare an EIR; or

(2) Use a previously prepared EIR which the City determines would adequately analyze the project.

(c) The initial study shall be used to:

(1) Determine whether a project may have potential environmental impacts.

(2) Enable the lead agency to decide whether to prepare an EIR or negative declaration;

(3) Allow the project proponent to modify a project, mitigating adverse impacts before an EIR is written; and

(4) Assist in the preparation of an EIR.

(d) An initial study shall contain in brief form:

(1) A description of the project including the location of the project;

(2) An identification of the environmental setting;

(3) An identification of environmental effects by use of a checklist, matrix, or other method;

(4) A discussion of ways to mitigate the significant effects identified, if any;

(5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls; and

(6) The name of the person or persons who prepared or participated in the initial study.

(e) If the project is carried out by a private person or private organization, the person or organization carrying out the project shall submit information to enable the City Manager to prepare the initial study.

(f) When the City Manager determines an initial study will be required for the project, the City Manager shall consult informally with responsible agencies and trustee agencies responsible for resources affected by the project to obtain the recommendations of those agencies whether an EIR or a negative declaration should be prepared.

(g) When the City acts as the lead agency, the City shall determine within 45 days after accepting an application as complete, whether it intends to prepare an EIR or a negative declaration.

2-6.310 DECISION TO CONSIDER A NEGATIVE DECLARATION

(a) A proposed negative declaration shall be prepared for a nonexempt project when:

(1) The initial study shows there is no substantial evidence the project may have a significant effect on the environment, or

(2) The initial study identifies potentially significant effects but the project has been revised by changes in project plans or an enforcement commitment to mitigation measures to avoid or mitigate the effects to a point where clearly no significant effects would occur.

(b) Before approving a negative declaration as a lead agency, the City Manager shall consult with responsible agencies and trustee agencies concerned with the project. This

consultation may take place during the public review period for the proposed negative declaration.

2-6.311 PROCESSING THE PROPOSED NEGATIVE DECLARATION

(a) The City Manager shall process the draft negative declaration as set forth in this Section.

(b) The draft negative declaration shall include:

(1) A brief description of the project; including a commonly used name for the project if any;

(2) The location of the project and the name of the project proponent;

(3) A finding the project will not have a significant effect on the environment;

(4) An attached copy of the Initial Study documenting reasons to support the finding; and

(5) Mitigation measures, if any, to avoid potentially significant effects.

(c) Notice of the preparation of a proposed negative declaration shall be provided to the public at least twenty days prior to submission to the Reviewing body. The review period on the notice shall be long enough to provide the public with sufficient time to respond to the proposed finding before the negative declaration is approved. Notice shall be given to organizations and individuals who previously requested such notice. Notice shall be given in one or more of the following ways as determined by the City Manager:

(1) Publication once in a newspaper of general circulation in the area affected by the proposed project.

(2) Posting by the Agency on and off site where the project is to be located.

(3) Direct mail notice to property owners contiguous to the project as shown on the latest equalized assessment roll.

(d) At the time and place stated in the notice and prior to approving the project, the Reviewing body shall consider the negative declaration and comments received during the public review process. The Reviewing body may approve the negative declaration if it finds on the basis of the initial study and comments there is no substantial evidence the project will have a significant effect on the environment.

(e) With a private project, the negative declaration must be completed and ready for approval within 105 days from when the lead agency accepted the application as complete.

2-6.312 NOTICE OF DETERMINATION

(a) The City Manager shall file a notice of determination after the Reviewing body decides to carry out or approve a project for which a negative declaration has been approved.

(b) The notice of determination shall include:

(1) An identification of the project including its common name where possible and its location.

(2) A brief description of the project.

(3) The date the Reviewing body approved the project.

(4) The determination of the Reviewing body the project will not have a significant effect on the environment.

(5) A statement a negative declaration has been prepared pursuant to CEQA.

(6) The address where a copy of the negative declaration may be examined.

(c) The notice of determination shall be filed with the county clerk of the county or counties where the project is located. If the project requires a discretionary approval from any state agency, the notice of determination also shall be filed with the Secretary for Resources.

2-6.313 DECISION TO CONSIDER AN EIR

If the City Manager determines there is substantial evidence the project may have a significant effect on the environment, the City Manager shall prepare or cause an environmental impact report (EIR) to be prepared.

2-6.314 NOTICE OF PREPARATION

(a) Immediately after deciding an EIR is required, the City Manager shall send each responsible agency a "notice of preparation" stating an EIR will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project and to each trustee agency responsible for natural resources affected by the project.

(b) The notice of preparation shall provide responsible agencies with sufficient information describing the project and the environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include:

(1) Description of the project.

(2) Location of the project indicated either on an attached map (preferably a copy of a U.S.G.S. 15′ or 7-1/2′ topographical map identified by quadrangle name, or by a street address in an urbanized area), and

(3) Potential environmental effects of the project.

(c) The notice of preparation shall be sent by the City Manager by certified mail or any other method of transmittal which provides a record the notice was received.

(d) The City Manager may begin work on the draft EIR immediately without awaiting responses to the notice of preparation. A draft EIR may be revised based on responses to the notice of preparation. A City Manager shall not circulate a draft EIR for public review before the time period for responses to the notice of preparation has expired.

(e) If a responsible agency fails by the end of the 45 day period to provide a response or a well justified request for additional time, the City may presume the responsible agency has no response to make.

(f) To expedite the consultation, the City Manager, a responsible agency, a trustee agency, or a project applicant may request meetings before representatives of the agencies to assist the City Manager in determining the scope and content of the environmental information which the responsible agency may require. Such meetings shall be convened by the City Manager as soon as possible, but no later than 30 days, after the meetings were requested. On

request, the Office of Planning and Research will assist in convening meetings with state agencies.

(g) When a state agency is a responsible agency or a trustee agency, the City Manager shall send a notice of preparation to each state responsible agency and each trustee agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure the state responsible agencies and trustees reply to the lead agency within the required time.

(h) When the notice of preparation is submitted to the State Clearinghouse, the state identification number issued by the Clearinghouse shall be the identification number for subsequent environmental documents on the project. The identification number should be referenced on subsequent correspondence regarding the project, specifically on the title page of the draft and final EIR and on the notice of determination.

2-6.315 SCOPING

(a) Prior to completing the draft EIR, the City Manager may consult with any person or organization concerned with the environmental effects of the project. This early consultation is called "scoping." Scoping is mandatory when preparing an EIR/EIS jointly with a federal agency.

(b) The City Manager shall convene a meeting with responsible agency representatives to discuss the scope and content of the environmental information a responsible agency will need in the EIR within 30 days after receiving a request for the meeting.

2-6.316 DRAFT EIR

(a) The draft EIR shall be prepared by or under contract to the City. The required contents of a draft EIR are discussed below.

(b) The City Manager may require the project applicant to supply data and information to determine whether the project may have a significant effect on the environment and to assist in preparing the draft EIR. The requested information should include an identification of other public agencies with jurisdiction by law over the project.

(c) Any person, including the applicant, may submit information or comments to the City Manager to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The City Manager must consider information and comments received. The information or comments may be included in the draft EIR in whole or in part.

(d) The City Manager may choose one of the following arrangements or a combination for preparing a draft EIR.

(1) Preparing the draft EIR directly with staff.

(2) Contracting with another entity, public or private, to prepare the draft EIR.

(3) Accepting a draft prepared by another entity, either the applicant, a consultant retained by the applicant, or other person independent review and analysis.

(4) Using a previously prepared EIR.

(e) A draft EIR sent out for public review must reflect the independent judgment of the City Manager. The City Manager is responsible for the adequacy and objectivity of the draft EIR.

2-6.317 DRAFT EIR: CONTENTS

(a) Each draft EIR shall contain the following:

(1) Table of contents or index;

(2) Summary;

(3) Project description;

(4) Description of environmental setting;

(5) Environmental impact, including: any significant environmental effect of the proposed project; any significant environmental effects which cannot be avoided if the proposal is implemented; mitigation measures proposed to minimize the significant effects; alternatives to the proposed action; the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; any significant irreversible environmental changes which would be involved in the proposed action should it be implemented; and the growth inducing impact of the proposed action;

(6) Effects not found to be significant;

(7) Organizations and persons consulted;

(8) Air and water quality aspects; and

(9) Significant cumulative impacts.

(b) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity and any significant irreversible environmental changes which would be involved in the proposed action should it be implemented need be included only in EIRs prepared in connection with any of the following activities:

(1) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.

(2) The adoption by a local agency formation commission of a resolution making determinations.

(3) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act.

2-6.318 NOTICE OF COMPLETION

(a) When the draft EIR is completed, a notice of completion must be filed with the Secretary for Resources.

(b) The notice of completion shall include:

(1) A brief description of the project;

(2) The proposed location of the project;

(3) An address where copies of the draft EIR are available; and

(4) The period during which comments will be received on the draft EIR.

(c) If the EIR is reviewed through the review process handled by the State Clearinghouse, the cover form required by the State Clearinghouse will serve as the notice of completion, and no notice of completion need be sent to the Resources Agency.

(d) With a private project, the lead agency shall complete and certify the final EIR within one year after the lead agency accepts the application as complete. An unreasonable delay by an applicant in providing information requested by the lead agency for the preparation of a negative declaration or an EIR shall suspend the running of the time periods for the period of the delay. At the request of an applicant, the lead agency may waive the one year time limit for completing and certifying a final EIR or the 105 day period for completing a negative declaration if:

(1) The project will be subject to CEQA and to the National Environmental Policy Act.

(2) Additional time will be required to prepare a combined EIR-EIS or combined negative declaration-finding of no significant impact as provided herein, and

(3) The time required to prepare the combined document will be shorter than the time required to prepare the documents separately.

(e) The time limits for taking final action on a permit for a development project may also be waived where a combined EIR-EIS will be prepared. The time limits for processing permits for development projects under Government Code Section 65950-65960 shall not apply if federal statutes or regulations requires time schedules which exceed the state time limits.

2-6.319 PUBLIC REVIEW OF DRAFT EIR

(a) The City shall provide notice of the availability of a draft EIR at the same time as it sends a notice of completion to the Resources Agency. Notice shall be given to organizations and individuals previously requesting notice by at least one of the following procedures:

(1) Publication at least one time in a newspaper of general circulation in the area affected by the proposed project.

(2) Posting of notice on and off the site in the area where the project is to be located.

(3) Direct mailing to owners of property contiguous to the project as those owners are shown on the latest equalized assessment roll.

(b) Review periods for draft EIRs should not be less than 30 days nor longer than 90 days except in unusual situations. The review period for draft EIRs when a state agency is a responsible agency shall be at least 45 days unless a shorter period is approved by the State Clearinghouse.

(c) The City shall use the State Clearinghouse to distribute draft EIRs for review and should use area wide clearinghouses to distribute the documents to regional and local agencies.

(d) The City should furnish copies of draft EIRs to appropriate public library systems and in offices of the City.

(e) The City should compile listings of other agencies, particularly local agencies, which have jurisdiction by law and special expertise with respect to various projects and project locations to be used as a guide in determining which agencies should be consulted with regard to a particular project.

(f) Public hearings may be conducted on the draft EIR, in separate proceedings or in conjunction with other proceedings of the public agency.

2-6.320 COMMENTS ON DRAFT EIR

(a) The City shall consult with and request comments on the draft EIR from:
(1) Responsible agencies.
(2) Trustee agencies with resources affected by the project, and
(3) Other state, federal, and local agencies which exercise authority over resources which may be affected by the project.

(b) The City may consult directly with any person who has special expertise with respect to any environmental impact involved.

2-6.321 EVALUATION OF COMMENTS

(a) The Reviewing body shall evaluate comments on the draft EIR and prepare a written response.

(b) The written response shall describe the disposition of significant environmental issues raised. In particular, the major issues raised when the City's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusionary statements unsupported by factual information will not suffice.

(c) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR.

2-6.322 FINAL EIR

The final EIR shall include:

(a) The draft EIR or a revision of the draft.

(b) Comments and recommendations received on the draft EIR verbatim or in summary.

(c) A list of persons, organizations, and public agencies commenting on the draft EIR.

(d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.

(e) The Reviewing body shall certify the final EIR is completed in compliance with CEQA and the Reviewing body has reviewed and considered the information contained in the EIR prior to approving the project.

2-6.323 NOTICE OF DETERMINATION

The City Manager shall file a notice of determination following each project approval for which an EIR was considered. The notice shall include:

(a) As identification of the project including its common name where possible and its location.

(b) A brief description of the project.

(c) The date when the Reviewing body approved the project.

(d) The determination of the Reviewing body whether the project in its approved form will have a significant effect on the environment.

(e) A statement an EIR was prepared and certified pursuant to the provisions of CEQA.

(f) A description of the mitigation measures and method of monitoring the mitigation measures.

(g) Whether a statement of overriding considerations was adopted for the project.

(h) The address where a copy of the EIR and the record of project approval may be examined.

ARTICLE 4.
USE OF ENVIRONMENTAL DOCUMENTS

2-6.401 GENERAL

The City shall not approve or carry out a project as proposed unless significant effects are reduced to an acceptable level. The Reviewing body shall make one or more written findings for each significant effect, accompanied by a statement of the facts supporting each finding.

2-6.402 FINDINGS

(a) The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project to mitigate or avoid the significant environmental effects identified in the final EIR.

(2) Such changes or alterations are within the responsibility and exclusive jurisdiction of another public agency and not the City. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) "Acceptable level" means significant effects feasibly avoided have been eliminated or substantially lessened as described in the findings and remaining, unavoidable significant effects are acceptable due to overriding considerations.

2-6.403 OVERRIDING CONSIDERATION

Where the decision allows the occurrence of significant unmitigated effects the City must state in writing the overriding reasons to act based on the final EIR or other information in the record. If the City makes a statement of overriding considerations, the statement shall be included in the record of the project approval and should be mentioned in the notice of determination.

2-6.404 MITIGATION

Project approval shall be conditioned upon implementation of the mitigation measures. Mitigation measures and a program to monitor the mitigation measures shall be described in the findings.

2-6.405 USE OF EIR FOR LATER PROJECTS

(a) Where an EIR has been prepared, the EIR may be incorporated in the EIR by using a tiered EIR. The tiered EIR need not examine effects mitigated or avoided or examined in sufficient detail in the prior EIR to enable mitigation or avoidance by the site specific revisions or conditions in connection with the approval of the later project.

(b) An initial study shall be prepared to determine whether the later project may cause significant effects not examined in the prior EIR.

2-6.406 USE OF SUBSEQUENT EIR FOR SAME PROJECT

A revised EIR shall be prepared if the project is revised to produce new significant adverse environmental impacts or new significant adverse environmental impacts are discovered.

TITLE 3. FINANCE

CHAPTER 1. GENERAL

ARTICLE 1. BUDGET

Sec. 3-1.101. Adoption of Budget

(a) The City Manager shall present a proposed budget to the Council prior to June 1 of each year.

(b) The Council shall approve a budget by September 1 of each year.

Sec. 3-1.102. Modification of Budget

The City Manager shall recommend modifications of the budget to the Council if the approved budget is inadequate due to events occurring subsequent to the approval of the budget.

Sec. 3-1.103. Implementation of Budget

The City Manager shall implement the approved budget. Expenditures shall be made in accordance with the approved budget and purchasing procedures set forth in this Code. No expenditure shall be made unless the budget appropriates money for the expenditure. Every recommendation for expenditure shall be accompanied by a reference to a budget appropriation.
(Amended by Ord. No. 07-650 on July 3, 2007.)

ARTICLE 2. REPORTS

Sec. 3-1.201. General

This Article describes the financial reports to be filed annually by the City.

Sec. 3-1.202. Appropriations Limit

Prior to adopting a budget, the council shall establish an appropriations limit by resolution.

Sec. 3-1.203. Filing of Budget

By September 1 of each year, the City Clerk shall file a copy of the budget for the current fiscal year with the County Auditor.

Sec. 3-1.204. Voter-Approved Indebtedness

By September 1 of each year, the Finance Officer shall file a statement of voter-approved indebtedness for the current fiscal year with the State Controller.

Sec. 3-1.205. Ad Valorem Tax for Indebtedness and Assessments

By September 1 of each year, the Council shall establish by resolution the *ad valorem* tax necessary to pay prior approved indebtedness and assessments for the current fiscal year. The Finance Officer shall transmit a certified copy of the resolution to the Kern County Board of Supervisors, Kern County Auditor and Tax Collector.

Sec. 3-1.206. Financial Statement

(a) By September 1 of each year, the Finance Officer shall file a statement of financial condition for the prior fiscal year with the State Controller using the Uniform System of Accounts.

(b) The Finance Officer shall cause the preparation of an audit prepared by a certified public accountant.

Sec. 3-1.207. Investments

By August 1 of each year, the Finance Officer shall present a written report for the prior fiscal year to the Council on investments, including compliance with the City's investment policy and recommendations for revisions to the investment policy.

Sec. 3-1.208. Deferred Improvement Funds: Reports

(a) The Treasurer shall present quarterly reports on cash flow and the investments of the money in the SDI Fund to the SDI Advisory Committee, City Manager and the City Council. The report shall show: the type of investment; date of investment; how title is held; institution; date of maturity; par value; amount of each investment; current market value for all securities with a maturity of more than 12 months; rate of interest; confirmation that each investment is consistent with this investment policy; information showing expenditure requirements can be met in the following quarter; and specify which investments were made pursuant to Government Code Sections 53601(i), 53601.1 and 53635(i). For money managed by LAIF, a county investment pool, or placed in FDIC insured accounts, the Treasurer may use the statement from these institutions in lieu of a separate report.

(b) The City Manager, Finance Director and SDI Advisory Committee (hereinafter collectively Investment Review Committee) shall review this investment policy annually on or about July 1st of each year and recommend changes as necessary to meet the above stated investment goals. The City Council shall consider any such recommendations made by the Investment Review Committee at a public meeting.

ARTICLE 3. FUNDS

Sec. 3-1.301. General Fund

Unless otherwise provided by law, including this code, money received by the City shall be deposited in the "general fund." Money in the general fund may be used

for any lawful purpose.

Sec. 3-1.302. Special Fund: Interest and Redemption

Money collected to pay interest and redemption charges on bonded indebtedness shall be deposited in a special fund known as an "interest and redemption fund." A separate interest and redemption fund shall be established for each indebtedness.

Sec. 3-1.303. Gas Tax

(a) To comply with state law, there is created in the City treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."

(b) Monies received by the City from the State pursuant to State law for the acquisition of real property or interest therein for, or the construction, maintenance, or improvement of streets or highways, other than State highways, shall be paid into the Special Gas Tax Street Improvement Fund.

(c) Monies in the special Gas Tax Street Improvement Fund shall be expended exclusively for the purposes authorized by, and subject to, all of the provisions of the State law under which the money is paid to the City.

Sec. 3-1.304. Special Fund: Deferred Improvement Fund

Money paid by SDI Lot Owners for SDI Improvements shall be deposited in a special fund known as the "SDI Fund". The money in the SDI Fund shall be invested until needed. The money in the SDI Fund shall be expended only as stated in this Chapter.
(Ord. 99-569 – July 6, 1999.)

Sec. 3-1.305. Water Fund.

Money collected for water service shall be deposited in a special fund known as the “water fund.” The money in the water fund shall be expended only to provide water service.
(Ord. 01-587 – March 20, 2001.)

Sec. 3-1.306. Sanitation Fund.

Money collected for sanitary service shall be deposited in a special fund known as the “sanitation fund.” The money in the sanitation fund shall be expended only to collect, treat and dispose of sewage.
(Ord. 01-587 – March 20, 2001.)

Sec. 3-1.307. Scholarship Fund.

Money donated to the “Keeper of the Light Scholarship Fund” shall be deposited in a special fund known as the “scholarship fund.” The money in the scholarship fund shall be expended only to provide scholarships.
(Ord. 01-587 – March 20, 2001.)

CHAPTER 2. REVENUE

ARTICLE 1. TAXES

DIVISION 1. PROPERTY

Sec. 3-2.1.101. General

Taxes and assessments shall be levied, collected and spent as provided in this section.

Sec. 3-2.1.102. Ad Valorem Taxes

(a) The City shall spend *ad valorem* taxes levied to pay for indebtedness only to repay that indebtedness.

(b) The City shall spend *ad valorem* taxes not levied to pay for indebtedness for any lawful purpose.

Sec. 3-2.1.103. Special Taxes

The City may levy special tax after conducting a duly-noticed pubic hearing and securing voter-approval as required by law. Special taxes shall be spent for the purposes stated in the ballot measure approving the tax.

Sec. 3-2.1.104. General Taxes

The City shall levy general taxes with the approval of a majority of the voters as required by state law.

Sec. 3-2.1.105. Transfer of Assessment and Collection to County

(a) Pursuant to Sections 51500 through 51521 of the Government Code, assessment and tax collection duties and the collection of assessments levied for municipal improvements are transferred to the Assessor and Tax Collector of the County.

(b) Pursuant to Section 51507 of the Government Code, the duties of the City Assessor, other than the assessing of City property, and the duties of the Tax Collector, other than the collection of taxes, are transferred to the City Clerk or such officer of the County as may by contract with the City be designated and authorized to perform such duties.

(c) The offices of City Assessor and City Tax Collector are abolished.

DIVISION 2. TRANSFER

Sec. 3-2.1.201. Title

This division shall be known as the "Real Property Transfer Tax Law of the City of California City." It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code.

Sec. 3-2.1.202. Taxes Imposed

There is imposed on each deed, instrument, or writing by which any lands, tenements, or other realties sold within the City shall be granted, assigned, transferred, or otherwise conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale), a tax not to exceed $100.00 at the rate of 272 cents for each $500.00 or fractional part thereof.

Sec. 3-2.1.203. Taxes: Persons Responsible for Payment

The tax shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed, or issued.

Sec. 3-2.1.204. Exemptions

(a) The tax shall not apply to an instrument in writing given to secure a debt.

(b) The United States, or any agency or instrumentality thereof, any state or territory or political subdivision thereof, or the District of Columbia shall not be liable for the tax imposed by this division with respect to any deed, instrument, or writing to which such governmental agency is a party, but the tax may be collected by assessment from any other party liable therefor.

(c) The tax shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

(1) Confirmed under the Federal Bankruptcy Act, as amended;

(2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subsection (m) of Section 205 of Title 11 of the United States Code, as amended;

(3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subsection (3) of Section 506 of Title 11 of the United State Code, as amended; or

(4) Whereby a mere change in identity, form, or place of organization is affected.

(d) The tax shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subsection (2) of Section 1083 of the Internal Revenue Code of 1954, but only if:

(1) The order of the Securities and Exchange Commission in

obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code relating to the Public Utility Holding Company Act of 1935;

(2) Such order specifies the property which is ordered to be conveyed; and

(3) Such conveyance is made in obedience to such order.

(e) In the case of realty held by a partnership, no levy shall be imposed by this division by reason of a transfer of an interest in a partnership or otherwise if:

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of the Internal Revenue Code; and

(2) Such continuing partnership continues to hold the realty concerned.

(f) If there is a termination of any partnership within the meaning of the provisions of the Internal Revenue Code, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(g) Not more than one tax shall be imposed pursuant to this article by reason of a termination described in this subsection, and any transfer pursuant, with respect to the realty held by such partnership at the time of such termination.

Sec. 3-2.1.205. Administration

The County Recorder shall administer this division in conformity with Part 6.7 of Division 2 of the Revenue and Taxation Code and County ordinances.

Sec. 3-2.1.206. Claims for Refunds

Claims for the refund of the taxes imposed by this division shall be governed by Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code.

DIVISION 3. SALES AND USE

Sec. 3-2.1.301. Title

This division shall be known as the "Uniform Local Sales and Use Tax Law of the City of California City."

Sec. 3-2.1.302. Purposes

This division is adopted to achieve the following purposes, among others, and this division shall be interpreted to accomplish those purposes:

(a) To adopt a sales and use tax law which complies with the requirements and limitations set forth in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(b) To adopt a sales and use tax law which incorporates provisions identical to those of the Sales and Use Tax Law of the State insofar as those provisions are not

inconsistent with the requirements and limitations set forth in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(c) To adopt a sales and use tax law which imposes a tax and provides a measure therefor which can be administered and collected by the State Council of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Council of Equalization in administering and collecting the sales and use taxes of the State; and

(d) To adopt a sales and use tax law which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this division.

Sec. 3-2.1.303. Contract with State Board of Equalization

The City has contracted with the State Board of Equalization to perform the functions incident to the administration and operation of this division.

Sec. 3-2.1.304. Sales Taxes Imposed

(a) For the privilege of selling tangible personal property at retail, a tax is imposed upon retailers in the City on the gross receipts of the retailer from the sales of tangible personal property sold at retail in the City.

(b) The rates of the sales taxes and use taxes imposed by the provisions of this division shall be one percent.

Sec. 3-2.1.305. Place of Sales

Retail sales shall be consummated at the place of business of the retainer unless the tangible personal property sold is delivered by the retailer or agent to an out-of-state destination. The gross receipts from such sales shall include the delivery charges when such charges are subject to the State sales and use taxes, regardless of the place to which delivery is made. If a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations prescribed and adopted by the State Board of Equalization.

Sec. 3-2.1.306. Use Taxes Imposed

An excise tax is imposed on the storage, use, or other consumption in the City of tangible personal property purchased from retailer for storage use, or other consumption in the City at the rate set for herein on the sales price of the property. The sales price shall include the delivery charges when such charges are subject to the State sale and use taxes, regardless of the place to which delivery is made.

Sec. 3-2.1.307. Adoption of State Law Provisions

(a) Except as otherwise provided in this division and except insofar as they are inconsistent with part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this division as though set forth in this division in full.

(b) In adopting Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State is named or referred to as the taxing agency, the name of the City shall be substituted. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Council of Control, the State Board of Equalization, the State Treasury, or the constitution of the State. The substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of the provisions of this division. The substitution shall not be made in those sections, including, but no necessarily limited to, sections referring to the exterior boundaries of the State where the result of the substitution would be to provide an exemption from sales and use taxes with respect to certain sale, storage, use, or other consumption of tangible personal property which would not otherwise be exempt form sales and use taxes while such sales, storage, use, or other consumption remains subject to taxation by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose sales and use taxes with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject of taxation by the State under the said provisions of the Revenue and Taxation Code. The substitution shall not be made in Section 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, and 6828 of the Revenue and Taxation Code. The substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.

Sec. 3-2.1.308. Permits Not Required

If a seller"s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller"s permit shall not be required by this division.

Sec. 3-2.1.309. Exclusions for Measure of Tax

There shall be excluded from the measure of sales and use taxes:

(a) The amount of sales or use tax imposed by the State upon a retailer or consumer;

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales taxes under a sales and use tax enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by city and county, county, or city in the State;

(c) The gross receipts from sales to, and the storage, use, or other consumption of property purchased by operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside the City; and

(d) The storage or use of tangible personal property in the transportation or transmission of persons, property, or communications, or in the generation, transmission, or distribution of electricity, or in the manufacture transmission, or distribution of gas in intrastate, interstate, or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State.

Sec. 3-2.1.310. Exemptions from Tax

(a) The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with provisions of Part 1.5 of Division 2 of the Revenue and Taxation code by any city and county, county, or city in this State shall be exempt from the tax due under this division.

(c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(d) The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.

(e) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

Sec. 3-2.1.311. Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City, or against an officer of the State or the City, to prevent or enjoin the collection of any taxes or any amount of taxes required to be collected pursuant to this division or Part 1.5 of Division 2 of the Revenue and Taxation Code.

DIVISION 4. TRANSIENT OCCUPANCY

Sec. 3-2.1.401. Title

This division shall be known as the "Uniform Transient Occupancy Tax Law of the City of California City."

Sec. 3-2.1.402. Definitions

The following terms are defined for the purposes of this division:

(a) "Hotel" means a structure, or portion of a structure, occupied, or intended or designed for occupancy, by transients for dwelling, lodging, or sleeping purposes, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house-trailer at a fixed location, or other similar structure, or portion thereof.

(b) "Occupancy" means the use or possession, or the right to the use or possession of a room, or portion thereof, in a hotel for dwelling, lodging, or sleeping purposes.

(c) "Operator" means the person who is the proprietor of the hotel, whether in the capacity of owner, sublessee, mortgagee in possession, licensee, or other capacity. Where the operator performs a function through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this division and shall have the same duties and liabilities as a principal. Compliance with this division by the principal or the managing agent shall be considered compliance by both.

(d) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including receipts, cash, credits, property, and services of any kind or nature, without deduction whatsoever.

(e) "Tax Administrator" means the City Clerk.

(f) "Transient" means a person who exercised occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the provisions of this division may be considered.

Sec. 3-2.1.403. Taxes Imposed

For the privilege of occupancy in a hotel, each transient shall be subject to and shall pay tax in the amount of six percent of the rent charged by the operator.

Such tax shall constitute a debt owed by transient to the City, which debt shall be extinguished only by payment to the operator or to the City. The unpaid tax shall be due upon the transient‟s ceasing to occupy space in the hotel.

If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require such tax be paid directly to the Tax Administrator.

Sec. 3-2.1.404. Exemptions

No tax shall be imposed upon:

(a) A person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax;

(b) A federal or state officer or employee when on official business; or

(c) An officer or employee of a foreign government, which officer or employee is exempt by reason of express provisions of federal laws or international treaties.

No exemption shall be granted except upon a claim made at the time the rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator.

Sec. 3-2.1.405. Operators' Duties

Each operator shall collect the tax imposed by this division to the same extent and at the same time as the rent is collected from the transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state directly or indirectly, the tax, or any part, will be assumed or absorbed by the operator, or it will not be added to the rent, or, if added, any part will be refunded except in the manner provided in this division.

Sec. 3-2.1.406. Registration

Within thirty days after commencing business, each operator of a hotel renting an occupancy to transients shall register such hotel with the Tax Administrator and obtain from him a "Transient Occupancy Registration Certificate" which shall at all times be posted in a conspicuous place on the premises. Such certificate shall, among other things, set forth the following information:

(a) The name of the operator;

(b) The address of the hotel;

(c) The date upon which the certificate was issued; and

(d) A statement as follows:

"This Transient Occupancy Registration Certificate signifies the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Law by registering with the Tax Administrator for the purpose of collecting from transients the transient occupancy tax and remitting such tax to the Tax Administrator. This certificate shall not authorize any

person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any Council, commission, department, or office of this City."

Sec. 3-2.1.407. Reporting and Remitting

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter operating period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if necessary to ensure collection of the tax, and require further information in the return. Returns and payments shall be due immediately upon cessation of business. Taxes collected by operators pursuant to this division shall be held in trust for the account of the City until payment is made to the Tax Administrator.

Sec. 3-2.1.408. Penalties and Interest

(a) An operator who fails to report and remit the tax imposed by this division within the time required shall pay a penalty in the amount of ten percent of the tax in addition to the amount of the tax.

(b) An operator who fails to remit a delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty in the amount of ten percent of the tax in addition to the amount of the tax and the ten percent first imposed.

(c) If the Tax Administrator determines the nonpayment of a remittance due pursuant to this division is due to fraud, a penalty in the amount of twenty-five percent of the amount of the tax shall be added in addition to the penalties set forth above.

(d) In addition to the penalties imposed, an operator who fails to remit the tax imposed by this division shall pay interest at the rate of one-half of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Every penalty imposed, and such interest as accrued, pursuant to this section, shall become a part of the tax required to be paid by this division.

Sec. 3-2.1.409. Failure to Collect and Report Taxes: Determinations by Tax Administrator

(a) If an operator fails or refuses to collect such tax and to make, within the time provided in this division, the report and remittance of such tax, or any portion required by this division, the Tax Administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax.

(b) When the Tax Administrator procures such facts and information upon which to base the assessment of the tax payable by the operator who has failed or refused to collect the same and to make such report and remittance, the Tax Administrator shall determine and assess against such operator the tax, interest, and penalties provided for in this division.

(c) If such determination is made, the Tax Administrator shall give notice of the amount so assessed by serving it personally or depositing it in the United States mail, postage prepaid, addressed to the operator at the last known place of address.

(d) An operator may, within ten days after the service or mailing of the notice, make an application in writing to the Tax Administrator for a hearing on the amount assessed. If an application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Tax Administrator, shall become final and conclusive and immediately due and payable. If such an application is made, the Tax Administrator shall give not less than five days" written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in such notice why the amount specified should not be fixed for such tax, interest, and penalties.

(e) At such hearing the operator may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner set forth in this section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is filed.

(f) An operator aggrieved by the decision of the Tax Administrator with respect to the amount of tax, interest, and penalties, may appeal to the Council by filing a notice of appeal with the City Clerk within fifteen days after the service or mailing of the determination of the tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at the last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this division for the service of a notice of hearing. The amount found to be due shall be immediately due and payable upon the service of notice.

Sec. 3-2.1.410. Records

Every operator liable for the collection and payment of tax imposed by this division shall keep and preserve, for a period of three years, records necessary to determine the amount of such tax. The Tax Administrator may inspect the records at reasonable times.

Sec. 3-2.1.411. Refunds

(a) Whenever the amount of any tax, interest, or penalty has been overpaid, or paid more than once, or erroneously or illegally collected or received, such amount may be refunded if a claim is filed in writing stating under penalty of perjury the specific grounds upon which the claim is founded, with the Tax Administrator within three years

after the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) An operator may claim a refund or take as a credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator the person from whom the tax has been collected was not a transient. A refund or a credit shall not be allowed unless the amount of the tax so collected has been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(c) A transient may obtain a refund of taxes overpaid, paid more than once, or erroneously or illegally collected or received by the City by filing a claim, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator the transient has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid pursuant to this section unless the claimant establishes a right by written records.

Sec. 3-2.1.412. Actions to Collect

The tax required to be paid by a transient pursuant to this division shall be deemed a debt owed by the transient to the City. Such tax collected by an operator but not paid to the City shall be deemed a debt by the operator to the City. Any person owing money to the City pursuant to this division shall be liable to an action brought in the name of the City for the recovery of such amount.

Sec. 3-2.1.413. Violations: Penalties

An operator or other person who fails or refuses to register as required, or to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim shall be guilty of a misdemeanor and punishable as set forth in this Code.

A person required to make, render, sign or verify a report or claim and who makes a false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this division to be made, shall be guilty of a misdemeanor and punishable as provided in this Code.

ARTICLE 2. ASSESSMENTS

Sec. 3-2.201. Assessments and Standby Charges

The City may levy assessments, including standby charges, for operation and maintenance or to pay for capital improvements in accordance with the law.

ARTICLE 3. FEES AND CHARGES

DIVISION 1. GENERAL

Sec. 3-2.3.101. General

(a) The Council shall establish fees sufficient to recover the cost of operating and maintaining service. The fees shall not exceed the reasonable cost of the service.

(b) The Council shall establish charges sufficient to recover the cost of constructing capital improvements requested by customers.

Sec. 3-2.3.102. Procedure

The Council shall conduct at least one public meeting and one public hearing prior to adopting or increasing a fee, other than a fee for water service. Notice of the meeting shall be provided as required by law.

Sec. 3-2.3.103. Annual Review

At least annually, the Council shall review the rates, fees and charges for service. Adoption of the annual budget, with rate assumptions included therein, may constitute such review.

DIVISION 2. BUSINESS LICENSES

Sec. 3-2.3.201. Licenses: Required

It shall be unlawful for a person to commence, maintain, conduct, or carry-on a business within the City without having first obtained a license as provided in this Chapter. It shall be unlawful for a person to conduct or assist in conducting such business after the date of such suspension or revocation without having again procured a license to do so as provided in this division.

Sec. 3-2.3.202. Definitions

The following terms are defined for the purposes of this division:

(a) "Business" means that which occupies the time, attention, and labor of a person for the purpose of livelihood or profit.

(b) "Doing business" means the exercise of some of the functions, or the carrying on, of business to the extent of the performance of an act giving rise to some legal obligation. Doing business includes acts which are compensated or reimbursed by donations or contributions in due course where they are the chief source of such livelihood or profit.

(c) "Person" means and includes a person doing business under a fictitious

name, association of individuals, partnerships, clubs, firms and corporations.

Sec. 3-2.3.203.[18] Licenses: Applications

(a) A person desiring to obtain a business license shall file a written application with the City Clerk. The applicant may request licenses for more than one business if such businesses are to be conducted at the same place. Individual licenses shall be issued for each business. The applicant for a business license shall simultaneously apply for a separate sign permit for each sign associated with the business.

(b) Applications shall contain the following information:

(1) The name and place of residence of the applicant, if a natural person, and the name and business of the applicant, if a corporation;

(2) Where the applicant proposes to conduct such business. If the business will not be conducted at a fixed place, the territory to be covered;

(3) The nature of the business and, if more than one kind of business is proposed, each kind of business the applicant desires to operate;

(4) A statement the applicant is the only person interested in conducting such business;

(5) If known, a statement of the name and address of the owner and the names and addresses of lessees sharing the premises;

(6) A statement whether a license or order authorizing a license formerly issued to such applicant or agent, or person interested in such business has been canceled or revoked by the City;

(7) The applicant's resale tax permit number or numbers, if any;

(8) Every employer who applies for a license or renewal shall provide proof of compliance with workers' compensation laws; and

(9) If the applicant is subject to the licensure requirements of the Business and Professions Code, the applicant shall sign a statement that the applicant is duly licensed under the Business and Professions Code.

(c) Suitable application forms for original applications and renewal forms for the renewal of existing licenses shall be furnished by the office of the City Clerk.

(d) Applications shall be verified by the oath of the applicant, if a natural person, of by the oath of one of the officers of the corporation, if a corporation, in the same manner as pleadings in civil actions in the State are required to be verified.

Sec. 3-2.3.204. Licenses: Granting or Denial

(a) The City Clerk may make such investigation of the application as necessary. The City Clerk may grant or deny such application.

(b) If the application is denied, the City Clerk shall inform the applicant by mail, setting forth the basis of the denial.

(c) The applicant may appeal the denial of the application by requesting hearing before the City Council, pursuant to Title 1 of this Code.

Sec. 3-2.3.205. Licenses: Content [19]

(a) The license shall distinctly specify it is subject to suspension, cancellation, or revocation and shall distinctly show the date of expiration. The license may be used

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[18] Amended by Ord. No. 10-686 on March 16, 2010.

[19] Amended by Ord. 05-628 on 7/19/05.

as an annual license, certifying the payment of the full annual license fee.

(b) Licenses shall be issued for the fiscal year July 1 through June 30, provided in this chapter, or upon the death of the licensee, whichever occurs first.

Sec. 3-2.3.206. Licenses: Renewal

Licenses shall be renewable on the first day of each fiscal year, without demand. License fees shall be paid to the City Clerk.

Sec. 3-2.3.207. Licenses: Exhibiting on Demand

The person conducting a business shall post the license in a conspicuous place at the place of business.

Sec. 3-2.3.208. Licenses: Suspension or Revocation [20]

(a) The City Clerk shall revoke or suspend the license if the licensee violates this chapter.

(b) After receipt of notice of suspension or revocation of a license by the City Clerk, the licensee may file a written appeal requesting hearing before the City Manager, pursuant to Title 1 of this Code.

(c) If the City Manager determines the licensee or the licensee"s agents, employees, officers, or representatives have committed any of the following acts, the City Manager shall sustain the suspension, cancellation, or revocation of the license:

(1) Not been sober or suitable persons to conduct, manage, control, or carry on such business;

(2) Willfully done acts not authorized by the license;

(3) Not kept, conducted, maintained, or carried on in a quiet, orderly, decent, or lawful manner such business;

(4) Willfully or knowingly permitted violations of the provisions of this Code or the laws of the State;

(5) Used fraud or misrepresentation in obtaining the license for such business;

(6) Failed to observe the provisions of this Code or the laws of the State; or

(7) Willfully failed or refused to appeal and answer all pertinent questions of the Council, or member in relation to past conduct and conditions in and about the business premises.

(d) If the license is canceled or revoked, no further license shall be granted or issued to such person within one year. If the license is suspended, the period of suspension shall be for such time as the Council may direct.

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[20] Amended by Ord. 05-628 on 7/19/05.

Sec. 3-2.3.209. Licenses: Exemptions

(a) This division shall not be construed to require the licensing of:

(1) a business, occupation, or activity carried on wholly for the benefit of a charitable purpose from which profit is not derived, either directly or indirectly, by any person, or to the conduct of any entertainment, dance, concert, exhibition, or lecture on scientific, historical, literary, religious, or moral subjects whenever the receipts from such entertainment, dance, concert, exhibition, or lecture go to any church, school or religious or benevolent purpose within the City, or to a veteran, military, fraternal, or local Chamber of Commerce within the City.

(2) A public utility operating under a franchise from this City and paying a franchise tax is subject to the provisions of this chapter only to the extent of a retail business in which the entity may engage within the City not subject to the franchise tax.

(3) A business, which supplies goods or services for resale.

(4) Persons employed by a licensee.

(5) Independent contractors engaged by a licensee to work on a full-time basis.

(b) Veterans, agents and employees of veterans are exempt from the payment of license fees, but not from the requirement to obtain a license, if the veteran has received an honorable discharge or a release from active duty under honorable conditions from such service and the veteran‟s business consists in the hawking, peddling or vending of any goods, wares or merchandise owned by the veteran, except spirituous malt, vinous or other intoxicating liquor.

(Ord. 99-570 – July 20, 1999.)

Sec. 3-2.3.210. Licenses: Transferability

No license shall be transferable where a license authorizes a person to transact business at a particular place, such licensee may be amended to authorize the transacting of such business at some other location to which the business has been moved.

Sec. 3-2.3.211. License Fees

(a) The City Council shall, from time to time, establish the amount required to be paid for annual license fees pursuant to this Chapter.

(b) The entire annual license fee shall be payable in advance at the time of the issuance of the license.

(c) An applicant for a business license for a previously unlicensed business shall pay the fractional portion of the annual business license tax equal to the number of quarters remaining in the fiscal year at the time the application is filed with the City Clerk.

In computing the number of quarters remaining in the fiscal year, the entire quarter in which the application is filed shall be counted.

(d) No license shall be issued unless the place of business and the purposes

and methods of conducting such business, conform to health, fire and zoning regulations.

Sec. 3-2.3.212. License Fees: Delinquencies

License fees shall be delinquent if not paid on or before July 31 of the year in which the fee is due. For failure to pay a license tax when due, the City Clerk shall add a penalty in an amount from time to time established by the Council.

Sec. 3-2.3.213. Civil Actions Authorized

Unpaid license fee or other amount payable may be recoverable in a civil action brought by the City for such purposes.

Sec. 3-2.3.214. Enforcement

The City Clerk shall enforce this chapter. The Chief of Police shall render such assistance in the enforcement of this chapter as required by the City Clerk.

The City Clerk shall examine, or cause to be examined, places of business in the City to ascertain whether this chapter is satisfied. The City Clerk and any police officer acting for the City, may enter, free of charge and at reasonable times, a place of business required to be licensed by this chapter and demand an exhibition of the license. A person having such license in his possession who willfully fails to exhibit such license on demand is guilty of an infraction.

The City Clerk shall cause a complaint to be filed against persons found to be in violation of this chapter.

Sec. 3-2.3.215. Violations: Penalties

Persons violating this chapter or knowingly or intentionally misrepresenting to any officer or employee of the City a material fact in procuring the license is guilty of an infraction.

ARTICLE 4. SALE OF SURPLUS PROPERTY

Sec. 3-2.401. General

(a) Surplus property of the City shall be disposed of in accordance with the procedures set forth in this article.

(b) Supplies and equipment may be sold without regard to the bidding procedures set forth in this article if the estimated value of the commodity is less than $500.00 or no bids were received after advertising for such bids at least two times.

Sec. 3-2.402. Definitions

The following terms are defined for the purposes of this article unless otherwise apparent from context:

(a) "Formal bids" or "formal bidding" refers to the process by which the Purchasing Officer solicits bids by publishing a written notice inviting written bids on specifically described surplus property.

(b) "Informal bids" or "informal bidding" refers to the process by which the Purchasing Officer seeks oral or written proposals by written notice.

(c) "Personal property" refers to supplies, goods or equipment. Fixtures shall be considered real property if the goods or equipment remain affixed to the land and shall be considered personal property if detached from the land.

(d) "Real property" refers to an estate or interest in land.

(e) "Surplus" means the condition which exists when real or personal property is no longer needed for City purposes.

Sec. 3-2.403. Surplus Personal Property

(a) The Purchasing Officer may declare personal property surplus to City needs provided that the estimated value of the property does not exceed $250.00. Purchasing Officer shall seek informal bids for the sale of personal property which he has declared to be surplus.

(b) The Council shall determine whether personal property of estimated value of more than $250.00 is surplus to City needs. The Purchasing Officer shall seek formal bids for the sale of any property which the Council has declared to be surplus.

Sec. 3-2.404. Surplus Real Property

(a) The Council shall determine whether real property is surplus to City needs.

(b) Surplus real property shall not be sold unless the Council determines that the property is surplus to the City's park and recreation and low-cost housing needs and the Mojave Unified School District has declined to purchase the property from the City.

(c) The Purchasing Officer may sell real property which the Council has declared to be surplus if the successful bid is equal to or greater than the value determined by the Council. If the value of the bid is less than the value determined by the Council, the property shall not be sold without Council approval.

ARTICLE 5. INVESTMENTS

Sec. 3-2.501. Permitted Investments

(a) The Treasurer and Finance Director jointly may invest surplus monies of the City without first securing further Council approval in the Local Agency Investment Fund of the State of California or in the following additional types of investment:

(1) Time certificates of deposits issued by a nationally or state

chartered bank or a state or federal association located within the State of California if secured by federal insurance or approved collateral at the required percentage of market value.

(2) United States treasury notes, bonds, bills, or certificates of indebtedness or those for which the full faith and credit of the United States are pledged for payment of principal and interest.

(3) Bonds issued by the City.

(4) Registered state warrants or treasury notes or bonds of the State of California or by a department board, agency or authority of the State.

(5) Bonds, notes, warrants for other evidences of indebtedness of any local agency within this state.

(6) Obligations issued by banks or cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participation or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participation or other instruments of, or issued by a federal agency, or a United States Government sponsored enterprise.

(7) Repurchase agreements of any securities authorized by this Code.

(8) Time certificates of deposit issued by a nationally or state chartered bank or a state or federal association located outside of the State of California if secured by federal insurance.

(b) No investment shall be purchased:

(1) On margin;

(2) "Forward" or "in the future;"

(3) Which are based upon foreign currency;

(4) Which are shares of beneficial interest issued by diversified management companies as described in Government Code Section 53601(l);

(5) Which are inverse floaters, range notes, interest only strips derived from a pool of mortgages or any security resulting in zero interest if held to maturity.

(c) Investments may be short-term or long-term in nature. Long-term investments are those which comply with the requirements of Government Code Sections 53601 et seq. and with a stated maturity date greater than five years from the date of purchase. No long-term investment shall be made unless the Council has granted express authority to make the investment either specifically or as a part of an investment program no less than three months prior to the investment purchase date.

Sec. 3-2.502. Permitted Investments: SDI

(a) Money in the SDI Fund shall be invested when not needed for the purposes as stated in this article. The money shall not be invested in notes issued by the City or the Redevelopment Agency of the City of California City except in connection with a project contemplated by the SDI Agreements.

(b) In making investments of money in the SDI Fund, the City shall comply with the limitations contained in the Government Code, including Section 53601, and this Chapter. If there is a conflict between State law and this Chapter, the most

conservative investment rule shall prevail if the rule is permitted by State law.

(c) The City Treasurer and Finance Director shall select the proper mix of investments. The primary investment goal is to safeguard the principal of the fund. The secondary investment goal is to meet liquidity needs of the SDI Fund. The third investment goal is to achieve return on investment.

(d) When the investments mature or when other monies are available for investment, the monies may be invested in the Local Agency Investment Fund ("LAIF") pending more permanent investment.

(e) The investments shall be held in the name of the City as trustee for the SDI Fund. Investment documents shall be held for safekeeping in the City vault or in a depository approved by the City Council. The City Council shall, from time-to-time, execute such documents as are necessary to provide evidence of trading authority as set forth herein.

Sec. 3-2.503. Investment Procedure

(a) In making the above investments the City shall observe the limitations contained in Government Code, including Section 53601, and stated in this Code.

(b) The Treasurer and Finance Director are responsible for selecting the proper mix of investments. The primary investment goal of the City is to safeguard the principal of the fund. The secondary investment goal is to meet liquidity needs of the City. The third investment goal is to achieve return on investment.

(c) When deposits or investments owned by the City mature or when other monies are available for investment or deposit, the monies may be deposited or invested in the Local Agency Investment Fund or other permitted investments.

(d) All investments shall be held in the name of the City. All investment documents shall be held for safekeeping in the City vault or in a depository approved by the Council. The Council shall, from time to time, execute such documents as are necessary to provide evidence of the Treasurer's trading authority as set forth in this Code.

Sec. 3-2.504. Reports

(a) The Treasurer shall present quarterly reports on investments to the City Manager and Council. The report shall show: the type of investment; date of investment; how title is held; institution; date of maturity; par value; amount of each investment; current market value for all securities with a maturity of more than 12 months; rate of interest; confirmation that each investment is consistent with this investment policy; information showing expenditure requirements can be met in the following quarter and specify which investments were made pursuant to Government Code Section 53601(i), 53601.1 and 53635(i). For money managed by LAIF, a county investment pool or placed in FDIC insured accounts, the Treasurer may use the statement from these institutions in lieu of separate report.

(b) The City Manager, Finance Director and City Treasurer (hereinafter collectively "investment review committee") shall review all investments held by the City semi-annually on or about January 1 and July 1 of each year.

(c) This investment policy shall be reviewed annually or more often, as necessary. The Treasurer shall annually recommend a statement of investment policy. The Council shall consider the Treasurer"s recommendation at a public meeting.

Sec. 3-2.505. Transitional Rules

Investments held by the City as of the date of this Code which are contrary to the terms of this Code shall be divested by the Treasurer provided, investments which cannot be divested immediately without loss of earnings shall be divested at maturity.

Sec. 3-2.506. Custody of Investment Securities

(a) Except certificates of deposits and diversified management accounts, the investment securities of the City shall be placed in the care of a third party custodian qualified to facilitate transactions. The custodian shall be appointed by the Council pursuant to contract. No money or security shall be withdrawn from City custody except upon written order of the Finance Director. The Finance Director may authorize the transfer of money and securities to and from the custodian electronically, provided that the Council has approved an agreement with the depository concerning the wire transfer of funds.

(b) The custodian shall account for the receipt of income from such investments and deposit such revenue in the City"s account with the Local Agency Investment Fund (LAIF). If accrued income cannot be immediately deposited with LAIF, the custodian shall obtain government guaranteed repurchase agreements for up to twenty four hours.

(c) The custodian shall also account for the receipt of principal and deposit such amounts in the City"s account with the LAIF unless instructed to use the proceeds to purchase another investment security, provided, all investments shall be in accord with the City"s investment policy.

Sec. 3-2.507. Investment Intermediaries

(a) To the extent practicable and feasible, all investments shall be purchased direct from the entity or institution offering the investments. If a permitted investment can be obtained only through a broker-dealer, underwriter or other intermediary, the Treasurer may make the investment through the intermediary, provided the City Council approves a written agreement with the intermediary covering the transaction.

(b) Intermediaries must be pre-qualified as described in this section for the City to judge the integrity and competence of such persons and to familiarize such persons with the investment policies of the City.

(c) Any intermediary who desires to conduct transactions with, or on behalf of, the City shall file an application for pre-qualification with the Finance Director containing the following information:

(1) Name
(2) Name of account representative
(3) Assets
(4) Proposed depository of securities
(5) Last quarterly financial statement
(6) Amount of insurance coverage for each account

If the Finance Director determines that the application is accurate, the applicant shall be invited to make a presentation to the City Manager. At this presentation, the applicant shall be interrogated to determine qualifications and investment philosophy and the applicant shall be informed of the City"s investment policies. If the City Manager determines that the applicant is capable of working within the City"s investment policies, a Memorandum of Understanding concerning the applicant"s role shall be presented to the Council for approval.

(d) The Memorandum of Understanding between the City and an intermediary shall set forth:

(1) a duration of the agreement;
(2) the types of investments which the investment broker is authorized to handle;
(3) the names of persons authorized to deal on behalf of the City with the intermediary and on behalf of the intermediary with the City;
(4) any restrictions on the number of investments or maximum amount of investments; and
(5) the term of the investments.

The Memorandum of Understanding shall also include an acknowledgment by the intermediary as to the scope and content of the City"s investment policy.

(e) When it is advantageous to the City to use the services of an intermediary, the Treasurer shall solicit proposals from all intermediaries who have entered into Memoranda of Understanding with the City. The Treasurer shall then deal with the intermediary which has made the most favorable proposal.

Sec. 3-2.508. Review

This investment policy shall be reviewed at least annually.

ARTICLE 6. UNCLAIMED PROPERTY

Sec. 3-2.601. Holding Period.

Unclaimed property in the possession of the City, with the exception of unclaimed bicycles, shall be held by the Police Department for a period of at least six months. Unclaimed bicycles shall be held for a period of at least three months.

Sec. 3-2.602. **Sales at Public Auction.**

Following the expiration of the holding period, unclaimed property shall be sold at public auction to the highest bidder.

Sec. 3-2.603. **Sales at Public Auction: Notices.**

Notices of the auction sales shall be given by the Chief of Police at least five days before the time fixed for the sale by publication: once in the newspaper of general circulation; and by posting.

Sec. 3-2.604. **Sales at Public Auction: Proceeds.**

The proceeds of the auction sales shall be deposited in the General Fund.

Sec. 3-2.605. **Exceptions.**

(a) This chapter shall not apply to abandoned, wrecked, dismantled, or inoperative vehicles declared public nuisances pursuant to this Code.

(b) Unclaimed property shall be sold at auction to the highest bidder if unclaimed after six months. Instead of being sold at public auction to the highest bidder, bicycles or toys in the possession of the police department and unclaimed for at least sixty days may be donated to a tax-exempt charitable or nonprofit organization having its principle place in the City and authorized by its articles of incorporation to prevent juvenile delinquency and for use in any program designed to prevent juvenile delinquency.

ARTICLE 7. ECONOMIC DEVELOPMENT

Sec. 3-2.701. **Title**

This article may be called the "City of California City Economic Development Regulations."

Sec. 3-2.702. **Declaration of Necessity**

It is necessary and essential to the well-being of the City to provide financial assistance to promote the economic development of the City. Such economic development will serve the following public purposes and municipal affairs of the City:

(a) the full and gainful employment of residents of the City;

(b) the full and efficient utilization and modernization of existing industrial, commercial, and business facilities;

(c) the development of new industrial, commercial and business facilities;

(d) the growth of the City‟s tax base through increased property values and consumer purchasing;

(e) the reduction of the need for the costs of welfare and other remedial programs;

(f) the reduction of urban ills, such as crime, attributable in part to inadequate economic opportunities;

(g) the stability and diversification of the City‟s economy;

(h) the lowering of the cost to City consumers of necessary goods and services;

(i) the environmentally optimum disposition of waste materials of the City; and

(j) the enhancement of the general economic prosperity, health, safety and welfare of the residents of the City.

The availability of the financial assistance authorized by this chapter will serve those purposes and the general plan of the City by providing private enterprises with new methods of financial capital outlays that are beneficial to the City and its residents and by ensuring economic development within the City will reflect the local community‟s needs and objectives and will be environmentally optimum with respect to both the physical and social environment of the City. The City shall promote such public interests pursuant to this Chapter without adversely affecting areas outside the City and without conflicting with efforts by the State of California to solve problems of statewide concern.

Sec. 3-2.703. **Definitions**

The following terms are defined for the purposes of this chapter:

(a) "The Act" means the California Industrial Development Financing Act.

(b) "Authority" means the Industrial Development Authority established by the City pursuant to the Act.

(c) "Council" means the governing Council of the Authority. The City Council of the City of California City is the governing Council of Authority.

(d) "Bonds" mean the bonds, notes, certificates, debentures and other obligations authorized to be issued by the Authority pursuant to this chapter.

(e) "Cost" means the total of costs incurred by or on behalf of a Participating Party to carry out works and undertakings and to obtain rights and powers necessary or incident to the acquisition, construction, installation, reconstruction, rehabilitation or improvement of Facilities. "Cost" may include costs of issuance of bonds for such purposes, costs for construction undertaken by a Participating Party as its own contractor, amounts equal to interest on the bonds prior to, during, and for a reasonable period following construction of Facilities, reserves for debt service and for repairs, replacements, additions and improvements to a Facility, and other working capital incident to the operation of a Facility.

(f) "Facilities" mean the properties, places or buildings within the City which are, or will be, maintained and operated for industrial, commercial or business purposes, conform to the general plan of the City and are approved by the Authority for the financing authorized by this Chapter, such approval being given only when the Authority finds and determines that such financing will substantially promote one or more of the public purposes listed herein. "Facilities" may include, but are not limited to, activities which may otherwise be financed pursuant to the Act to the extent the Act permits the financing of

such activity under alternative Authority. "Facilities" include, without limitation, real and personal property, land, buildings, structures, fixtures, machinery or equipment, and all such property related to or required or useful for the operation of a Facility. Facilities do not include property, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(g) "Participating Party" means an individual, association, corporation, partnership or other entity approved by the Authority to undertake the financing of the Costs of a Facility for which this chapter authorizes the issuance of the Bonds.

(h) "Revenue" means amounts received by the Authority as payments of principal, interest, and other charges with respect to a loan authorized by this Chapter, as payments under a lease, sublease or sale agreement with respect to Facilities, as proceeds received by the Authority from mortgage, hazard or other insurance on or with respect to such a loan (or property securing such loan), lease, sublease or sale agreement, other rents, charges, fees, income and receipts derived by the Authority from the financing of Facilities authorized by this chapter, amounts received by the Authority as investment earnings on moneys deposited in any fund securing the Bonds, and such other legally available moneys as the City Council may, in its discretion, lawfully designate as Revenues. "Revenues" as defined by this chapter, and the expenditure of such Revenues shall not be taken into account in determining the City‟s compliance with Article XIIIB of the California Constitution.

Sec. 3-2.704. **Further Definitions**

The terms defined above are also defined by the Act. In the event of conflict, the definitions contained in the Act control. Terms not defined above which are defined in the Act have the meanings given by the Act.

Sec. 3-2.705. **Authority Created**

There is a need for the Industrial Development Authority of the City under the Act; such Authority shall function in the City; the City Council shall be the governing Council of the Authority; and the Authority is authorized to transact business and exercise powers permitted by law.

Sec. 3-2.706. **Sale or Lease of Facilities by Authority**

The Authority is authorized to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip and lease as Lessee, with the proceeds of the Bonds, Facilities, solely for the purpose of selling or leasing as Lessor such Facilities to such Participating Party, and is further authorized to make contracts for such purposes. The Authority is also authorized to contract with such Participating Party to undertake on behalf of the Authority to construct, enlarge, remodel, renovate, alter, improve, furnish and equip such Facilities.

The Authority is authorized to sell or lease, upon such terms and conditions as the Authority shall deem proper, to a Participating Party, any Facilities owned by the Authority under this chapter, including Facilities conveyed to the Authority in connection

with a financing authorized by this chapter but not being financed hereunder.

Sec. 3-2.707. **Applications for Approval**

A person may apply to the Authority for approval as a participating Party and for approval of Facilities for financing under this chapter. Applications shall set forth such information as the Authority may require to enable the Authority to evaluate the applicant, the Facilities and its proposed costs.

Applications shall be evaluated by the Authority to assure that financing under this chapter results in at least one of the following public benefits:

(a) Significant additional employment to residents of the City. An industrial facility will qualify for financing under this chapter only if such financing will result in an increase in employment. An industrial facility which produces goods or services for sale outside the California City area, or which is to be located in a disadvantaged area, shall receive preference.

(b) Continuance of a company"s operation in the City which otherwise might relocate outside the City.

(c) Preservation or enhancement of the supply of energy (including gas) or a reduction in the expected costs thereof.

(d) The provision of goods and services not otherwise conveniently available to residents of a neighborhood.

(e) An improvement in the viability of a revitalization or redevelopment project.

Financing under this chapter shall be approved by the Authority only when it can be demonstrated such financing will make a significant beneficial contribution to the realization of one or more of the public benefits listed above.

Sec. 3-2.708. **Fees**

The Authority is authorized to charge Participating Parties application, commitment, financing and other fees, to recover administrative and other costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

Sec. 3-2.709. **Insurance**

The Authority is authorized to obtain, or aid in obtaining, from a department or agency of the United States or of the State of California or a private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, rents, fees, or other charges, or part thereof, on a loan, lease or sale obligation or an instrument evidencing or securing the same, made or entered into as authorized by this chapter and is authorized to accept payment in such manner and form as provided therein in the event of default by a Participating Party, and to assign such insurance or guarantee as security for Bond.

Sec. 3-2.710. **Charges**

The Authority Manager is authorized to fix rents, payments, fees, charges and interest rates for a financing authorized by this chapter and to agree to revise from time to time such rents, payments, fees, charges and interest rates to reflect changes in interest rates on Bonds, losses due to defaults or changes in other expenses related to this chapter, including Authority administrative expenses.

Sec. 3-2.711. **Security for Loans**

The Authority is authorized to hold deeds of trust or mortgages or security interests in personal property as security for loans and other obligations authorized by this chapter and to pledge or assign the same as security for repayment of Bonds. Such deeds of trust, mortgages or security interests, or other interest of the Authority in any Facilities, may be assigned to, and held on behalf of the Authority by a bank or trust company appointed to act as trustee by the Authority in any resolution or indenture providing for issuance of Bonds.

Sec. 3-2.712. **Employment of Experts and Consultants**

The Authority is authorized to contract for such engineering, architectural, financial, accounting, legal or other services as necessary in the judgment of the Authority for the purposes of this chapter.

Sec. 3-2.713. **Public Works Requirements Inapplicable**

Except as specifically provided in this chapter, the acquisition, construction, installation, reconstruction, rehabilitation or improvement of Facilities financed under this chapter shall not be subject to requirements relating to buildings, works or improvements owned or operated by the Authority, and requirements of public competitive bidding or other procedural restriction imposed on the award of contracts for acquisition or construction of an Authority, building, work or improvement, or to the lease, sublease, sale or other disposition of Authority property shall not be applicable to action taken under this chapter.

Sec. 3-2.714. **Additional Powers**

In addition to other powers specifically granted by this chapter, the Authority is authorized to contract for and do things necessary or convenient to carry out the purposes of this chapter, provided, however, the Authority shall not have the power to operate a Facility financed under this chapter as a business, except temporarily in the case of a default by a Participating Party.

Sec. 3-2.715. **Issuance of Bonds**

(a) The Authority is authorized to issue Bonds in an aggregate principal amount not to exceed $100,000,000 and to issue such Bonds, from time to time, in such series and amounts as are determined by the Council to be necessary or appropriate to provide for the costs of Facilities approved by the Council. Bonds shall be negotiable instruments subject only to the provisions of such Bonds for registration.

(b) In addition to the Bonds authorized in the preceding paragraph, the Authority is authorized to issue additional bonds in an aggregate principal amount not to exceed $100,000,000 for Facilities or activities related to energy development, production, collection, conversion (from one form of energy to another), storage, conservation, transmission, distribution, transportation, or conveyance, including but not limited to the furnishing of electric energy or gas, and to issue such Bonds from time to time, in such series and amounts, as are determined by the Council to be necessary or appropriate to provide for the Cost of Facilities approved by the Council. Bonds shall be negotiable instruments subject only to the provisions of such Bonds for registration.

(c) For the purpose of bonds issued for facilities or activities related to energy development as more broadly defined above, the term "Facilities" shall have the same meaning as defined herein, except the facilities, places, or buildings are not necessarily required to be located within the Authority so long as the Council finds the Facilities to be financed would directly benefit the citizens of the City.

Sec. 3-2.716. **Bonds Not Debt of City**

Bonds authorized to be issued shall be limited obligations of the Authority payable from all or any specified part of the revenues and the moneys and assets authorized in this chapter to be pledged or assigned to secure payment of Bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of Bonds. Bonds issued as authorized by this chapter shall not be deemed to constitute a debt of liability of the City or a pledge of the faith and credit of the City but shall be limited obligations payable solely from specified revenues, moneys, and assets. The issuance of Bonds shall not directly, indirectly, or contingently obligate the City to levy or pledge any form of taxation or to make appropriate for their payment.

Bonds shall contain on the face thereof a statement to the following effect:

> "Neither the faith and credit nor the taxing power of the City of California City is pledged to the payment of the principal or of premium, if any, or interest on this bond."

Sec. 3-2.717. **Bond Terms**

Bonds shall be issued as serial bonds, term bonds, installment bonds, or pass-through certificates or any combination thereof. The Authority Manager shall determine the terms and timing of the issuance of particular Bonds in accord with the resolution of the Council approving the particular Facilities to be financed thereby. Bonds shall bear

such date or dates, mature at such time or times not to exceed forty years, bear interest at such fixed or variable rate or rates approved by the Participating Party whose Facilities are being financed but not to exceed the maximum rate permitted by law, be payable at such time or times, be in such denominations, be in such form, coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution, or any indenture to be entered into by the Authority pursuant to such resolution, shall provide. Bonds shall be sold at either public or private sale and for such prices as the Authority shall determine.

Sec. 3-2.718. **Bond Provisions**

A resolution relating to the issuance of Bonds, or indentures to be entered into by the Authority pursuant to such resolution, may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such Bonds:

(a) The terms, conditions and form of such Bonds and interest and principal to be paid thereon;

(b) Limitations on the uses and purposes to which the proceeds of sale of such Bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such Bonds.

(c) Limitations on the issuance of additional parity, Bonds, the terms upon which additional parity Bonds may be issued and secured, and the refunding of outstanding Bonds;

(d) The setting aside of reserves, sinking funds and other funds and the regulation and disposition thereof;

(e) The pledge or assignment of all or any part of the Revenues and of any other moneys or assets legally available therefor (including loans, deeds of trust, mortgages, leases, subleases, sales agreements and other contracts and security interests) and the use and disposition of such Revenues, moneys and assets, subject to such agreements with the holders of Bonds as may then be outstanding;

(f) Limitation on the use of Revenues for operating, administration or other expenses of the City;

(g) Specification of the acts or omissions to act which shall constitute a default in the duties of the City to holders of such Bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

(h) the appointment of a corporate trustee to act on behalf of the Authority and the holders of its Bonds, the pledge or assignment of loans, deeds of trust, mortgages, leases, subleases, sale contracts and any other contracts to such trustee, and the rights of such trustee;

(i) The procedure, if any, by which the terms of the contract with bondholders may be amended or abrogated, the amount of such Bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(j) An indenture entered into by the Authority relating to the issuance of any

Bonds will contain a provision prohibiting the sale by a Participating Party of any facility financed under this chapter, without prior approval by the Authority; and

(k) Other provisions which the Council may deem reasonable and proper for the purposes of this chapter and the security of the bondholders.

Sec. 3-2.719. **Pledge of Revenues, Money or Property**

The pledge or Revenues or other moneys or assets as authorized by this chapter shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof. The resolution and indenture by which a pledge is created need not be filed or recorded except in the records of the Authority.

Sec. 3-2.720. **No Personal Liability**

The members of the Council, the officers of the employees of the Authority or the City, and any person executing any Bonds shall not be liable personally on the Bonds or be subject to personnel liability or accountability by reason of the issuance thereof.

Sec. 3-2.721. **Purchase of Bonds by Authority**

The Authority shall have the power out of funds available to purchase its Bonds. The Authority may hold, pledge, cancel, or resell such Bonds, subject to and in accordance with agreements with the bondholders.

Sec. 3-2.722. **Actions by Bondholders**

The holder of Bonds issued under this chapter or the coupons appertaining, and trustee appointed pursuant to a resolution relating to the issuance of Bonds, except to the extent the rights may be restricted by such resolution or indenture authorized to be entered into by the Authority may, at law or in equity, by suit, action, mandamus or other proceedings, shall protect or enforce rights specified in law or in such resolution or indenture, and may enforce and compel the performance of duties required by this chapter or by such resolution or indenture to be performed by the Authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution or indenture to be fixed, charged, and collected.

Sec. 3-2.723. **Refunding Bonds**

The Authority is authorized to issue Bonds for the purpose of replacing or refunding Bonds then outstanding.

Sec. 3-2.724. **Bond Anticipation Notes**

In anticipation of the sale of Bonds authorized by this chapter, the Authority is authorized to issue bond anticipation notes, and to renew the same from time to time, in such series and amounts as are determined by the Council to be necessary or appropriate for the Costs of Facilities approved by the Council. Such notes shall be payable from Revenues or other moneys or assets authorized by this chapter to be pledged to secure payment of Bonds, and which are not otherwise pledged, or from the proceeds of sale of the particular Bonds in anticipation of which they are issued. Such notes shall be issued in the same manner as Bonds. The Mayor or Authority Manager shall determine the terms and timing of the issuance of particular bond anticipation notes in accord with the provisions of Section 3-2.717 and the resolution of the Council approving the particular Facilities to be financed. Such notes, a resolution relating to the issuance of such notes and an indenture to be entered into by the Authority pursuant to such resolution may contain any provisions, conditions or limitations permitted under Section 3-2.718.

Sec. 3-2.725. **Validity of Bonds**

The validity of the authorization and issuance of Bonds is not dependent on and shall not be affected by proceedings taken by the Authority for the approval of financing or the entering into of an agreement, or by the failure to provide financing or enter into an agreement, for which Bonds are authorized to be issued under this chapter.

Sec. 3-2.726. **Liberal Construction**

This article, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 3-2.727. **Effect of Omission or Defect**

The omission of an officer of the City or the Authority in proceedings under this chapter or any other defect in the proceedings, shall not invalidate such proceedings or the Bonds issued pursuant to this chapter.

Sec. 3-2.728. **Full Authority**

This article is full authority for the issuance of Bonds by the Authority for any of the purposes specified herein.

Sec. 3-2.729. **Additional and Alternative Authority**

This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized, and shall be regarded as supplemental and

additional to the powers conferred by other laws. The issuance of Bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of Bonds. The purposes authorized may be effectuated and Bonds are authorized to be issued for such purposes under this chapter notwithstanding that any other law may provide for such purposes or for the issuance of Bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in other laws.

Sec. 3-2.730. **Provisions of the Act Control**

To the extent the provisions of this article are inconsistent with the provisions of any general statute or the Act or parts thereof, the provisions of such statute or the Act are deemed controlling.

Sec. 3-2.731. **Severability**

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. The Council declares it would have adopted and passed this chapter and each section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional.

Sec. 3-2.732. **Act Authorized**

The appropriate officers of the Authority are hereby authorized and directed, for and in the name of and on behalf of the Authority, to do any and all things, and take any and all actions, and execute and deliver any and all certificates, agreements and documents which they or any of them may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds or bond anticipation notes authorized by this chapter in accordance with the provisions of such law, and the resolution of the Council approving the particular Facility to be financed.

CHAPTER 3. EXPENDITURES

ARTICLE 1. BUDGETED

DIVISION 1. GENERAL

Sec. 3-3.1.101. Purchasing System Adopted

A purchasing system is adopted to establish efficient procedures for the purchase of supplies, services, and equipment, to secure for the City supplies, services, and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases.

Sec. 3-3.1.102. Purchasing Officer

(a) The City Manager, or designee, shall serve as the Purchasing Officer of the City.

(b) The Purchasing Officer shall:

(1) Purchase or contract for the supplies, services and equipment required by any City department in accordance with the purchasing procedures and such other rules and regulations as may be prescribed by the Council;

(2) Negotiate and recommend the execution of contracts for the purchase and supplies, services and equipment;

(3) Recommend to the Council, rules governing the purchase of supplies, services and equipment.

(4) Supervise the inspection of all supplies, services and equipment purchased to ensure conformance with specifications;

(5) Supervise the sale of surplus or unused supplies and equipment or transfer between departments as needed;

(6) Recommend the sale of surplus real property; and

(7) Maintain a bidder's list of vendors, catalog file and such other records needed for the efficient operation of the Purchasing Department.

(c) In connection with these activities, the Purchasing Officer shall discourage uniform bidding, endeavor to obtain as full and open competition as possible on purchases, and shall keep informed of current developments in the field of purchasing, prices, market conditions and products.

Sec. 3-3.1.103. Department Requisition

Each department head shall file detailed estimates of requirements and standard requisition forms for supplies, services and equipment as required by the Purchasing Officer.

Sec. 3-3.1.104. Appropriation of Funds

Except in cases of emergency, the Purchasing Officer shall not issue any purchase order for supplies, services, or equipment unless there exists an unencumbered appropriation against which such purchase is to be charged. The Purchasing Officer may issue a purchase order for supplies, services or equipment in the absence of an unencumbered appropriation against which to charge the purchase if necessary to deal with an emergency and prior council approval of an emergency appropriation is not feasible. In such event, the Purchasing Officer shall report on the expenditure at the next regular council meeting, at which time the council will consider approving an appropriation to cover the expenditure.

(Amended by Ord. No. 07-650 on July 7, 2007.)

DIVISION 2. GOODS AND SERVICES

Sec. 3-3.1.201. Purchases

(a) This division deals with the purchase of goods and services. This division does not apply to the letting of contracts for public works or the procurement of professional consulting services.

(b) Goods or services shall be purchased in accordance with this division except when:

(1) An emergency requires the purchase be placed with the nearest available source of supply; or

(2) The amount of the purchase is less than $1,000.00; or

(3) Only one vendor is available;

(4) Another public agency is the vendor.

The Purchasing Officer shall submit a written report to the Council at the next regular Council meeting held at least 10 days after the agreement is approved explaining why the bidding procedures were not followed, provided, such a report is not required for purchases of less than $1,000.00.

Sec. 3-3.1.202. Definitions

The following terms are defined for the purposes of this chapter, unless otherwise apparent from context:

(a) “Emergency” means public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster threatening the life or property of the City or the community.

(b) “Formal bidding” refers to the practice by which the Purchasing Officer solicits proposals from the public at large pursuant to detailed written specifications and written invitations to bid.

(c) "Informal bidding" refers to the process by which the Purchasing Officer solicits proposals from selected vendors pursuant to purchase order or brief written specifications.

(Amended by Ord. No. 07-650 on July 3, 2007.)

Sec. 3-3.1.202A. No Bidding

Goods or services estimated to cost less than $5,000 may be purchased without informal or formal bidding, provided the council has appropriated money for such expenditure. The Purchasing Officer shall provide quarterly reports on the status of such purchases.

Sec. 3-3.1.203. Informal Bidding

(a) Goods or services estimated to cost between $5,000.00 and $15,000.00 may be purchased pursuant to informal bidding.

(b) The Purchasing Officer may execute purchasing orders or agreements for which informal bids are solicited if the price is less than or equal to the amount appropriated by the Council.

(c) The Council shall approve the execution of purchase orders or agreement if the low bid exceeds the amount appropriated by the Council. Council approval is not required for expenditures for goods or services costing less than $15,000 if the council has appropriated money for such purpose as reflected in the approved budget, provided, the Purchasing Officer shall provide a report to the council on such expenditures identifying the budget appropriation and debiting the budget appropriation.

(Amended by Ord. No. 07-650 on July 3, 2007.)

Sec. 3-3.1.204. Formal Bidding

(a) Goods or services estimated to cost more than $10,000.00 shall be procured pursuant to formal bidding.

(b) The Purchasing Officer may use formal bidding procedures to procure goods, or services even though informal bidding is permitted if formal bidding is in the best interest of the City.

(c) The Council shall approve the execution of purchase orders or agreements for which formal bids are required regardless of whether the low bid exceeds the amount budgeted by the Council.

DIVISION 3. PROFESSIONALS AND CONSULTANTS

Sec. 3-3.1.301. Selection

It is impractical to select persons to provide professional services solely on the basis of price because the quality of service rather than the amount of fees is the primary determinant of cost. Accordingly, professionals shall be selected on the basis of integrity, professional reputation, availability, communication skills and cost.

Sec. 3-3.1.302. Professional Services

"Professional services" refers to services provided by individuals qualified by virtue of specialized experience, training and education to perform work requiring extraordinary technical expertise. Professional services used by the City include, but are not limited to, legal, planning, financial, accounting, architectural, and engineering services. Building trade services are not considered professional services within the meaning of this chapter. The Purchasing Officer shall determine whether particular services are professional services.

DIVISION 4. PUBLIC WORKS

Sec. 3-3.1.401. Scope

This division applies to the letting of contracts for public works.

Sec. 3-3.1.402. Definitions

The following terms are defined for the purposes of this division:

(a) "Public project" means any of the following:

(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly-owned leased or operated facility.

(2) Painting or repainting of an owned, leased or operated facility.

(b) "Public project" does not include maintenance work. For the purposes of this section, "maintenance work" includes the following:

(1) Routine, reoccurring and usual work for the preservation or protection of any publicly-owned or publicly-operated facility for its intended purpose.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than 1 inch.

(4) Landscape maintenance including mowing, watering, trimming, pruning, planting, replacement of plants and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate and maintain publicly-owned

water, power or waste disposal systems including but not limited to dams, reservoirs, power plants.

(c) "Uniform Public Construction Cost Accounting Commission" or "Commission" means the State Commissions established pursuant to Chapter 2 of Part 3 of Division 2 (commencing with Section 22000) of the Public Contracts Code.

(d) "Cost Accounting Policies and Procedures Manual" or "Manual" means the manual promulgated by the Uniform Cost Accounting Commission for public works contracts.

Sec. 3-3.1.403. General

(a) If Uniform Cost Accounting procedures are not followed, public works estimated to cost at least $5,000 shall be awarded to the lowest responsible bidder following open, competitive bidding.

(b) If Uniform Cost Accounting procedures are followed, public works projects estimated to cost $25,000.00 or less may be performed by City employees, or may be pursuant to negotiated contract or purchase order. Public works estimated to cost more than $25,000.00 but less than $75,000.00 shall be pursuant to contract let by informal procedures. Public works estimated to cost more than $75,000.00 shall be pursuant to contract let by formal procedures.

Sec. 3-3.1.404. Force Account Work

(a) If Uniform Cost Accounting procedures are followed, the Public Works Director may recommend a public works be performed by City employees for the works estimated to cost $25,000.00 or less.

(b) The recommendation of the Director shall be presented to the Council for action with a report on the availability of City employees to perform the work and estimated cost savings.

Sec. 3-3.1.405. Negotiated Contracts

(a) If Uniform Cost Accounting procedures are followed, the Public Works Director may recommend a public work be performed pursuant to negotiated contract for works estimated to cost $25,000.00 or less.

(b) The recommendation of the Director shall be presented to the Council for authority to negotiate with a report of the availability of funds and the estimated cost. The Director may execute the agreement with the parameters established by the Council.

Sec. 3-3.1.406. Informal Procedures

(a) If Uniform Cost Accounting procedures are followed, the Public Works Director may recommend a public work be performed under a contract awarded pursuant to informal bidding procedures for works estimated to cost $25,000.00 or more but less than $75,000.00.

(b) The recommendation of the Director shall be presented to the Council for authority to solicit proposals with a report showing how the proposals will be solicited. The Director may award the contract within the parameters established by the Council.

(c) The Director shall provide all contractors who appears on the list of qualified contractors and all construction trade journals specified by the Commission as appropriate for Kern County with at least ten (10) days prior written notice inviting informal bids. The notice shall describe the project in general terms, state how to obtain more detailed information about the project, and note the time and place for submission of bids.

(d) If all informal bids are in excess of $75,000.00 but less than $80,000.00, the Council may by the passage of a resolution by at least 4/5's vote award the contract to the lowest responsible bidder if it determines that the cost estimate for the job was reasonable.

Sec. 3-3.1.407. Formal Procedures

(a) If Uniform Cost Accounting procedures are followed, the Public Works Director may recommend a public work be performed under a contract awarded pursuant to formal bidding procedures for works estimated to cost $75,000.00 or more.

(b) The recommendation of the Director shall be presented to the Council for authority to solicit proposals with a report showing how the proposals will be solicited. The report shall include the plans, specifications and working details for the project. The Director may award the contract within the parameters established by the Council.

(c) A notice inviting formal bids shall be mailed to each trade journal specified by the Commission for Kern County at least thirty (30) days prior to the date of opening of the bids. The notice inviting formal bids shall also be published at least fourteen (14) days before the date of opening of the bids in a newspaper of general circulation printed and published within the City. The notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

Sec. 3-3.1.408. Rejection of Bids

(a) The Council may reject any or all bids. If all bids are rejected after the first

invitation for bids, the Council may:

(1) Abandon the project or re-advertise for bids; and

(2) By passage of a resolution by at least 4/5's vote declare the project can be performed more economically by employees and have the project done by force account without further compliance with this division.

(b) If no bids are received through formal or informal procedures, the project may be performed by the employees of the City by force account or by negotiated contract without further compliance with this division.

Sec. 3-3.1.409. **Policies and Procedures Manual**

(a) The City shall follow the procedure for establishment and maintenance of a list of qualified contractors as established by the Commission.

(b) The City shall use the list of construction trade journals for Kern County established by the Commission.

Sec. 3-3.1.410. Procurement for Emergency Repairs

(a) Labor and material necessary for emergency repair or replacement of public facilities may be undertaken without giving notice for competitive bids if this Section is followed.

(b) By 4/5's vote, the City Council may authorize procurement without bidding based on substantial evidence set forth in the minutes of the meeting that the emergency will not permit delay and action is necessary to respond to the emergency. The need to continue or terminate the authorization shall be reviewed at each subsequent regular meeting until the emergency subsides or the work is complete.

(c) The Purchasing Officer may authorize the procurement of labor or material without bidding to make emergency repairs or replacements when a meeting of the City Council cannot be commenced to authorize emergency action in a timely manner. The City Manager shall report to the City Council within seven days of the emergency or at the next regular meeting scheduled within 14 days after the action. The report shall describe the emergency and reasons justifying the emergency action. At every regular meeting following the City Manager"s action, the City Council shall determine by 4/5's vote whether the need for emergency action continues.

Section 3-3.1.411.[21] **Prequalification of Bidders**

(a) The City Manager may designate public works projects or parts thereof that require specialized skills or cost in excess of one million dollars ($1,000,000) to be subject to prequalification of bidders.

(b) To become a prequalified bidder, a contractor must submit to the City a pre-

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[21] Added by Ord. No. 09-681 on Oct. 6, 2009.

qualification application consisting of a standardized questionnaire, financial statement, and statement of experience. The forms for the questionnaire, financial statement, and statement of experience will be provided as part of the pre-qualification bidding packet.

(c) The questionnaires and financial statements submitted by prospective contractors are not public records and are not subject to public inspection. Records of the names of contractors applying for prequalification status are public records and subject to disclosure. Documents submitted by a prospective contractor will be submitted under penalty of perjury.

(d) The City will rate prospective contractors in accordance with the rating system attached as Exhibit "A" ("Rating System"). The City will devise the questions, process and scoring for Part III of the rating system, so as to best evaluate a contractor's ability to successfully complete a particular project. This information will be provided as part of the pre-qualification bidding packet. The Rating System will be applied uniformly and objectively to all prospective contractors, which have submitted properly completed documents in accordance with this Policy.

The City may determine that only a certain number of the top scoring pass-rated contractors shall be considered prequalified for a specific project. This determination shall be made prior to issuing the Notice Inviting Prequalifications for the specific project.

(e) When the City uses this prequalification process, the only contractors eligible to submit a bid are prequalified contractors. Further, such contractors shall submit bids only naming a prequalified subcontractor. Any bid received listing an unqualified subcontractor will automatically be disqualified as non-responsive. No bid shall be accepted for the project from unqualified contractors.

(f) A contractor's prequalification status will immediately terminate if: (1) the contractor fails to give the City written notice of changes in the information previously provided within ten (10) days before a bid opening; (2) the contractor's license is suspended or terminated by the California State Licensing Board; (3) the contractor is convicted of any crime of moral turpitude; (4) the contractor's application contains materially false information; or (5) the contractor's control over a public works contract, whether within the City's jurisdiction or otherwise, is terminated for cause.

(g) The City shall give written notice to each contractor of the prequalification determination for that contractor. A contractor may appeal a rating of "not qualified," including a decision to revoke a previous qualified rating. There is no appeal from a finding that a contractor is not prequalified because of a failure to submit required information or failure to submit required information in a timely manner.

(1) A contractor may appeal the decision as follows:

(i) By giving written notice of appeal to the City Manager no later than ten days after receipt of the not qualified rating.

(ii) The notice of appeal shall contain at least the following:

(a) The name, address and telephone number of the person making the appeal;

(b) A description of the determination which is the subject of the appeal, and the date of the Notice of Determination; or

(c) A brief description of the grounds for the appeal.

(2) The City will provide the contractor with a written statement of the basis for the not qualified determination and supporting evidence received from others or adduced as a result of investigation.

(3) Within fourteen days of sending the response to the contractor, the City Manager shall hear the appeal. The hearing shall be an informal one. The Contractor may rebut evidence which is the basis for the determination and present evidence why the contractor is qualified.

(4) The City Manager or designee may affirm the earlier determination or reverse the determination and assign a different rating. This decision will be in writing containing a summary of the facts that led to the decision. The decision of the City Manager is final. A contractor shall have no right to appeal that decision to the Board.

(h) The City Manager may cancel the prequalification process at any time during the prequalification process, even after receiving and scoring applications. If the prequalification process is cancelled, the normal competitive bidding rules will apply. The City assumes no liability for the cost a prospective contractor may have incurred by submitting an application for prequalification, and the submittal of a prequalification application is a waiver to claim any such cost or losses due to cancellation of the process.

EXHIBIT "A"
RATING SYSTEM

This Rating System will be used for evaluating the qualifications of contractors submitting applications to become prequalified to bid on designated public works projects.

To become eligible to bid on a public works project, a contractor must have a passing grade on each of the three categories set forth in the questionnaire.

Table 1: Qualification Ratings.

Category	Total Possible Score	Passing Score
Part II: Business History And Organizational Performance	**76**	**57**
Part II: Compliance with Applicable Laws	**53**	**38**
Part III: Completion of Recent Projects and Quality of Performance	**To Be Determined by City on the basis of the Project.**	**To Be Determined by City on the basis of the Project.**

The City will score an applicant's response in accordance with Table 2, below, and in accordance with the specified rating for Part III. The City will add the total number of points each applicant receives for each category. The sum will be compared to the passing scores in Table I to determine whether an applicant is eligible to bid on a public works project. Failure to receive a passing score in each category will result in an applicant being not qualified.

Table 2: Score Sheet

Part I Scoring

Contractor will be immediately disqualified if the answer to any of questions 1 through 5 is a "NO."

Contractor will be immediately disqualified if the answer to any of questions 6 through 9 is a "YES."

Category	Question No.	Scoring
Part II	1	3> yrs.: 2 4 yrs.: 3 5 yrs.: 4 6 > yrs.: 5
	2	Yes: 0 No: 3
	3	Yes: 0 No: 3
	4	Yes: 0 No: 5
	5	None with LDs more than $50k: 5 One with LDs more than $50k: 5 Two with LDs more than $50k: 3 Otherwise: 0
	6	Yes: 0 No: 5
	7	Yes: 0 No: 5
	8	If contractor's revenue less than $50 million for last 3 years: No: 5 One incident: 5 Two incidents: 3 More than two: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to three incidents: 5 Four to five incidents: 3 More than 5 incidents: 0
	9	If contractor's revenue less than $50 million for last 3 years: No: 5 One incident: 5 Two incidents: 3 More than two: 0 If contractor's revenue more than $50 million for last 3

Category	Question No.	Scoring
		years: No: 5 One to three incidents: 5 Four to five incidents: 3 More than 5 incidents: 0
	10	No: 5 One incident: 5 Two incidents: 3 More than two: (-5)
	11	No: 5 One incident: 5 Two incidents: 3 More than two: 0
	12	Yes: (-5) No: 5
	13	Yes: (-5) No: 5
	14	Yes: (-5) No: 5
	15	If rate is <1%: 5 If rate is not more than 1.1%: 3 Other: 0
	16	Yes: 0 No: 5
Part II	1	If contractor's revenue less than $50 million for last 3 years: No: 5 One incident: 5 Two incidents: 3 More than two: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to three incidents: 5 Four to five incidents: 3 More than 5 incidents: 0
	2	If contractor's revenue less than $50 million for last 3 years: No: 5 One incident: 5 Two incidents: 3 More than two: 0 If contractor's revenue more than $50 million for last 3 years:

Category	Question No.	Scoring
		No: 5 One to three incidents: 5 Four to five incidents: 3 More than 5 incidents: 0
	3	If contractor's revenue less than $50 million for last 3 years: No: 5 One incident: 5 Two incidents: 3 More than two: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to three incidents: 5 Four to five incidents: 3 More than five incidents: 0
	4	If one or more times a week: 3 Otherwise: 0
	5	Avg. EMR of <.95: 5 Avg. EMR of .95> up to 1.00: 3 Otherwise: 0
	6	No: 5 One incident: 5 Other: 0
	7	If contractor's revenue less than $50 million for last 3 years: No: 5 One to two incidents: 5 Three incidents: 3 More than three: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to four incidents: 5 Five to six incidents: 3 More than six incidents: 0

Category	Question No.	Scoring
	8	**If contractor's revenue less than $50 million for last 3 years:** No: 5 One or two incidents: 5 Three incidents: 3 More than three: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to four incidents: 5 Five or six incidents: 3 More than six incidents: 0
	9	One or more approved apprenticeship program: 5 Other: 0
	10	If one or more persons completed: 5 If no person: 0
	11	If contractor's revenue less than $50 million for last 3 years: No: 5 One to two incidents: 5 Three incidents: 3 More than three: 0 If contractor's revenue more than $50 million for last 3 years: No: 5 One to four incidents: 5 Five to six incidents: 3 More than six incidents: 0
Part III		TBD by City

DIVISION 5. DEFERRED IMPROVEMENTS

Sec. 3-3.1.501. General

The City shall spend the money in the SDI Fund:

(a) To promptly construct any SDI Improvements remaining for tract numbers 3281, 3282, and 3288.

(b) To construct SDI Improvements for SDI Tracts not identified in (a) as the

need arises. As used herein, "construction" means the actual costs related to and necessary to construct and put improvements in place for their intended use, including but not limited to the design, solicitation, evaluation, award of construction contracts and administration of construction contracts.

(c) To pay the costs of maintenance of SDI Improvements. As used herein, “maintenance” means the actual cost of operating and maintaining SDI Improvements, but does not include the cost of administering operation and maintenance programs.

Sec. 3-3.1.502. Determination of Need for Improvements

(a) The City's policy on expenditures of monies in the SDI Fund for the construction of SDI Improvements is to encourage the development of new home construction consistent with prudent municipal development and expending as much of the accumulated money as necessary to provide for and stimulate the development of SDI Tracts. The City's goal is to develop sufficient interest to require the annual expenditure of 5 to 10 percent or more or less of the accumulated SDI Fund.

(b) On or before May 1st of each year, the City Engineer shall submit a list of proposed SDI Improvements to the SDI Advisory Committee and City Manager. A SDI Lot Owner may also propose an SDI Improvement by submitting a description of the project. Except when an urgency exists, e.g., a home under construction, proposals by SDI Lot Owners shall be reviewed by the City Engineer as described in the annual report. SDI Lot Owners proposing SDI Improvements are encouraged to submit evidence showing how the proposal will benefit SDI Lots and how the proposed improvements will be used at an early date. Proof of impending construction such as working drawings, approved construction loan, monies in escrow, building plans and water meter application must be shown to ensure the SDI Lot Owner is committed to improving the lot.

(c) The SDI Advisory Committee and the City Manager shall evaluate the report of the City Engineer and make recommendations to the City Council concerning the construction of the SDI Improvements as part of the annual budget process. The City Engineer shall prepare plans and specifications for each SDI Improvement project identified in the approved budget and shall submit such plans and specifications to the Council for action during the first quarter of each fiscal year. SDI Improvement projects identified in the approved plans and specifications shall be constructed as soon as feasible, taking into consideration variations in staffing, climate, and staging of projects.

Sec. 3-3.1.503. Maintenance of SDI Improvements

(a) The City may expend monies from the SDI Fund to maintain SDI Improvements and pay for administrative expenses as permitted by this chapter under the terms and conditions of this Section.

(b) Money shall annually be transferred from the SDI Fund to the City's General Fund for such purpose and shall not exceed the lesser of:

(1) $290,000 per fiscal year, which total may be an average of such expenditures over a four-year period.

(2) The amount of money in the SDI Fund attributable to investment earnings (as opposed to principal).

(3) The amount of money in the SDI Fund which the City Engineer and the Finance Director jointly certify to exceed the anticipated cost of constructing outstanding SDI Improvements for SDI Tracts.

(4) The cost of maintaining SDI Improvements.

ARTICLE 2. UNBUDGETED

Sec. 3-3.201. Scope

Claims for money or damages against the City, its officers or employees, including claims not otherwise governed by the Tort Claims Act, shall be presented as set forth in this article.

Sec. 3-3.202. Time and Manner of Presentations

Claims shall be filed within the time limits and in the manner prescribed by Chapter 1 of Division 3.6 commencing with Section 900 of the Government Code.

Sec. 3-3.203.[22] Claims

(a) A claim by a vendor shall be presented by the City Clerk to the department head who authorized the claim for written approval. The claim shall then be presented to the City Clerk for certification as to the accuracy of the claim and the

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[22] Amended by Ord. No. 07-650 on Jul 3, 2007.

availability of funds for payment. The Council shall audit such claims before authorizing payment.

(b) A claim not filed by a vendor under contract with the City shall be presented by the City Clerk to the City Manager who shall consult with the City Attorney concerning the disposition of the claim. The City Attorney shall prepare a written report on claims for more than $5,000. Claims shall be presented to the City Council for action within 45 days of filing.

(c) The City Manager may compromise claims for not more than $5,000.00. The City Manager shall provide the City Council with a quarterly report on compromised claims under this subsection.

Sec. 3-3.204. Council Approval

(a) The Council shall not consider a claim unless the claim is itemized, giving the names, dates, and particular services rendered, the character or the process, the distance traveled, the character of the work done, the number of days engaged, the materials and supplies furnished, when, to whom, and in what quantity furnished, the price therefor, and any other pertinent details, as the case may be.

(b) If a claim is determined to be a proper charge against the City, the claim shall be allowed by a resolution or minute order of the Council setting forth as to each claim, the name of the claimant, a brief statement of the claim, and the amount allowed.

(c) If a claim is approved by the Council, the City Clerk shall endorse upon each of the duplicate copies the words "Allowed by the City Council of the City of California City." The resolution or minute order approving the claim, its amount, and the fund it is drawn against shall be attached, and the City Clerk shall attest to the same.

(d) If the Council finds a claim is not a proper charge , the claim shall be rejected by resolution or minute action. The fact of rejection shall be plainly endorsed upon the claim by the City Clerk.

Sec. 3-3.205.[23] Issuance of Checks

(a) No checks shall be issued by any officer or employee of the City except in accordance with this Section.

(b) The City Treasurer may draw checks for: payroll. utility fees and charges, petty cash replenishment, SDI improvement reconveyance fees, aircraft fuel delivered to the municipal airport on a COD basis, and emergencies (herein collectively “pre-issue authority”), with or without council approval as necessary to pay for such item in a timely manner if the Finance Director has certified the checks are for valid indebtedness and money is available in the City Treasury to pay the amount represented by these

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[23] Added by Ord. 07-650 on Jul 3, 2007.

checks. The Mayor or other person designated by the council by resolution shall sign checks presented by the Treasurer.

(c) The City Treasurer shall draw checks for matters other than those covered by pre-issue authority only after the council has approved the expenditure. The council shall approve such expenditures only if the Finance Director has certified the indebtedness is valid and subsisting, and money is available to pay the amounts represented by the checks. The Mayor or other person designated by the council by resolution shall sign such checks after approval by the council.

(d) The City Treasurer shall disburse properly approved checks to the creditor after approval and signature as set forth in this Section.

TITLE 4. PUBLIC SAFETY

CHAPTER 1. FIRE PREVENTION
ARTICLE 1. FIRE CODE

Sec. 4-1.101. Adoption of the Fire Code.[24]

For the purpose of regulating the safeguarding of life, property, and public welfare to a reasonable degree from the hazards of fire and explosion arising from storage, use, and handling of dangerous and hazardous materials, substances, and devices, the operation, installation, construction, location, safeguarding, and maintenance of attendant equipment, and the installation and maintenance of adequate means of egress not provided for by the Building Code of the City, the Code designated as the "Fire Code," latest Edition, as recommended and adopted by the most recent Code adopted by the California Building Standards Commission. The Code shall be known as the Fire Code of the City

Sec. 4-1.102. Amendments.

Three copies of the Fire Code will be placed on file in the office of the City Clerk for public record and inspection.

Sec. 4-1.103. Enforcement.

(a) The Fire Chief, or designee, shall enforce the Fire Code, including provisions relating to the abatement of hazardous conditions.

(b) Violation of the Fire Code, or failure to comply with orders made under the authority of the Fire Code, is a misdemeanor punishable.

(c) Conviction for violating this article shall not excuse the violation or authorize its continuance. Persons convicted of violating this article shall correct the condition which fails to comply with the Fire Code.

ARTICLE 2. BURNING

Sec. 4-1.201. Burning Rubbish.

No person shall set fire to or burn any brush, grass, lumber, trash, rubbish, leaves, or other combustible materials without a written permit from the Fire Department.

Sec. 4-1.202. Burning Odoriferous Materials.

No material which produces or expels repugnant odors or substances likely to cause an explosion shall be burned within the City unless such burning is done within an incinerator designed and constructed to effect sufficient combustion of the material and prohibit liberation to the outside air of any substance, gas or odor dangerous or harmful to the health and safety of residents or property.

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24 Amended 7/19/05 by Ord. 05-627.

Sec. 4-1.203. Fire Hydrants Use.

(a) No person shall open, or cause to be opened, use, or cause to be used, or remove, tamper with or otherwise disturb any fire hydrants except to extinguish fires, training or make necessary repairs, or when authorized by the Fire Department.

(b) The person in charge of the water lines shall immediately cap or assemble any open lines serving fire hydrants in the vicinity of the fire and supply available water. Water lines furnishing water to fire hydrants shall not remain without water except when actual work, repairs or alterations are being carried on or approval from the Fire Department.

Sec. 4-1.204. Fees.

The Council shall establish from time to time, by resolution, fees for the issuance of permits or the inspection of property as necessary or proper for fire prevention and protection purposes.

ARTICLE 3. FIREWORKS

Sec. 4-1.301. Scope.

This article regulates the use of fireworks and fireworks sales only "safe and sane" fireworks can be sold or used under this article.

Sec. 4-1.302. General.

(a) Safe and sane fireworks may be sold and discharged within the City during the period beginning at 12:00 noon on June 28, and ending at 12:00 noon on July 5, of each year, pursuant to this article and not otherwise.

(b) "Dangerous fireworks" shall not be sold or offered for sale or discharged within the city.

(c) No person shall sell fireworks within the City without a permit issued under this Article. Each permittee shall be limited to one permit per year. Each permit shall be limited to one stand at one location.

Section 4-1.303. Definitions.

Unless otherwise apparent from the context, words and phrases used in this article are defined as follows:

(a) "Agricultural and wild life fireworks" means fireworks designed by the State Fire Marshall or used to prevent damages to crops or the unwanted occupancy of areas by animals or birds through the employment of sound or light, or both.

(b) "Class I flammable liquids" means liquids having a flash point of one hundred (100) degrees Fahrenheit or less.

(c) "Dangerous fireworks" means the following:

(1) Pyrotechnics or fireworks containing phosphorous, sulfocyanide, mercury, magnesium, potassium picrate, gallic acid, chlorate of potash and sulfur, or chlorate of potash and sugar;

(2) Firecrackers, salutes, and other explosive articles of similar nature;

(3) Blank cartridges;

(4) Skyrockets, rockets, and all similar devices employing any combustible or explosive material and which rise in the air during discharge;

(5) Roman candles, including all devices which discharge balls of fire into the air;

(6) Chasers, including devices which dart about the surface of the ground during discharge;

(7) Snakes, boa constrictors, and snake nests containing bichloride of mercury;

(8) Sparklers more than ten (10”) inches in length or one-fourth (1/4”) inch in diameter;

(9) Articles of pyrotechnic display containing gunpowder;

(10) Articles commonly known as son-of-a-gun, devil-on-the-rocket, crack-it sticks, and automatic torpedoes containing arsenic;

(11) Explosives known as devil-on-the-walk and articles of similar character which explodes through means of friction;

(12) Toy torpedoes;

(13) Pyrotechnic devices having a side fuse;

(14) Fire balloons or balloons having burning material attached; and

(15) Fireworks designated as dangerous by the State Fire Marshal.

(d) “End fuse” means a fuse inserted into a pyrotechnic device at the end of the device as distinguished from the side of the device.

(e) “Exporter” means a person located in the City who sells, consigns, or delivers fireworks for delivery, use, or sale outside the City.

(f) “Fire nuisance” means acts which increase or may cause increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fires or which may obstruct, delay, hinder, or become the cause of any obstruction, delay, suppression, or hindrance to the prevention of extinguishment of fire.

(g) “Fireworks” means blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, fire balloons (balloons of a type which have a burning material of any kind attached thereto or which require fire underneath to propel them, except hot air balloons designed to carry people and licensed by the Federal Aviation Agency), firecrackers, torpedoes, sky- rockets, rockets, Roman candles, Daygo bombs, sparklers, or other fireworks of like construction, and fireworks containing combustible or explosive substance producing a visible or audible effect by combustion, explosion, deflagration, or detonation, excluding toy pistols, toy canes, toy guns, or similar devices in which paper caps containing not more than twenty-five hundredth (.25) grain of explosive compound per cap are used.

(h) “Importer” means a person who: brings fireworks into the City or causes fireworks to be brought into the City; procures the delivery or receives shipment of fireworks in the City; or buys or contracts to buy fireworks for shipment into the City.

(i) “Pyrotechnic operator” means an individual who, by experience and training, has demonstrated the required skill and ability for safely setting up and discharging public displays of dangerous fireworks.

(j) “Retailer” means a person who sells, transfers, or gives fireworks to a consumer or user at a fixed location.

(k) “Safe and sane fireworks” means fireworks not designated as "dangerous fireworks," and only end fuses are used.

(l) “Side fuse” means a fuse inserted into a pyrotechnic article or device at a point along its length.

(m) “Wholesaler” means a person, other than an importer, exporter, or manufacturer selling only to wholesalers, who sells fireworks to a retailer or any other person for resale.

Sec. 4-1.304. Applications.

(a) Applications for a permit may be filed on or after February 1 of each year. One permit shall be issued for each 2,000 persons, or fraction thereof, residing in the city. If there are more applications than the number of available permits, the permits shall be issued first to organizations holding a permit as of July 1 of the previous year. Applicants which are denied a permit shall be placed on a waiting list to receive a permit when population warrants.

(b) Each application for the permit required by the provisions of this article shall show the following:

(1) The name and address of the applicant;
(2) The applicant=s status as a nonprofit organization;
(3) The names and addresses of the officers, if any, of the applicant;
(4) The location where the applicant will sell fireworks;
(5) When the applicant was organized and established;
(6) The location of the applicant=s principal and permanent meeting place; and
(7) The applicant‟s State Board of Equalization sales tax permit number.

(c) Applications shall:

(1) Be filed with the Fire Chief on or before May 15 of each year;
(2) Be accompanied by a plot plan, approved by the building department.
(3) Be accompanied by a Twenty-Five Thousand and no/100 ($25,000.00) Dollars per person and Fifty Thousand and no /100 ($50,000.00) Dollars per occurrence property damage insurance policy, with a rider attached to the policy designating the city, as an additional assured thereunder; and
(4) Be accompanied by a fee established by the Council by resolution.

(d) Applicants shall be notified by the Fire Chief of the granting or rejection of applications before June 1, for each calendar year.

Sec. 4-1.305. **Issuance.**

The Fire Chief shall investigate applications for a permit. The Fire Chief shall grant or deny the application and impose such reasonable conditions as are warranted.

Sec. 4-1.306. **Permits: Issuance Limited to Nonprofit or Charitable Organizations.**

No permit shall be issued except to nonprofit associations or corporations organized primarily for veteran, patriotic, welfare, civic betterment, or charitable purposes. The organization shall have its principal and permanent meeting place in the City, or have the words "California City" appear in the official name of the corporation, or draw more than fifty percent of its active members from within the incorporated City, shall have been organized and established in the area within the City for a minimum of six months continuously preceding the filing of the application for the permit, and shall have a bona fide membership of at least ten members.

Sec. 4-1.307. **Stands.**

The following shall be observed in the operation of fireworks stands:

(a) No person, other than the licensee organization, shall operate the stand for which the license was issued or share or otherwise participate in the profits of the operation of such stand.

(b) No person, other than the individuals who are members of the licensee or organization, or the spouses or children sixteen years or older of such members, shall sell or otherwise participate in the sale of fireworks at such stand.

(c) No person shall be paid a consideration for selling or otherwise participating in the sale of fireworks at such stand.

(d) Retail sales of safe and sane fireworks shall be permitted only from within temporary fireworks stands, and sales from other buildings or structures are prohibited. Such temporary stands shall be subject to the following:

(1) Fireworks stands need not comply with the Building Code. Stands shall be erected under the supervision of the City Engineer who shall require stands be constructed in a manner which will reasonably ensure the safety of attendants and patrons. An electrical permit in compliance with the Electrical Codes shall be secured.

(2) If the construction of the stands or the conduct of the operators do not conform to this article, the City Engineer may order the stands immediately closed.

(3) No person shall be allowed in the interior of the stands except those persons directly employed in the sale of fireworks.

(4) There shall be at least one supervisor, twenty-one years of age or older, on duty at all times.

(5) No fireworks shall remain unattended, regardless of whether the fireworks stand is open for business or not.

(6) No stand shall be placed closer than twenty feet to any other building.

(7) "No Smoking" signs shall be prominently displayed both inside and outside the stand. No smoking shall be permitted within the stand or within five feet of the stand.

(8) Weeds and combustible material shall be cleared from the location of the stand. No rubbish shall be allowed to accumulate in or around a fireworks stand, nor shall a fire nuisance be permitted to exist.

(9) No stand shall be erected before June 20. The premises on which the stand is erected shall be cleared of structures and debris not later than noon of the following July 8.

(10) Stands shall be equipped with at least one fire extinguisher for each exit in

the stand, which fire extinguisher shall be approved as to efficiency and safety by the State.

(11) Each stand in excess of twenty feet in length shall have at least two exits, and each stand in excess of forty feet in length shall have at least three exits spaced approximately equal distances apart; provided, however, in no case shall the distance between exits exceed twenty feet.

(12) No stand shall be constructed with a depth of more than twelve feet.

CHAPTER 2. TRAFFIC
ARTICLE 1. GENERAL AND ADMINISTRATIVE

Sec. 4-2.101. Scope.

This chapter regulates the use of streets and highways within the City by motor vehicles, bicycles and pedestrians to the extent the use is not regulated by State law.

Unless this chapter provides to the contrary, this chapter does not apply to vehicles operated by the Police Department, Fire Department, U.S. Postal Service, or emergency vehicle authorized to do business in the City while providing emergency services.

Sec. 4-2.102. Definitions.

Definitions contained in the Vehicle Code and Streets and Highway Code are incorporated by this reference.

Sec. 4-2.103. Traffic Division.

(a) A Traffic Division is established for the Police Department under the control of a police officer appointed by the Chief of Police.

(b) The Traffic Division shall:

(1) Enforce the street traffic regulations of the City and the State vehicle laws applicable to street traffic in the City;

(2) Make arrests for traffic violations;

(3) Investigate traffic accidents;

(4) Cooperate with the Traffic Engineer in the administration of the traffic laws in developing ways and means to improve traffic conditions, and in conducting studies of accidents and determining remedial measures; and

(5) Carry out those duties specifically imposed upon the Traffic Division by the provisions of this chapter.

(6) Maintain a suitable system of filing traffic accident reports available for the use and information of the Traffic Engineer.

(7) Annually file a traffic report with the Council containing information on traffic matters as follows:

(i) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;

(ii) The number of traffic accidents investigated and other pertinent data regarding the safety activities of police officers; and

(iii) The plans and recommendations of the Traffic Division for future traffic safety activities.

Sec. 4-2.104. Traffic Engineer

(a) A Traffic Engineer shall be appointed by the City Manager and exercise the powers and duties set forth in this chapter and other traffic regulations of the City.

(b) The Traffic Engineer shall have the following duties:

(1) Determine the installation, proper timing, and maintenance of traffic control devices and signals;

(2) Conduct engineering analyses of traffic accidents and to devise remedial measures;

(3) Conduct engineering and traffic investigations of traffic conditions;

(4) Cooperate with other City officials in the development of ways and means to improve traffic conditions; and

(5) Carry out the additional powers and duties imposed by the laws of the City.

Sec. 4-2.105. Traffic Committee.

(a) The Traffic Committee consists of the Traffic Engineer, the Chief of Police, and the City Manager. The Traffic Engineer shall serve as chair of the Committee.

(b) The Traffic Committee shall:

(1) Suggest the most practicable means for coordinating the activities of officers and agencies of the City having authority with respect to the administration or enforcement of traffic regulations;

(2) Stimulate and assist in the preparation and publication of traffic reports;

(3) Receive complaints having to do with traffic matters; and

(4) Recommend to the council and to the Traffic Engineer, the Chief of Police, and other City officials ways and means for improving traffic conditions and the administration and enforcement of the traffic regulations.

Sec. 4-2.106. Police Department.

(a) Police Officers may direct traffic by voice, hand, audible, or other signals in conformance with the traffic laws. No person shall fail or refuse to comply with or to perform acts forbidden by lawful order, signal, or direction of a traffic or police officer, a member of the Fire Department, a person authorized by the Chief of Police, or by law.

(b) No person other than an officer of the Police Department, members of the Fire Department, persons authorized by the Chief of Police, or persons authorized by law, shall direct or attempt to direct traffic by voice, hand, or other signals. Persons may operate mechanical push-button signals erected by order of the Traffic Engineer.

ARTICLE 2. SIGNS AND DEVICES

Sec. 4-2.201. Scope.

This article describes the authority of the Traffic Engineer to place signs and devices to regulate traffic.

Sec. 4-2.202. General.

The Traffic Engineer shall:

(a) Maintain, or cause to be placed and maintained, official traffic control devices as required;

(b) Give notice to the public of the application of the laws whenever the Vehicle Code requires traffic control devices be installed;

(c) Install, or cause to be installed, the necessary devices, subject to limitations or restrictions set forth in the law;

(d) Place and maintain, or cause to be placed and maintained, additional traffic control devices as necessary or proper to regulate traffic or to guide or warn traffic;

(e) Make determinations on the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations, and rules as set forth in this chapter or as determined by ordinance or resolution;

(f) Remove, relocate, or discontinue the operation of traffic control devices not specifically required by the Vehicle Code or this chapter whenever conditions which warranted or required the installation no longer exist; and

(g) Determine the hours and days during which a traffic control device shall be in operation.

Sec. 4-2.203. Traffic Flow.

The Traffic Engineer shall:

(a) Install and maintain official traffic signals at intersections and other places where traffic conditions require the flow of traffic be alternately interrupted and released to prevent or relieve traffic congestion or protect life or property from exceptional hazard;

(b) Determine the locations where signals are required by field investigations, traffic counts, and other traffic information in accordance with traffic engineering and safety standards and instructions set forth in the manual issued by the Division of Highways of the Department of Public Works of the State; and

(c) Erect and maintain street name signs visible to the principal flow of traffic.

(d) Place and maintain signs giving notice of one-way streets and alleys. Signs indicating the direction of lawful traffic shall be placed at every intersection where the movement of traffic in the opposite direction is prohibited.

Sec. 4-2.204. Lanes.

The Traffic Engineer shall:

(a) Mark center lines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway;

(b) Place and maintain distinctive roadway markings on streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such markings or signs and markings. Such markings or signs and markings shall have the same effect as similar markings placed by the Department of Public Works of the State pursuant to the Vehicle Code.

(c) Place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections;

(d) Allocate and indicate more than one lane of traffic from which drivers of vehicles may make right or left-hand turns, and the course to be traveled as so indicated may conform to law; and

(e) Determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or such signs may be removed when such turns are permitted.

Sec. 4-2.205. **Stops.**

The Traffic Engineer shall:

(a) Post appropriate signs giving effect to this chapter when the making of right turns against traffic signal stop indications would seriously interfere with the safe and orderly flow of traffic;

(b) Erect and maintain stop signs on each and every street intersecting such through street, or portion so designated, at those entrances to other intersections where a stop is required, and at railroad grade crossings. Stop signs shall be erected or maintained at an entrance to an intersection where such entrance is controlled by an official traffic control signal.

Sec. 4-2.206. **Pedestrians.**

The Traffic Engineer shall:

(a) Establish and maintain crosswalks at intersections and other places by appropriate devices, or markings or lines upon the surface of the roadway where there is particular hazard to pedestrians crossing the roadway; and

(b) Post signs prohibiting vehicular traffic in a pedestrian mall.

Sec. 4-2.207. **Parking.**

The Traffic Engineer shall:

(a) Install appropriate signs or paint upon curb surfaces, no stopping zones, no parking areas, and restricted parking areas;

(b) Erect signs indicating no parking on the side of a street adjacent to school property where such parking would interfere with traffic or create a hazardous situation;

(c) Place signs or markings indicating no parking upon streets where the width of the paved roadway does not exceed twenty feet or upon one side of a street, as indicated by such signs or markings, where the width of the paved roadway does not exceed thirty feet;

(d) Order temporary signs to be erected or posted indicating the operation, parking, or standing of vehicles is prohibited on streets and alleys where an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings, or functions, or for other reasons. Such signs shall remain in place only during the existence of such emergency, and the Traffic Engineer shall cause such signs to be removed promptly thereafter.

(e) Determine where standing or parking shall be prohibited upon the left-hand side of a one-way roadway of a highway having two or more separate roadways and shall erect signs giving notice;

(f) Install and maintain parking space markings to indicate parking spaces adjacent to curbings where authorized parking is permitted;

(g) Designate no stopping zones by placing and maintaining appropriate signs indicating stopping of vehicles is prohibited and indicating the hours and day when stopping is prohibited;

(h) Place the following curb markings to indicate parking or standing regulations, and such curb markings shall have the following meanings:

(1) “Red” means no stopping, standing, or parking except as permitted by the Vehicle Code and except a bus may stop in a red zone marked or signed as a bus zone.

(2) “Green” means no standing or parking longer than twenty-four minutes between 9:00 a.m. and 6:00 p.m. except Sundays and holidays ; and

(3) “Blue” means handicapped parking.

(i) Determine the location and establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers.

Sec. 4-2.208. Bicycles.

The Traffic Engineer shall:

(a) Post signs along the route of the bicycle lanes indicating the use of such lanes is restricted to bicycle traffic;

(b) Cause visible markings to be placed along the boundaries of the bicycle lanes nearest to the center line of the street; and

(c) Promulgate rules and regulations consistent with the provisions of this chapter necessary for the safe conduct of bicycle traffic on bicycle lanes.

Sec. 4-2.209. Other.

The Traffic Engineer shall:

(a) Designate such streets by appropriate signs as “Truck Routes” for the movement of vehicles exceeding a maximum gross weight limit of three tons; and

(b) Erect and maintain appropriate signs on those streets affected by an ordinance or resolution of the City which designates and describes any street, or portion thereof, as a street, the use of which is prohibited by any commercial vehicle.

ARTICLE 3. RULES OF THE ROAD
DIVISION 1. GENERAL

Sec. 4-2.3.101. Scope.

This article sets forth rules for driving or walking on city streets and sidewalks.

Sec. 4-2.3.102. General.

The operator of a vehicle or train shall obey the instructions of official traffic control devices placed in accordance with this chapter unless otherwise directed by a police officer of other authorized person.

DIVISION 2. VEHICLES

Sec. 4-2.3.201. General.

This division regulates the driving of vehicles on city streets.

Sec. 4-2.3.202. Right Turns at Signal-controlled Intersections: Signs.

No driver of a vehicle shall make a right turn against a red or stop signal at an intersection posted with notice prohibiting such turns.

Sec. 4-2.3.203. Emerging from Alleys, Driveways, and Buildings.

A driver emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across an alleyway or driveway.

Sec. 4-2.3.204. Driving through Funeral Processions and Parades.

No driver shall drive between the vehicles comprising a funeral procession or a parade when such vehicles are conspicuously so designated.

Sec. 4-2.3.205. Clinging to Moving Vehicles.

No person shall attach with hands or by other means to a moving vehicle for the purpose of receiving motive power.

Sec. 4-2.3.206. Commercial Vehicles Using Private Driveways.

No commercial vehicle shall be driven across a private driveway approach, sidewalk area, or driveway without the consent of the owner or occupant of the property if a sign or markings are in place indicating the use of the driveway is prohibited. For the purpose of this section, a commercial vehicle is a vehicle having a rated capacity in excess of one-half ton.

Sec. 4-2.3.207. Riding and Driving on Sidewalks.

No person shall ride, drive, propel, or cause to be propelled a vehicle or animal across or upon a permanently constructed curb or sidewalk, except over permanently constructed driveways and except when it is necessary for a temporary purpose to drive a vehicle across a curb or sidewalk.

Sec. 4-2.3.208. Riding and Driving on New Pavement and Markings.

No person shall ride or drive an animal or vehicle over or across a newly-made pavement or freshly-painted marking in a street when a barrier sign, cone marker, or other warning device is in place warning persons not to drive over or across such pavement or marking, or when such device is in place indicating the street, or any portion, is closed.

Sec. 4-2.3.209. Obedience to Barriers and Signs.

No person, public utility, or department of the City shall erect or place a barrier or sign on a street, unless of a type approved by the Traffic Engineer. No person shall disobey the instructions, remove, tamper with, or destroy a barrier or sign lawfully placed on a street.

Sec. 4-2.3.210. Obstructing Traffic by Entering Intersections.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwith-standing a traffic control signal indication to proceed.

Sec. 4-2.3.211. Limited Access Roadways: Entering and Leaving.

No driver shall drive a vehicle onto or from a limited access roadway except at lawfully established entrances and exits.

Sec. 4-2.3.212. Pedestrian Mall.

(a) A pedestrian mall consisting of an alley from Neuralia Road to 82nd Street between California City Boulevard and Bay Avenue is established.

(b) Except for loading and unloading, no vehicular traffic is permitted on the pedestrian mall.

Sec. 4-2.3.213. Truck Routes.

(a) The Traffic Engineer may designate streets by appropriate signs as "Truck Routes" for the movement of vehicles exceeding a maximum gross weight limit of three (3) tons.

(b) When any such truck routes have been established and are designated by appropriate signs, the operator of any vehicle exceeding a maximum gross weight limit of three (3) tons shall drive on such routes and none other; provided, however, the provisions of this section shall not prohibit the operator of any vehicle exceeding a maximum gross weight of three (3) tons coming from a truck traffic route having ingress and egress by a direct route to and from restricted streets when necessary for the purpose of making pickups and deliveries of goods, wares, and merchandise from or to any building or structure located on such restricted street, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure upon such restricted street for which a building permit has previously been obtained.

(c) Those streets and parts of streets established by ordinance or by resolution of the Council are declared to be truck routes for the movement of vehicles exceeding a maximum gross weight of three tons.

Sec. 4-2.3.214. Commercial Vehicles Prohibited from Using Certain Streets.

(a) Whenever any ordinance or resolution of the City designates and describes any street, or portion thereof as a street, the use of which is prohibited by any commercial vehicle, the Traffic Engineer shall erect and maintain appropriate signs on those streets affected by such ordinance or resolution.

(b) Those streets, and parts of streets, established by ordinance or resolution of the Council are declared to be streets, the use of which is prohibited by commercial vehicles.

Sec. 4-2.3.215. Driving Over Curbs.

No person shall willfully drive or permit to be driven a motor vehicle, motorcycle, mini-bike, trailer-bike, dune buggy, motor-scooter, jeep or other form of powered transportation over or across a permanently constructed curb.

Sec. 4-2.3.216. Increase of State Speed Limits.

On the basis of an engineering and traffic investigation the speed permitted by State laws upon the following streets is less than is necessary for the safe operation of vehicles by reason of the designation and signposting of such streets as through highways and by reason of widely spaced intersections. The prima facie speed limit shall be as follows on those streets, or parts of streets designated when signs are erected giving notice hereof:

Name of Street or Portion Affected	Declared Prima Facie Speed Limits
Xavier Avenue between Lupine Loop and 94th Street	30 mph
Columbine Avenue between Lupine Loop and 94th Street	30 mph
Walpole Avenue between Lupine Loop and	30 mph

94th Street	
94th Street between California City Boulevard and North Loop Boulevard	30 mph
South California Boulevard between California City Boulevard and South City Limits	55 mph
Mitchell Boulevard between Lindbergh Boulevard and California City Boulevard	50 mph
Proctor Boulevard-between Randsberg-Mojave Road and Rome Beauty Drive	35 mph
Isabella Boulevard-between California City Boulevard and Poppy Boulevard	35 mph
Poppy Boulevard between North Loop Boulevard and Mitchell Boulevard	45 mph
Airway Boulevard-between South Loop Boulevard and Forrest Boulevard	35 mph
Randsburg-Mojave Road-between California City Boulevard and 20 Mule Team Parkway	45 mph
Great Circle Drive-between South Loop Boulevard and Neuralia Road	35 mph
Mendiburu Road-between Randsburg-Mojave Road and 96th Street	35 mph
Neuralia Road-between Mendiburu Road and Moss Avenue	45 mph
California City Boulevard-between Yerba Boulevard and Lutie Avenue	55 mph
Yerba Boulevard-California City Boulevard And Poppy Boulevard	40 mph
Lindbergh Boulevard-between Yerba and Curtis Place	35 mph
Hacienda Boulevard-between Redwood Boulevard and North Loop Boulevard	45 mph

(Ord. 00-577 – March 7, 2000)

Sec. 4-2.3.217. **Decrease of State Speed Limits.**

On the basis of engineering and traffic survey, the prima facie speed limit permitted by the Vehicle Code within business and residential districts as applied to the following streets is greater than reasonable or safe under the conditions found to exist upon such streets. The prima facie speed limit shall be as follows on those streets, or parts of streets, when signs are erected giving notice thereof:

Name of Street	Speed Limit
Morning Glory Drive	15 mph
Desert Breeze Drive	15 mph
Desert Breeze Court	15 mph
Camp Fire Court	15 mph
Camp Fire Drive	15 mph
Lost Horizon Way	15 mph

Rome Beauty	15 mph
Twilight Way	15 mph
Voltaire Way	15 mph
Sundowner Way	15 mph
Homestead Way	15 mph

(Ord. 00-577 – March 7, 2000)

Sec. 4-2.3.218. Decrease of State's Speed Limit Between Districts.

On the following portions of streets, the State's speed limit of sixty-five (65) miles per hour is applicable for a distance of not exceeding 2,000 feet in length between districts, either business or residence. On the basis of an engineering and traffic investigation, the speed permitted by State laws upon the following portions of streets is greater than reasonable or safe under the conditions found to exist upon the described portions of such streets. The prima facie speed limit shall be as follows when signs are erected given notice thereof:

Declared Prima Facie Between Districts	Declared Prima Facie Between Districts
North Loop Blvd.	45 mph
South Loop Blvd. - between California City Blvd. and Hacienda Blvd.	45 mph
Landis Drive - between Yerba Blvd. and Isabella Blvd.	35 mph
Randsberg/Mojave Road - California City Blvd. to Voltaire Way	45 mph
California City Blvd. - between Yerba Blvd. and Hacienda Blvd. and between State Highway 14 and Wonder Avenue	45 mph
Redwood Blvd. - between Neuralia Road and Conklin Blvd.	45 mph
Redwood Blvd. - between Conklin Blvd. and Hacienda Blvd. (when school children are present)	25 mph
Hacienda Blvd. - between California City Blvd. and Forrest Blvd.	45 mph
Airway Blvd. - between South Loop Blvd. and Redwood Blvd.	35 mph

(Ord. 00-577 – March 7, 2000)

Sec. 4-2.3.219. **Decrease Near Children's Playgrounds.**

The prima facie speed limit on streets adjacent to a children=s play area or where children are at play at a City Park is 25 miles per hour.

DIVISION 3. MOVING PERMITS

Sec. 4-2.3.301. **Scope.**

This division regulates moving of structures.

(a) No person shall move any structure or portion of a structure more than 12 feet wide over or across a City street without a moving permit.

(b) A person who desires a moving permit shall make application to the Police Department. The application shall describe the structure to be moved, the proposed route, the time of movement and such other information as the Chief of Police deems necessary and appropriate.

(c) The moving permit may be denied, approved or conditionally approved. Conditions shall be limited to those necessary to protect life or property including pedestrians, vehicular traffic and the physical integrity of the roadway.

(d) The applicant may appeal the denial or conditional approval of an application. Any interested person may appeal the approval or conditional approval of an application. Appeals shall be made in writing filed with the City Clerk within ten days of the action on the application by the Police Department. The appeal shall state the reasons why the applicant believes the decision of the Police Department was improper.

(e) The Council shall consider the appeal at the next regular council meeting scheduled at least fourteen days after the filing of the appeal. The applicant and the Chief of Police may present written and oral evidence and argument. The Council shall render its decision, which decision shall be final.

(f) The Council shall establish fees for moving permit applications and moving permits from time-to-time by resolution. Such fees shall be paid by the applicant and the permittee.

DIVISION 4. BICYCLES AND SKATEBOARDS

Sec. 4-2.3.401. Scope.

This division regulates bicycle traffic and skateboard traffic.

Sec. 4-2.3.402. Equipment.

(a) No person shall operate a bicycle on a roadway unless the bicycle is equipped with a brake to enable the operator to make one braked wheel skid on dry, level, clean pavement.

(b) No person shall operate a bicycle on a roadway equipped with handlebars so raised that the operator must elevate hands above the level of shoulders to grasp the normal steering grip area.

(c) Every bicycle operated on a highway during darkness shall be equipped with a lamp emitting a white light visible from a distance of 300 feet in front of the bicycle and with a red glass reflector on and three-fourth (1:") inches or larger in diameter or a red tape reflector at least one and one-half (12") inches wide and three (3") inches long of a type approved by the Police Department which shall be visible from a distance of 300 feet to the rear when directly in front of the lawful upper beams of headlights on a motor vehicle. A lamp emitting a red light visible from 300 feet to the rear may be used in addition to the red reflector.

Sec. 4-2.3.403. Operators.

(a) Every person operating a bicycle upon a roadway shall ride as near the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) No person propelling a bicycle shall ride other than upon or astride a permanent and regular seat.

(c) No person operating a bicycle upon a roadway shall permit a person to ride on the handlebars of such bicycle.

(d) No person operating a bicycle shall carry a package, bundle, or article which prevents the operator from keeping at least one hand upon the handlebars.

(e) No person shall part a bicycle on the main traveled portion of a sidewalk nor in such a manner to constitute a hazard to pedestrians, traffic, or property. If there are no bicycle racks or other facilities used to park bicycles in the vicinity, bicycles may be parked on the sidewalk in an upright position parallel to and within twenty-four inches of the curb line or outside portion of the sidewalk.

Sec. 4-2.3.404. Bicycle Lanes.

(a) Bicycle lanes are established on the extreme right and left-hand side of California City Boulevard for the sole and exclusive use of bicycle traffic. Such bicycle lanes shall parallel California City Boulevard and shall be eight feet in width, measured from the curb line and extending towards the center line of said street. The bicycle lanes shall commence at the westerly curb of Proctor Boulevard at its intersection with California City Boulevard and extend to the west to the easterly curb or Yerba Boulevard at its intersection with California City Boulevard.

(b) Traffic in, over, along, and across those certain bicycle lanes shall be limited to devices upon which a person may ride which are propelled by human power through a system of

belts, chains, or gears and which have wheels twenty inches or more in diameter.

(c) Bicycle traffic on the bicycle lanes shall progress in the same direction as vehicular traffic on that portion of California City Boulevard nearest to the bicycle lanes.

Sec. 4-2.3.405. Business Districts.

No person shall operate a bicycle or skateboard on sidewalks in a business district. (Ord. 00-584 – January 2, 2001.)

DIVISION 5. PEDESTRIANS

Sec. 4-2.3.501. Scope.

This division regulates pedestrian traffic.

Sec. 4-2.3.502. Use of Crosswalks.

Where crosswalks are marked, no pedestrian shall cross a roadway within 500 feet except when using the marked crosswalk.

ARTICLE 4. PARKING[25]

Sec. 4-2.401. Scope.

This article regulates parking of vehicles in this City.

Sec. 4-2.402. Application.

(a) This article does not prohibit the stopping, standing, or parking of vehicles when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(b) The provisions of this article imposing a time limit on standing or parking shall not relieve a person from the duty to observe other and more restrictive laws prohibiting or limiting the standing or parking of vehicles.

Sec. 4-2.403. No Stopping Zones, No Parking Areas, and Restricted Parking Areas: Maintenance: Obedience.

No operator of a vehicle shall stop, stand, or park such vehicle adjacent to a legible curb marking or sign in violation of this article.

Sec. 4-2.404. No Parking Areas: Designation.

No operator of a vehicle shall stop, stand, park, or leave such vehicle in the following places, except when necessary to avoid conflict with other traffic, or in compliance with the direction of a police officer, or other authorized officer, or traffic sign or signal:

(a) Within a divisional island;

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25 Entire Article 4 amended by Ord 06-638 on 2/7/06.

(b) On either side of a street between the projected property lines of a public walk, public steps, street, or thoroughfare terminating at such street;

(c) Where the Traffic Engineer determines the parking or stopping of a vehicle would constitute a traffic hazard or would endanger life or property;

(d) In areas established by ordinance or resolution as a no parking area;

(e) Upon, along, or across any railway track in such manner as to hinder, delay, or obstruct the movement of cars traveling upon such track;

(f) Where the parking or stopping of vehicles would constitute a traffic hazard or endanger life or property;

(g) Where the use of the street or highway is necessary for:

(1) the cleaning, repair, or construction of the street or highway;

(2) the installation of underground utilities;

(3) the use of the street or highway is authorized for a purpose other than the normal flow of traffic; and

(4) the use of the street or highway is necessary for the movement of equipment, articles, or structures of unusual size and the parking of such vehicle would prohibit or interfere with such use or movement. Signs giving notice of such parking restrictions shall be erected or placed at least twenty-four hours prior to the effective time of such restrictions;

(h) Within twenty feet of a point on the curb immediately opposite the mid-block end of a safety zone; and

(i) Within twenty feet of the approach to a traffic signal, boulevard stop sign, or official electric flashing device.

Sec. 4-2.405. Parking for More than Seventy-Two Hours.

No person who owns or has the possession, custody, or control of a vehicle shall park such vehicle upon a street, alley, public property, or public parking lot for more than seventy-two consecutive hours.

Sec. 4-2.406. Parking Vehicles for Sale.

(a) No person shall park a vehicle, trailer, or boat on a street, alley, public property, public parking lot, or private parking lot open to the public, for more than twenty-four consecutive hours, when a sign or placard on the vehicle indicates it is for sale, rental, or hire unless such street, alley, public property, public parking lot, or private parking lot open to the public is duly licensed and zoned to transact such business.

(b) No person shall operate or park a vehicle or trailer on a street, alley, public property, or public parking lot when the vehicle contains signs or placards in the window or windows of the vehicle unless the sign or placard does not exceed a seven-inch square and is located in the lower corner of the windshield farthest removed from the driver, or a seven-inch square in the lower corner of the rear window farthest removed from the driver, or a five-inch square in the lower corner of the windshield nearest the driver. This section does not prohibit an

activity expressly permitted under Vehicle Code Section 26708.

Sec. 4-2.407. Parking Vehicles for Repairing or Servicing.

No person shall construct, or cause to be constructed, repair, or cause to be repaired, service, or cause to be serviced, or dismantle, or cause to be dismantled a vehicle on a public street, alley, public property, or public parking lot. Temporary emergency repairs may be made upon a public street.

Sec. 4-2.408. Parking Vehicles for Washing or Polishing for Charges.

No person shall clean or polish a vehicle on a public street when a charge is made for such service.

Sec. 4-2.409. Parking Adjacent to Schools: Signs.

No person shall park a vehicle when official signs are erected prohibiting parking adjacent to a school property.

Sec. 4-2.410. Parking on Narrow Streets: Signs.

No person shall park a vehicle on such street in violation of official signs or markings prohibiting parking which are erected upon narrow streets.

Sec. 4-2.411. Assemblages and Other Functions: Signs.

No person shall operate, park, or stand any vehicle contrary to the directions and provisions of such signs.

Sec. 4-2.412. One-Hour Parking.

No driver shall stop, stand, or park a vehicle between the hours of 9:00 a.m. and 6:00 p.m. except Sundays and holidays for longer than one hour in violation of authorized signs, parking meters, or curb markings.

Sec. 4-2.413. Parallel Parking on One-Way Streets.

(a) Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen inches of the left-hand curb facing in the direction of traffic movement upon a one-way street unless signs prohibit such stopping or standing.

(b) These parallel parking requirements shall not apply if a commercial vehicle is actually engaged in the process of loading or unloading freight or goods. Such vehicle may be backed up to the curb provided the vehicle does not extend beyond the center line of the street and does not block traffic.

Sec. 4-2.414. Diagonal Parking.

Diagonal parking is not permitted on streets.

Sec. 4-2.415. Parking Space Markings.

When such parking space markings are placed on the highway, no vehicle shall be stopped, left standing, or parked other than within a single space unless the size or shape of such vehicle makes compliance with the provisions of this section impossible.

Sec. 4-2.416. Alley Loading and Unloading.

No person shall stop, stand, or park a vehicle in any alley other than to load or unload persons or materials.

Sec. 4-2.417. Parking of Commercial Vehicles.

A person shall not park a commercial vehicle weighing more than ten thousand pounds unladen on a highway, alley or parcel of public property at any time in any residential zone, except for:

(a) Necessary loading and unloading;

(b) Performing a service activity on the adjacent lot or parcel of land;

(c) Use in conjunction with a lawful commercial use on the adjacent lot or parcel of land; and

(d) During the construction of buildings or structures on the adjacent lot or parcel of land, not to exceed forty-eight hours.

Sec. 4-2.418. Parking of Trailers or Semi-Trailers.

A person shall not park a trailer or semi-trailer, regardless of weight upon a highway, street, alley, public way or public place unless the trailer or semi-trailer is attached to a vehicle capable of moving the trailer or semi-trailer in a normal manner upon the highway, street, alley, or public way or public place. This Section shall not apply to trailers or semi-trailers in the process of being loaded or unloaded.

Sec. 4-2.419. Administrative Review.

Under Vehicle Code Section 40215(b), the City shall establish a written procedure for administrative review to be conducted where a violator has requested an appeal of the issuance of a parking violation. This section implements the Vehicle Code.

Sec. 4-2.420. Administrative Review Procedures.

(a) Parking violations are a civil violation subject to a penalty pursuant to Vehicle Code Section 40200(a). A schedule of parking violation fines shall be adopted from time-to-time by the City Council by resolution.

(b) The Police Department shall be responsible for administrative reviews with respect to parking citations. The Department, under the direction of the City Manager, shall adopt specific administrative rules.

(c) The Administrative review shall include at least the following process:

(1) *Initial Review*. A violator shall have a right to contest a notice of parking violation or a notice of delinquent parking violation. The Department shall conduct an initial investigation to determine whether the violation occurred or that the registered owner was not responsible for the violation.

(2) *Administrative Review Process*. If the Department determines a violation occurred or the registered owner was responsible for the violation, the person cited may request administrative review.

(3) *Form of Hearing*. The person requesting the administrative review may request the appeal be conducted by mail.

(4) *Hearing Officer*. The City Manager shall appoint a hearing officer with appropriate qualifications, training and objectivity to conduct an impartial Hearing.

(5) *Required Evidence*. The City shall not be required to produce any evidence other than the notice of parking violation or copy thereof together with information received from the Department of Motor Vehicles identifying the registered owner of the vehicle.

ARTICLE 5. OFF-ROAD VEHICLES[26]

Sec. 4-2.501. Scope.

This article applies to the operation of vehicles which are not licensed for operation on public streets.

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26 Amended by Ord. 08-659 on Jan 15, 2008.

Sec. 4-2.502. Operation of Off-Road Vehicles On Private Property.[27]

(a) No person shall operate or permit to be operated a motor vehicle, including a motorcycle, mini-bike, dune buggy, motor scooter, jeep, or other form of transportation propelled by an internal combustion engine, upon the private property of another or upon public property not held open to the public for vehicular use without the prior permission of the private or public property owner as the case may be.

(b) No person shall operate a motor vehicle, including any motorcycle, mini-bike, dune buggy, motor scooter, jeep, or other form of transportation propelled by an internal combustion engine, upon private property by engaging racing, exhibitions of speed, driving in repetitive patterns, including, but not limited to, driving in circles and figure eights, within 660 feet or one standard City block of any residential dwelling, structure or public place or in such a manner as to create excessive dust or noise.

(c) Notwithstanding the foregoing, an off-highway vehicle ("OHV") may be operated on a designated trail even though the OHV is within 660 feet of a resident dwelling structure or public place.

Sec. 4-2.503. Off-road Vehicle Sporting Event.

(a) No person shall sponsor an off-road vehicle sporting event held wholly or partially within the City without first securing an off-road vehicle sporting event permit as set forth in this article. As used herein, an "off-road vehicle sporting event" means an organized race, competitive event, or organization rally involving more than ten off-road vehicles upon a closed course conducted under the auspices of a sponsor.

(b) The sponsor shall file an application for permit at least ninety days prior to the conduct of an off-road vehicle sporting event within the City. Applications shall contain the following:

(1) The sponsor"s name;
(2) The date and hours of the proposed event;
(3) The location of the proposed event, including the course layout;
(4) The estimated number of participants;
(5) The estimated number of spectators;
(6) The estimated number of participants and/or spectators who will dwell overnight within the City;
(7) The measures proposed for food distribution, waste and refuse collection, and medical services;
(8) The measures proposed for crowd control;
(9) Evidence of the sponsor"s financial responsibility;
(10) Written permission from private landowners over whose land the proposed event is to traverse; and
(11) Such other matters as required by the City Manager or as may be deemed appropriate by the sponsor.

(c) The City Clerk shall forward copies of the application to the City Manager and the Chief of Police. The Chief of Police shall review the application to determine whether the crowd

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27 Amended by Ord. No. 08-667 on 9/2/08.

control measures described are adequate and review the planned course to identify and make recommendations for adequate traffic and crowd control. The City Manager shall review the application to determine whether the measures proposed for food distribution, waste and refuse collection, and medical services are adequate.

(d) After consulting with the Chief of Police, if the City Manager determines the measures described in the application are adequate to ensure the health and safety of the community during the event, the City Clerk shall issue the permit. If the City Manager determines the measures described in the application are not adequate to ensure the health and safety of the community during the event, the City Clerk shall deny the permit unless the proposal is modified at least thirty days prior to the event to satisfy the concerns of the City Manager and Chief of Police. The City Clerk shall post a notice of the action taken by the City Manager on the official bulletin board and shall inform the sponsor of the decision.

Sec. 4-2.504. Minimum Requirements.

The permit for an off-road vehicle sporting event shall require:

(a) The sponsor guarantees the performance of the measures necessary to ensure proper food distribution, waste and refuse collection, medical services, and traffic and crowd control. Such guarantee may be provided by the furnishing of a performance bond or other appropriate deposit. The amount of such guarantee shall not exceed the total estimated cost of providing such services;

(b) The sponsor shall cause the City to be named as insured on the sponsor"s liability insurance policy. The policy shall provide the City shall receive thirty days= prior written notice of cancellation or modification. The policy shall provide minimum coverages in an amount to be determined from time-to-time by the City Manager.

(c) The sponsor provides the City with written permission for the event from the owners of private land over which the event is traversed; and

(d) The permit fee is paid.

Sec. 4-2.505. Fees.

(a) An application fee shall be assessed to recover the cost of processing the application for off-road vehicle sporting events.

(b) A permit fee shall be levied upon the granting of the application. The fee shall be in an amount equal to the total estimated cost of the City to provide public services during the event, based upon the estimated number of nonresident participants and spectators.

(c) If the sponsor"s estimate of the number of participants and spectators is more than ten percent (10%) lower than the actual number of nonresident participants and spectators, the sponsor shall remit to the City the difference in the permit fee resulting from such variance within ten days of notice by the City. If the sponsor"s estimate of the number of participants and spectators is more than ten percent (10%) higher than the actual number of participants, the City shall, within ten days after a notice by the sponsor, remit to the sponsor any difference in the permit fee resulting from such variance.

(d) The failure of the sponsor to provide the additional fees is sufficient to sustain a finding the sponsor is not a responsible sponsor and is barred for a period of two years from applying for another permit.

Sec. 4-2.506. Use of City Streets.[28]

(a) The City may grant to the sponsor of an off-road vehicle sporting event the temporary use of City-owned property, including City streets, for the purpose of such event if the portion of the event occurring on the public property is open to the public to view without charge and the street is temporarily closed to general vehicular traffic for the duration of the event by order of the Council.

(b) The City may allow the temporary use of City-owned property, including City streets, by off-road vehicles not engaged in off-road vehicle sporting events, provided, no person shall operate an off-road motor vehicle on a City street which is temporarily closed without first securing a permit for such purpose. The Chief of Police shall prescribe the form of the permit application, review applications and issue such permits. Council shall from time-to-time establish fees for the issuance of permits under this section.

(c) The City may allow OHV use of designated shoulders and medians adjacent to the improved portions of City streets if a permit for such purpose is secured from the Chief of Police or designee.

Sec. 4-2.507. Operating Regulations.[29]

A person operating an off-road vehicle pursuant to this article shall comply with the following:

(a) The operator of a vehicle shall be able to reach and operate controls necessary to operate the vehicle.

(b) No person shall drive a vehicle at a speed greater than is reasonable or prudent and in no event at a speed which endangers the safety of other persons or property.

(c) The prima facie speed limit for operation of a vehicle within fifty feet of any campground or campsite or concentration of people or animals is fifteen miles per hour except in areas where approved barriers have been established or approved crowd control arrangements have been made to the satisfaction of the Chief of Police.

(d) No person shall move an off-road motor vehicle that is stopped, standing or parked until such movement can be made with reasonable safety.

(e) No person shall turn a vehicle from a direct course or move right or left until such movement can be made with reasonable safety.

(f) No person shall drive a vehicle with a willful and wanton disregard for the safety of other persons or property.

(g) No person shall operate nor shall an owner permit the operation of a vehicle in such a manner as is likely to cause malicious or unnecessary damage to land, wildlife habitat or vegetative resources.

(h) No person shall throw or deposit, nor shall the registered owner or the driver, if the owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, or any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area or any nauseam, nauseous or offensive matter of any kind.

(i) No person shall place, deposit or dump or cause to be deposited or dumped any rocks or dirt in or upon any area, public or private, without the consent of the property owner or the public agency having jurisdiction over the area.

28 Amended by Ord. No. 08-667 on 9/2/08.

29 Amended by Ord. No. 08-667 on 9/2/08.

(j) During darkness, no person shall operate a vehicle without using lighted headlamps and tail lights.

(k) OHV operators shall be at least sixteen years of age and possess a valid driver license provided a person under sixteen years of age may operate an OHV of not more than 150 CCs under the direct adult supervision of a family member.

(l) OHVs shall stop prior to crossing a private or public street or highway, yield to other traffic while crossing, and cross at a 90° angle to the center line.

Sec. 4-2.508. Vehicle Standards.

(a) Off-road vehicles shall conform to applicable State laws and regulations relating to registration, operation, and inspection of the vehicle.

(b) The vehicle shall be equipped with a brake system in good working order and adequate to control the movement of, and to stop and to hold to the limit of traction of, such vehicle or combination of vehicles under conditions of loading upon any grade on which it is operated.

(c) Vehicles shall be equipped with adequate mufflers and spark arrestors. No vehicle equipped with a muffler cut-out bypass or similar device or producing excessive noise may be operated.

Sec. 4-2.509. Appeals.[30]

A person aggrieved by the decision of the City Manager concerning the application may file an appeal in accordance with Title 1, Chapter 4.

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30 Added by Ord. No. 07-656 on Dec. 4, 2007.

ARTICLE 6. ENFORCEMENT

Sec. 4-2.601. Scope.

This article provides for the enforcement of this chapter.

Sec. 4-2.602. Vehicle Forfeiture

(a) Vehicles may be seized, stored and sold under Vehicle Code Section 14607.4 *et seq.* This section establishes procedures and fees for such seizure, storage and sale.

(b) The Chief of Police, or designee, shall seize, store and sell vehicles in accordance with Vehicle Code Section 14607 *et seq.,* and the guidelines promulgated by the Kern County District Attorney.

(c) The Chief of Police may contract with qualified tow truck operations to transport seized vehicles to a convenient place of storage. The Chief of Police may contract for the storage of such vehicles or, with the consent of the City Manager, store such vehicles on secure City property. The Chief of Police shall arrange for the sale of forfeited vehicles.

(d) The City Council shall establish fees sufficient to recover the cost of vehicle seizure, storage and sale from time-to-time by resolution.

Sec. 4-2.603. Removal of Vehicles from Streets.

A Police officer may remove or cause to be removed:

(a) A vehicle parked or left standing upon a street or highway for seventy two (72) or more consecutive hours; and

(b) A vehicle parked or left standing upon a street or highway where the use of such street or highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the street or highway or the installation of underground utilities, or where the use of the street or highway, or any portion thereof, is authorized for a purpose other than the normal flow of traffic, or where the use of the street or highway, or any portion thereof, is necessary for the movement of equipment, articles, or structure of unusual size and the parking of such vehicle would prohibit or interfere with such use or movement: provided, however, signs giving notice that such vehicle may be removed shall be erected or placed at least twenty-four hours prior to the removal.

Sec. 4-2.604. Driving Under the Influence.

A person who causes an accident while driving under the influence of alcohol or drugs shall pay for an emergency response, not to exceed one thousand dollars ($1,000.00). The Chief of Police shall determine the amount of costs associated with the accident.

Sec. 4-2.605. Interference.

No person shall interfere with or obstruct an officer or employee of the City in enforcement of this chapter. The removal, obliteration, or concealment of chalk mark or other distinguishing mark used by an officer or employee of the City in connection with the enforcement of the parking provisions of this chapter shall constitute such interference or obstruction if done for the purpose of evading the provisions of this chapter.

Sec. 4-2.606. Reports of Damages to Certain Property.

(a) The operator of a vehicle or the person in charge of an animal involved in an accident resulting in damages to property publicly owned or owned by a public utility, including, but not limited to, a fire hydrant, parking meter, lighting post, telephone pole, or electric light or power pole, or resulting in damages to a tree, traffic control device, or other property of a similar nature located in or along a street shall, within twenty-four hours after such accident, make a written report of such accident to the Police Department.

(b) The report shall set forth the following information:

(1) The time when and the place where the accident occurred;

(2) The name and address of the person owning and of the person operating or in charge of the vehicle or animal;

(3) The license number of every vehicle; and

(4) A brief description of the property damaged in the accident.

(c) The operator of a vehicle involved in an accident shall not be subject to the requirements or penalties of this section during the time the person is physically incapable of making a report. Such operator shall make the report required by this section within twenty-four hours after regaining the ability to make such report.

CHAPTER 3. FIREARMS

Sec. 4-3.01. Scope.

This chapter regulates the use of firearms, bows and arrows.

Sec. 4-3.02. Prohibited Use.

No person shall fire, discharge, shoot, or operate a gun, revolver, pistol, firearm, or device designed or intended to discharge, or capable of discharging, a dangerous missile propelled by an explosive substance.

Sec. 4-3.03. Use by Minors.

Unless accompanied by, and under the direct care and control of an adult person, no person shall sell, give, loan, or furnish a firearm to a person younger than eighteen years.

Sec. 4-3.04. Compressed Air Guns.

It shall be unlawful for any minor to have in possession a device capable for propelling pellets of other projectiles by means of compressed air unless accompanied by and under the direct supervision and control of a person over the age of twenty-one years.

Sec. 4-3.05. Shooting Ranges.

(a) Guns, revolvers, pistols, firearms and other devices designed or intended to discharge or capable of discharging a dangerous missile propelled by an explosive substance or means of compressed air may be fired, discharged, shot or operated at a shooting range established or permitted by the City.

(b) Persons desiring to obtain a permit for the operation of a shooting range shall make application to the Chief of Police for such a permit. The Chief of Police may grant such application and issue such permit upon finding that:

(1) The shooting range includes a permanent layout which will insure that the activities occurring at the range will not present a hazard to neighboring property owners;

(2) The shooting range will be operated by a gun club or other organization capable of insuring that the shooting range will be operated in a safe manner;

(3) The applicant has agreed to indemnify the City from any costs, liability or damages, including attorney's fees, which may arise out of the operation of the shooting range and agrees to provide appropriate insurance to cover such casualties;

(4) The proposed range is located in a zone where such use is permitted.

(c) The Chief of Police shall report the decision with respect to applications for shooting range permits to the City Council at the next regular Council meeting following the Chief's decision. The decision of the Chief may be appealed by any interested person to the City Council by filing a written request therefor within 30 days after the date that the Chief reports his decision to the City Council. In the event of such an appeal, the City Council shall conduct a public hearing to determine whether such a permit should be granted. The hearing before the Council shall be proceeded by at least five days prior to public notice and written notice to the appellant. The decision of the City Council shall be final.

Sec. 4-3.06. Bows and Arrows.

No person shall use a long bow, cross-bow or other device to propel an arrow or other similar projectile within any residential zone or within 660 feet of a residential dwelling.

TITLE 5. PUBLIC WELFARE

CHAPTER 1. PUBLIC NUISANCE

ARTICLE 1. PROPERTY MAINTENANCE

Sec. 5-1.101. Purpose.

This article shall be known as the "Public Nuisance Abatement Regulations of the City." This article is enacted in accordance with Chapter 13 (commencing with section 39501) of Division 3, Title 4, of the Government Code.

Sec. 5-1.102. Definitions.

The following words are defined for the purposes of this article.

(a) "Building Inspector" means the Code Enforcement Officer.

(b) "Public Nuisance" means anything injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property.

(c) "Refuse" means combustible rubbish, garbage, food plant waste, market waste, or non-combustible rubbish.

(d) "Rubbish" means paper, pasteboard, carpet, rags, clothing, books, boots, shoes, straw, combustible packing, barrels, boxes, furniture, and similar articles.

Sec. 5-1.103. General.[31]

The owner and occupier of property within the City shall maintain the property in such a way as to avoid creating a public nuisance. Code Enforcement Officer shall inspect property to determine the presence of nuisances. The Code Enforcement Officer shall issue notices and citations to abate such nuisances with the policies and procedures manual from time to time adopted by the department which employs the Code Enforcement Officer.

Sec. 5-1.104. Notices.[32]

(a) The Code Enforcement Officer shall provide the owner of the property on which the nuisance is maintained with a Notice to Abate in substantially as follows:

> "Notice is given the Code Enforcement Officer of the City of California City has found and declared the following condition on your property located at [property location] constitutes a public nuisance: [describe condition]
>
> The Code Enforcement Officer also found this condition must be abated by removal or, the nuisance will be removed and abated by the City and the cost of removal assessed against your land. Such costs shall include reasonable attorney fees. Such costs will constitute a lien on such land until paid. In the alternative, the amount may be placed on the tax rolls for collection.
>
> If you object to the proposed removal or abatement of the above described nuisance may file a written appeal with the City Manager at the above-address within 10 days from the date of receipt of this Notice.
>
> Dated:
>
> _____
> Code Enforcement Officer
> City of California City"

(b) The Notice shall be served on the record owner of the parcel of land on which the

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31 Amended by Ord. 05-632 on 8/16/05.
32 Amended by Ord. 05-626 on 5/17/05.

nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after diligent search, the Notice may be served by posting a copy in a conspicuous place on the property for ten days and publication in a newspaper of general circulation published in Kern County.

(c) The Code Enforcement Officer shall abate the nuisance without further notice to the record owner if the record owner does not appeal the decision of the Code Enforcement Officer within ten days of receipt. If the record owner appeals the decision, the Code Enforcement Officer shall not abate the nuisance until the appeal process has been completed.

Sec. 5-1.105. Review of Code Enforcement Officer Decision.

(a) The record owner of property described in the Notice to Abate may appeal the determination of the Code Enforcement Officer by filing a written Notice of Appeal with the City Clerk within 10 days of receipt of the Notice to Abate. The Notice of Appeal shall include reference to the Notice to Abate, identify property on which the alleged nuisance is located, and state why the record owner believes the condition should not be abated. The Notice of Appeal shall also state whether the record owner requests a public hearing or will allow a decision to be made on written materials.

(b) When a public hearing is requested, the City Clerk shall set the public hearing before the City Manager and, if possible, within 10 days. The City Clerk shall provide written Notice of Hearing to the record owner and City Manager.

(c) The City Manager shall consider the appeal of the record owner at the time and place stated in the notice of hearing. The hearing may be continued from time-to-time. The City Manager shall affirm, overrule or modify the decision of the Code Enforcement Officer at the conclusion of the hearing. The City Manager's written decision shall be final when served upon the record owner.

Sec. 5-1.106. Cost Recovery.[33]

(a) When nuisance abatement costs are incurred by the City and not paid by the record owner within 30 days of presentation of a bill, a nuisance abatement lien shall be recorded in the Kern County Recorder"s Office, and from the date of recording shall have the force and effect and priority of a judgment lien. The lien shall specify: the amount of the lien, the city"s name, the date of the abatement order, street address, legal description and assessor"s parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel. If the lien is discharged, released or satisfied, either through payment or foreclosure, Notice of Discharge containing the information specified above shall be recorded. The lien may be foreclosed by action brought by the City for money judgment.

(b) As an alternate to the procedure set forth in the preceding paragraph, the cost of abatement may be collected as a special assessment against the parcel on which the nuisance is located. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.

(c) As used herein, costs of abatement shall include attorney fees.

(d) Upon entry of a second or subsequent civil or criminal judgment within a two-year period, finding the record owner responsible for a condition that may be abated in accordance with this article, except for conditions abated pursuant to Health and Safety Code §17980, the record owner shall pay treble the cost of abatement.

ARTICLE 1A.
ABANDONED, ACCESSIBLE AND DISTRESSED REAL PROPERTY[34]

Sec. 5-1.1A01. General.

The City Council hereby establishes a mechanism to protect residential neighborhoods from becoming blighted through the lack of maintenance and security of abandoned, accessible or distressed real

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33 Amended by Ord. 05-626 on 5/17/05.

34 Article 1A added by Ord. No. 09-679 on August 4, 2009.

property, to establish a property registration program, and to set forth guidelines for the maintenance of abandoned, accessible or distressed real property.

Sec. 5-1.1A02. Inspection and Registration of Abandoned, Accessible and Distressed Real Property.

(a) Each beneficiary and trustee, who holds a deed of trust on real property within the City, shall inspect the property to determine if it is abandoned, accessible or distressed, prior to recording a notice of default or similar instrument. As used herein, "abandoned" means a building, structure or real property that is vacant or occupied by a person without a legal right of occupancy, and subject to a current notice of default or notice of trustee"s sale, pending tax assessor"s lien sale or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, or any real property conveyed via a deed in lieu of foreclosure/sale. As used herein, "accessible" means real property or structures not secured or open in such a way as to allow public or unauthorized access. As used herein, "distressed" means property subject to notice of default or notice of trustee"s sale, pending tax assessor"s lien sale or real property conveyed through a foreclosure sale to an interested beneficiary of a deed of trust, or real property conveyed through a deed in lieu of foreclosure, regardless of vacancy or occupancy.

(b) Within ten days of identification of an abandoned or accessible property, and annually thereafter, the beneficiary and trustee must register the property with the Chief of Police. A person who has registered a property under this Article must make a written report to the Police Department of changes of information contained in the registration within ten days of the change. For convenience, property described in this section shall be called "registered property."

(c) If the property is lawfully occupied but distressed, the trustee and beneficiary shall inspect the property each month until the trust deed default is remedied.

Sec. 5-1.1A03. Maintenance.

(a) It is a public nuisance for a person to cause, permit, or maintain registered property contrary to this Article. The following maintenance standards apply to registered property.

(b) The property shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, accumulation of newspaper, circular, flyers, notices (except those required by federal, state or local law), discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance the property is abandoned.

(c) The property shall be maintained free of graffiti, tagging or similar marking.

(d) Visible front and side yards shall be landscaped and maintained to the neighborhood standard. As used herein, "landscaping" includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscaping does not include weeds, broken concrete, plastic sheeting, indoor-outdoor carpet, or any similar material. As used herein, "neighborhood standard" means the condition of real property that prevails in and through the neighborhood where an abandoned building, structure or real property is located. When determining the neighborhood standard, no abandoned or distressed building, structure or real property shall be considered.

(e) Pools and spas shall be kept in working order so water remains clear and free of pollutants and debris, or alternatively, shall be drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

(f) Within the sole and reasonable discretion of a duly authorized enforcement official, this maintenance requirement applies to property subject to the registration requirement under construction or repair, not less than three business days per week, undertaken in compliance with applicable law.

Sec. 5-1.1A04. Security.

(a) Registered properties shall be secured and inaccessible to unauthorized persons. If the property is owned by a person located more than 25 road miles from the property, a local property management company shall perform weekly inspections to verify compliance with this Article.

(b) Registered property shall be posted with the name and 24-hour contact phone number of the person responsible for property management. The posting shall be no less than 18 inches by 24 inches, shall be of a font that is legible from a distance of 45 feet, and shall contain the following verbiage: "THIS PROPERTY MANAGED BY _____ ," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)". The posting shall be placed on the interior of a window facing the street to the front of the

property so it is visible from the street, or secured to the exterior of the building/ structure facing the street of the front of the property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.

Sec. 5-1.1A05. Fees.

Fees for implementing this Article shall be established from time-to-time by resolution of the Council.

Sec. 5-1.1A06. Remedies.

(a) Violation of this Article is a strict liability offense. A violation occurs regardless of a violator"s intent.

(b) A person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages property subject to the registration requirement and causes, permits, or maintains a violation of this Article is guilty of a misdemeanor.

(c) The remedies in this section are cumulative to, and not in place of, other rights and remedies available to the City pursuant to this Code. The City Attorney or designee may pursue other rights or remedies, including, but not limited to, commencement of a civil or administrative action to abate the condition as a public nuisance.

(d) If the City takes administrative action to abate the condition of a property subject to the registration requirement and beyond the rights and remedies specified in this Code, the following administrative penalties shall apply.

(1) On the administrative penalty due date, each party subject to an abatement order shall pay an administrative penalty of $1,000.

(2) If a violation of this Article addressed by an abatement order has not been abated, cured, remedied or eliminated to the reasonable satisfaction of a duly authorized Enforcement Official by the thirtieth day after the administrative penalty due date, each party subject to said abatement order shall pay a supplemental administrative penalty of $5,000.

(3) If a violation of this Article addressed by an abatement order has not been abated, cured, remedied or eliminated to the reasonable satisfaction of a duly authorized enforcement official by the sixtieth day after the administrative penalty due date, each party subject to said abatement order shall pay a second supplemental administrative penalty of $25,000.

(e) In each instance when a party becomes subject to an administrative penalty specified in this section, an enforcement official shall issue an order providing written notice of that party"s obligation to make payment of said administrative penalty. Each such order shall constitute a special assessment against the property in question having the same legal status as an order determining the cost of abatement of a public nuisance.

(f) In each instance, when a party becomes subject to an administrative penalty, and the order providing for the administrative penalty issues when that party is seeking to perfect its interest in the subject property subsequent to the recordation of a notice of default, or is the property"s owner of record, that party is not relieved of its obligation to pay an administrative penalty based upon the sale of the property in question to another.

ARTICLE 2. GRAFFITI ABATEMENT

Sec. 5-1.201. Graffiti Implements.

(a) Every person who operates or manages a retail commercial business selling graffiti implements shall:

(1) Store or cause graffiti implements to be stored in an area not accessible to the public in the regular course of business without employee assistance.

(2) Place a sign in public view stating substantially the following:

"Placing graffiti is a crime. Possession of graffiti implements is also a crime under certain circumstances. It is a crime to sell or convey aerosol spray paint or broad tip markers to a minor."

(b) The following terms are defined for this article:

(1) "Graffiti" are crude drawings, inscriptions or defacement applied to property

without the consent of the owner or person in possession.

(2) "Graffiti implements" are aerosol spray paints, paints, dyes, polish, broad tip markers containing anything other than a water soluble solution.

(3) "Broad tip markers" are marker pens with a tip broader than 3/8" in width.

Sec. 5-1.202. Graffiti Removal.

(a) The Code Enforcement Officer shall issue notices and citations to remove graffiti. The Notice shall be directed to the owner of record of the parcel of land on which the graffiti exists with a Notice to Abate substantially as follows:

> "Notice is given the Code Enforcement Officer of the City of California City has found and declares a public nuisance consisting of graffiti exists on your property located at:_____. The Code Enforcement Officer has also found and determined this condition must be abated by removal.
> The graffiti will be removed and the nuisance abated by the City and the cost of removal assessed against the land on which the graffiti is located and such cost will constitute a lien until paid. In the alternative, if the cost is not paid, the amount should be placed on the tax rolls for collection.
>
> If you object to the proposed removal or abatement of the above described nuisance, you may file a written appeal with the Code Enforcement Officer or designee at City Hall within three (3) days from the date of receipt of this notice.
>
> Dated: _____
> Code Enforcement Officer"

(b) The Notice to Abate shall be served on the record owner based on the last equalized assessment role or supplemental role, whichever is most current. The Notice shall be served in the same manner as a Summons in a civil action. If the record owner cannot be found after diligent search, the Notice may be served by posting a copy thereof in a conspicuous place on the property for 10 days and publication in a newspaper of general circulation published in Kern County pursuant to the Government Code.

(c) The Code Enforcement Officer shall abate the nuisance without further notice to record owner if the record owner does not appeal the decision within 10 days of receipt. If the record owner appeals the decision, in a timely manner, the Code Enforcement Officer shall not abate the nuisance until the appeal process has been completed. The Code Enforcement Officer shall consider the appeal of the record owner. The Code Enforcement Officer"s written decision shall be final.

Section 5-1.203. Graffiti Abatement: Cost Recovery.

(a) If the Code Enforcement Officer has invoked the abatement process described in the preceding section and if the record property owner has not paid the cost of removal within 30 days of presentation of a bill, a nuisance abatement lien may be filed.

(b) Pursuant to Civil Code §1714.1, every parent or legal guardian having custody or control of a minor who defaces property by inscribing graffiti shall be jointly and severally liable with such minor for resulting damages incurred by the property owner in an amount not to exceed $25,000 for each such act of defacement.

ARTICLE 3. ABANDONED VEHICLES

Sec. 5-1.301. Findings and Determination.

Pursuant to Vehicle Code Section 22660, the Council finds: The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, or vehicle parts, on private or public property, not including highways, is a condition tending to reduce the value of private property, promote blight and deterioration, invite plundering, create fire hazards, constitute an attractive nuisance, create a harborage for rodents and insects, and be injurious to the health, safety, and general welfare. The presence of an abandoned, wrecked, dismantled, or inoperative vehicle, or vehicle parts, on private or public property, not

including highways, except as expressly permitted herein is prohibited.

Sec. 5-1.302. Exceptions.

This article shall not apply to:

(a) A vehicle, or vehicle parts, completely enclosed within a building or 6‟ high solid fence and not visible from the street or other public or private property; or

(b) A vehicle, or vehicle parts, stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Sec. 5-1.303. Administration and Enforcement.

(a) The Chief of Police may cause the abatement and removal of abandoned, wrecked, dismantled, or inoperative vehicles or vehicle parts on property within the City in accordance with this article. If a vehicle or vehicle parts are visible from public rights of way, the Chief of Police may enter upon private or public property to examine or obtain information as to the identity of a vehicle, and to remove, or cause the removal of, a vehicle, or vehicle parts, declared a nuisance pursuant to this article.

(b) The City may contract with the Department of Motor Vehicles to administer and enforce this article. When the City has contracted with, or granted a franchise to, any person, such person shall be authorized to enter upon private or public property to remove, or cause the removal of, a vehicle, or vehicle parts, declared to be a nuisance pursuant to this article.

Sec. 5-1.304. Notices of Intention to Abate.

(a) A ten-day prior written notice of intention to abate and remove a vehicle, or vehicle parts, shall be mailed by registered mail to the owner of the land where the vehicle or vehicle parts are located, and to the owner of the vehicle, unless identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

"Notice of Intention to Abate and Remove an Abandoned, Wrecked, Dismantled, or Inoperative Vehicle, or Vehicle Parts, as a Public Nuisance

.....

(Name and address of the owner of the land)

As owner shown on the last equalized assessment roll of the land located at [address], you are notified the undersigned, pursuant to the California City Municipal Code, has determined an abandoned, wrecked, dismantled, or inoperative vehicle registered to _____, license number _____, constitutes a public nuisance on your land.

You shall abate the nuisance by the removal of the vehicle (or vehicle parts) within ten days from the date of mailing of this notice. If you fail to do so, the same will be abated and removed by the City, and the costs, together with administrative costs, will be assessed to you as owner of the land.

You may, within ten days after the mailing of this notice of intention, request a public hearing. If such a request is not received by the Chief of Police within such ten-day period, the Chief of Police may abate and remove the said vehicle (or said vehicle parts of a vehicle))as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such ten-day period denying responsibility for the vehicle (or vehicle parts), with your reasons for denial, and such statement shall be construed as a request for a hearing at which your presence is not required. You may appear in person at hearings requested by you or by the owner of the vehicle or you may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed [date].

/s/_____
Chief of Police, City of California City

"Notice of Intention to Abate and Remove an Abandoned, Wrecked, Dismantled, or Inoperative Vehicle, or Vehicle Parts, as Public Nuisance

.....

(Name and Address of the last registered and/or legal owner of record of

vehicle; notice should be given to both if different.)

As last registered (and/or legal) owner of record of [description of vehicle: make, model, license, etc.], you are notified, pursuant to the California City Municipal Code, the Chief of Police has determined the vehicle (or vehicle parts) exists as an abandoned, wrecked, dismantled or inoperative vehicle at [describe location on public or private property] and constitutes a public nuisance.

You are notified to abate the nuisance by the removal of the vehicle (or vehicle parts) within ten days after the mailing of this notice, or request a public hearing. If such a request is not received by the Chief of Police within such ten-day period, the Chief or Police may abate and remove the vehicle (or vehicle parts) without a hearing.

Notice mailed [date].

/s/_____
Chief of Police, City of California City"

(b) A notice of intention to abate shall not be required if the property owner and the owner of the vehicle have signed releases authorizing removal and waive further interest in the vehicle or vehicle part, or the following conditions are satisfied:

(1) the vehicle or vehicle part is inoperable due to the absence of a motor transmission, or wheels and is incapable of being towed;

(2) the vehicle or vehicle part is valued at less than $300.00 by the Chief of Police or designee;

(3) the Department of Building and Safety has determined the vehicle or vehicle part is a public nuisance, presenting an immediate threat to public health or safety;

(4) the property owner has signed a release authorizing the removal and waiving further interest in the vehicle or vehicle part; and

(5) the vehicle is located upon a parcel zoned for agricultural use or is not improved with a residential structure containing one or more dwelling units.

(c) If a vehicle is removed prior to final disposition, the registered or legal owner shall be notified of the intent to dispose of the vehicle or vehicle part. If the vehicle or vehicle part is not claimed and removed from the scrap yard, automobile dismantler"s yard, or public disposal area within twelve days after the notice to dispose of vehicle is mailed, final disposition may proceed.

Sec. 5-1.305. Requested Hearings: Notices.[35]

(a) When a proper request is lodged, a public hearing shall be held by the City Council on the question of the abatement and removal of the vehicle, or parts, as an abandoned, wrecked, dismantled, or inoperative vehicle and the assessment of the administrative costs and the costs of removal of the vehicle, or parts, against the property on which the vehicle, or parts, is located.

(b) Notice of the hearing shall be mailed by registered mail at least ten days before the hearing to the owner of the land and to the owner of the vehicle.

(c) The City Council shall hear facts and testimony it deems pertinent. The City Council shall not be limited to technical rules of evidence. The owner of the land may appear at the hearing, or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with the reasons for such denial.

(d) At the conclusion of the hearing, the City Council may impose conditions and take such other action appropriate under the circumstances to carry out the purposes of this article. The order requiring the removal shall include a description of the vehicle, or parts thereof, and the correct identification and license number of the vehicle if available. The City Council shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner of the land if it is determined at the hearing the vehicle was placed on the land without the consent of the owner of the land and the owner has not subsequently acquiesced in its presence.

(e) Such owner or interested party shall be notified in writing of the decision. For lien

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35 Amended by Ord. No. 00-582 on October 3, 2000.

sale purposes, the Council shall determine if the estimated value of the vehicle ordered removed, towed, or stored is $100.00 or less, over $100.00, but less than $200.00.

Sec. 5-1.306. Removal.

Five days after the adoption of the order declaring the vehicle, or parts, to be a public nuisance, or five days after the date of the mailing of the notice of decision, if such notice is required by this article, the vehicle or parts, may be disposed of by removal to a scrap yard or automobile dismantler's yard. A vehicle which has been removed shall not be reconstructed or made operable unless it qualifies for horseless carriage license plates or historical vehicle plates pursuant to the Vehicle Code.

Sec. 5-3.307. Removal: Notices.

Within five days after the date of the removal of the vehicle, or parts, notice shall be given to the Department of Motor Vehicles of the State identifying the vehicle, or parts, removed. At the same time, there shall be transmitted to the Department of Motor Vehicles of the State evidence of registration available, including registration certificates, certificates of title, and license plates.

Sec. 5-1.308. Assessment of Costs.

(a) Fifty percent of the actual costs of the removal of a vehicle, or vehicle parts, declared a nuisance pursuant to this article constitutes the administrative costs of the City. Such amount is fixed as administrative costs.

(b) If the administrative costs and the costs of removal charged against the owner of a parcel of land pursuant to this article hater are not paid within thirty days after the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to the provisions of Section 38773.5 of the Government Code of the State. A notice of assessment shall be transmitted to the Tax Collector for collection. Such assessment shall have the same priority as City taxes.

Sec. 5-1.309. Act of Abandonment-Infraction.

It is unlawful and an infraction to abandon, store, leave, or permit the abandonment, storing, or leaving of a licensed or unlicensed vehicle or vehicle part which is abandoned, wrecked, dismantled or inoperative on private property or public property, including highways, within the City for period in excess of 72 or more consecutive hours unless such vehicle or vehicle part is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer or a junkyard.

ARTICLE 4. NOISE AND VIBRATION

Sec. 5-1.401. Purpose and Scope.

It is the policy of the City to prohibit unnecessary, excessive and annoying noise and vibration. Certain noise levels and vibration are detrimental to the public health, welfare and safety and contrary to the public interest. The City Council ordains and declares that creating, maintaining, causing or allowing to be created, caused or maintained noise or vibration in a manner prohibited by or not in conformity with the provisions of this article, is a public nuisance.

Sec. 5-1.402. Definitions.

The following words are defined for the purposes of this article:

(a) "Ambient noise level" means the all-encompassing noise level associated with a given environment, being a composite of sounds from sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

(b) "A" weighted sound level" means the total sound level in decibels of sound as measured with a sound level meter with a reference pressure of 20 micropascals using the "A" weighted network (scale) as slow response. The unit of measurement is dB(a).

(c) "Cumulative period" means an additive period of time composed of individual time segments which may be continuous or interrupted.

(d) "Emergency machinery, vehicle, work or alarm" means machinery, vehicle, work or alarm use, employed, performed or operated to protect, provide, or restore safe conditions in the community or for the citizenry, or work by private or public utilities restoring utility service.

(e) "Fixed noise source" means a stationary device creating sound while fixed or motionless including, but not limited to, residential, agricultural, industrial, and commercial machinery and equipment, pumps, fans, compressors, air conditioners, and refrigeration equipment.

(f) "Impact noise" means the noise produced by the collision of one mass in motion with a second mass in motion or at rest.

(g) "Intruding noise level" means the total sound level created, caused, maintained or originating from an alleged offensive source in decibels at a specified location while the alleged offensive source is in operation.

(h) "Licensed" means the issuance of a formal license or a permit by the appropriate jurisdictional authority, or where no permits or licenses are issued, the permission of the activity by the jurisdiction as noted in public record.

(i) "Major roadway" means a street, avenue, boulevard, or highway used for motor vehicle traffic owned or controlled by a public governmental entity with an average daily traffic flow of 30,000 or more vehicles.

(j) "Mobile noise source" means a noise source other than a fixed noise source.

(k) "Simple tone noise" means a noise characterized by a predominant

frequency or frequencies so other frequencies cannot be readily distinguished and, if measured, shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for frequency settings of 500 Hertz (Hz) and above, by 8dB for frequency settings between 160 and 400 Hz, and by 15 dB for frequency settings less than or equal to 125 Hz.

(l) "Sound level meter" means an instrument meeting American national Standard Institute"s Standard S1.4.1971 or most recent revision thereof for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

(m) "Sound pressure level" of a sound, in decibels, means twenty times the logarithm to the base of ten of the ration of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

Sec. 5-1.403. Decibel Measurement Criteria.

Decibel measurement shall be based on a reference sound pressure of 20 micro-pascals as measured with a sound level meter using the "A" weighted network (scale) at a slow response.

Sec. 5-1.404. Designated Noise Zones.

The properties hereinafter described are assigned to the following noise zones:

NOISE ZONE	I: Single, double and multiple family residential properties located at a distance more than 600 feet from a major roadway.
NOISE ZONE	II: Single, double and multiple family residential properties located at a distance equal to or less than 600 feet from a major roadway.
NOISE ZONE	III: Commercial properties.
NOISE ZONE	IV: Manufacturing or industrial properties.

Sec. 5-1.405. Exterior Noise Standards.

(a) The following exterior noise standards apply to property with the designated noise zone:

NOISE ZONE	TYPE OF LAND USE	TIME INTERVAL	ALLOWABLE EXTERIOR NOISE LEVEL
I	Single, double or multiple family residential (R-1, (R-2, R-3, and R-4)	10:00 pm-7:00 am	45 dB (A)
		7:00 am-10:00 pm	50 dB (A)
II	Single, double or multiple family residential (R-1, R-2, R-3, and R-4)	10:00 pm-7:00 am	50 dB (A)
		7:00 am-10:00 pm	55 dB (A)
III	Commercial (C-1, C-2,	10:00 pm-7:00 am	60 dB (A)

	etc.)	7:00 am-10:00 pm	65 dB (A)
IV	Industrial or manufact-uring (M-1, M-2, etc., or 1-1, 1-2, etc.)	Anytime	70 dB (A)

(b) No person shall create noise, or allow the creation of noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on other property to exceed:

(1) The noise standard for a cumulative period of more than thirty minutes in any hour; or

(2) The noise standard plus 5 dB (A) for a cumulative period of more than fifteen minutes in any hour; or

(3) The noise standard plus 10 dB (A) for a cumulative period of more than five minutes in any hour; or

(4) The noise standard plus 15 dB (A) for a cumulative period of more than one minute in any hour; or

(5) The noise standard plus 20 dB (A) for any period of time.

(c) If the ambient noise level exceeds any of the above five noise limit categories, the cumulative period applicable to the category shall be increased to reflect the noise level.

(d) Each of the noise limits specified above shall be reduced by 5 dB (A) for impact or simple tone noises, or for noises consisting of speech or music.

(e) If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

(f) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the measured noise level obtained while the source is in operation shall be compared directly to the allowable noise level standards as specified respective to the measurement location"s designated land use and for the time of day the noise level is measured.

The reasonableness of temporarily discontinuing the noise generated by an intruding noise source shall be determined by the Health Officer, or by the Police Chief, for the purpose of establishing the existing ambient noise level at the measurement location.

Sec. 5-1.406. <u>Interior Noise Standards</u>.

(a) The following interior noise standards apply to residential property within all noise zones.

TYPE OF LAND USE	TIME INTERVAL	ALLOWABLE INTERIOR NOISE LEVEL
Residential	10:00 pm-7:00 am	45 dB (A)
	7:00 am-10:00 pm	55 dB (A)

(b) No person shall create noise or allow the creation of noise on property owned, leased, occupied, or otherwise controlled by such person which causes the noise level when measured within a residential dwelling unit in any noise zone to

exceed:

(1) The noise standard for a cumulative period of more than five minutes in any hour; or

(2) The noise standard plus five dB (A) for a cumulative period of more than one minute in any hour; or

(3) The noise standard plus ten dB (A) for any period of time.

(c) If the ambient noise level exceeds any of the above three noise limit categories, the cumulative period applicable to the category shall be increased to reflect the ambient noise level.

(d) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the same procedures specified above shall be deemed property to enforce this section.

Sec. 5-1.407. Exemptions.

The following activities are exempt from this article:

(a) Activities conducted on public parks, public playgrounds and public or private school grounds including, but not limited to, school athletic and school entertainment events.

(b) Occasional outdoor gatherings, public dances, shows and sporting and entertainment events, if the events are conducted pursuant to a permit or license issued by the City.

(c) Mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of bell or alarm on building or motor vehicle shall terminate its operation within 30 minutes of being activated.

(d) Noise sources associated with or vibration created by construction, repair or remodeling of real property or during authorized seismic surveys under the following conditions:

(1) The activities occur between the hours of 6:00 a.m. and 8:00 p.m. between May 15 and September 15 of each year or between the hours of 7:00 a.m. and 8:00 p.m. during the remainder of the year.

(2) The activities do not take place on Sundays or federal holidays.

(3) The noise level created by such activities does not exceed 60 dB (A) plus the limits specific herein as measured on residential property; and

(4) A vibration does not endanger the public health, welfare and safety.

Sec. 5-1.408. Schools, Hospitals, Churches, Libraries, etc..

No person shall create noise causing the noise level at a school, hospital, church or library to exceed the noise standards for the assigned noise zone in which the school, hospital, church or library is located, or which noise level unreasonably disturbs or annoys patients in a hospital. Conspicuous signs shall be displayed in three separate locations within one-tenth mile of the institution or facility indicating a quiet zone.

Sec. 5-1.409. Noise Level Measurements Locations.

The location selected for measuring exterior noise levels shall be at any point on the affected property. Interior noise measurements shall be made within the affected residential unit. The measurement shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source.

Sec. 5-1.410. Vibration Standards.

No person shall create, maintain or cause ground vibration perceptible without instruments at any point on adjoining property. The perception threshold shall be presumed to be more than 0.05 inches per second RMS vertical velocity.

Sec. 5-1.411. Proposed Developments.

Each department whose duty it is to review and approve new projects or changes to existing projects that may result in an increase in ambient noise levels shall consult with the Health Officer prior to approval. If the Health Officer has reason to believe a standard, regulation or action or proposed standard, regulation or action of any department respecting noise does not conform to this article, the Health Officer may request such department to consult on the advisability of revising such standard or regulation to obtain uniformity.

Sec. 5-1.412. Variance Procedures.

The owner or operator of a noise or vibration source may file an application with the Health Officer for a variance. The owner or operator shall set forth actions taken to comply with the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for accomplishment. The application shall be accompanied by a fee in the amount established from time to time by resolution. A separate application shall be filed for each noise source. Several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application. Upon receipt of the application and fee, the Health Officer shall refer it with a recommendation within 30 days to the Planning Commission.

Sec. 5-1.413. Noise Variance Board.

(a) The Planning Commission may hire a registered mechanical engineer, physician or other expert.

(b) The Commission shall evaluate applications for variance. Variances shall detail the approved method of achieving maximum compliance and a time schedule or its accomplishments. The Commission shall consider the following:

(1) The magnitude of nuisance caused by the offensive noise;

(2) The uses of property within the area of impingement by the noise;

(3) The time factors related to study, design, financing and construction of remedial work;

(4) The economic factors related to age and useful life of the equipment; and

(5) The general public interest, welfare and safety.

(d) Variance shall be by resolution and transmitted to the Health Officer and the Police Chief for enforcement.

Sec. 5-1.414. Appeals.[36]

(a) Within 15 days following the decision of the Commission, the applicant, the Health Officer or member of the City council may appeal the decision to the City Council in accordance with Title 1, Chapter 4.

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36 Amended by Ord. No. 07-656 on Dec. 4, 2007.

(b) In the case of an appeal by the applicant for a variance, the notice of appeal shall be accompanied by a fee to be computed by the Secretary of the Board on the basis of the estimated cost of preparing the materials required to be forwarded to the City Council. If the actual cost differs from the estimated cost, appropriate payments shall be made either to or by the Secretary.

(c) Within 15 days following receipt of a notice of appeal and the appeal fee, the Secretary of the Commission shall forward to the City Council copies of the application for variance; the recommendation of the Health Officer; the notice of appeal; evidence concerning application and the Commission‟s decision thereon.

(d) The Council shall conduct a hearing within 30 days of receipt of the record and render a decision within 15 days after the hearing. The Council‟s decision is final.

Sec. 5-1.415. Enforcement.

(a) The County Health Officer and the Police Chief shall enforce this article.

(b) For the initial violation of this Article, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected or an application shall be received by the Health Officer. No complaint or further action shall be taken if the cause of the violation has been removed, the condition abated, or fully corrected within the time period specified in the written notice.

(c) Violation of this article is a public nuisance and may be abated in accordance with law.

ARTICLE 5. DANGEROUS BUILDINGS

Sec. 5-1.501. Dangerous Buildings.

(a) The latest edition of the Uniform Code for Abatement of Dangerous Buildings, promulgated by the International Conference of Building Officials, is adopted by this reference.

(b) The procedures and remedies set forth in the Uniform Code for Abatement of Public Buildings are cumulative. Nuisances created by dangerous buildings can be abated in accordance with the Uniform Code, other provisions of this Municipal Code, or other provisions of law.

ARTICLE 6. OPENED CONTAINERS

Sec. 5-1.601. Possession of Opened Containers: Prohibited.

(a) No person shall have in his possession, or on his person, while in a business district, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened or a seal broken, or the contents of which have been partially removed. “Business district” refers to any area within the City where business activity occurs on two or more contiguous lots or parcels of land.

(b) This section shall not apply to:

(1) Persons who, upon the recommendation of a doctor, carry alcoholic beverages for medicinal purposes;

(2) Clergymen who carry alcoholic beverages for religious purposes;

(3) Persons who possess alcoholic beverages within business establishments properly licensed to dispense alcoholic beverages, such as bars and restaurants; and

(4) The possession of an opened container during public celebrations, provided, notices have been posted indicating this exception exists and the duration thereof.

ARTICLE 7. ADVERTISING DISTRIBUTION

Sec. 5-1.701. Handbills.

(a) No person shall distribute, scatter, hand out or circulate handbills, circulars, tracks or leaflets which do not have printed on the cover, front or back, the following:

(1) The name and address of the person who causes the handbill, circular, track or leaflet to be printed, written, compiled and manufactured;

(2) The name and address of the person who causes the handbill, circular, track or leaflet to be distributed; and

(3) If the person who causes the handbill, circular, track or leaflet to be printed, written, compiled, manufactured or distributed is a fictitious person, the true name of the owner, manager or agent of the person sponsoring such material.

(b) No person shall post, hand out, or distribute handbills, circulars, tracks or leaflets which reasonably tend to incite a riot or other public disorder or which advocates disloyalty to, or the overthrow of, the government of the United States or of the State of California by force of arms or other unlawful means, or which urges any unlawful conduct, or which encourages or reasonably tends to encourage a breach of the public peace of the community.

ARTICLE 8. SEXUALLY ORIENTED BUSINESSES
DIVISION 1. General

Section 5-1.8.101. Purpose.

This Article sets forth the terms and conditions for obtaining a permit to operate a sexually oriented business.

Section 5-1.8.102. Definitions.

Unless otherwise apparent from context, the following terms are defined for the purposes of this Article:

(a) “Employee” means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of the business.

(b) “Establishment” means and includes any of the following:

(1) The opening or commencement of any such business as a new

business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this article;

(3) The addition of any of the sexually oriented businesses defined in this article to any other existing sexually oriented business; or

(4) The relocation of any such sexually oriented business.

(c) "Nudity or State of Nudity" means: the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

(d) "Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

(e) "Permitted or Licensed Premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.

(f) "Permittee or Licensee" means a person in whose name a permit or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(g) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(h) "Public building" means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

(i) "Public park" or "recreation area" means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the City.

(j) "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(k) "Residential District or Use" means a single family, duplex, townhouse, multiple family, or mobile park or subdivision and campground as defined in this Code.

(l) "School" means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(m) "Semi-Nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(n) "Sexually Oriented Business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

(o) "Sexually oriented businesses" are those businesses defined as follows:

(1) "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) "Adult Bookstore," "Adult Novelty Store" or "Adult Video Store" means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

(i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";

(ii) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others.

(iii) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store if one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

(3) "Adult cabaret" means a nightclub, bar, restaurant "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (i) persons who appear nude or in a state of nudity or semi-nude; (ii) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or (iii) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(5) “Adult motion picture theater” means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

(6) “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of “specified anatomical areas” or by “specified sexual activities.”

(7) “Escort” means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) “Escort Agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(9) “Massage parlor” means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment involving manipulation of the human body which occurs as a part of or in connection with “specified sexual activities,” or where any person providing such treatment, manipulation, or service related thereto, exposes his or her “specified anatomical areas.” The definition of sexually oriented businesses shall not include the practice of massage at a massage office or by a massage/bodywork professionally licensed by the City.

(10) “Nude Model Studio” means any place where a person, who regularly appears in a state of nudity or displays “specified anatomical areas” is provided money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(11) “Sexual encounter establishment” means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or the exposure of “specified anatomical areas” or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(p) “Specified Anatomical Areas,” as used in this division means and includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(q) “Specified Sexual Activities,” means and includes any of the following:

(1) The fondling or other intentional touching of human genitals, pubic

region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Human genitals in a state of sexual stimulation, arousal or tumescence;

(5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.

(r) "Substantial Enlargement of a Sexually Oriented Business" means increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on January 1, 1997.

(s) "Transfer of Ownership or Control of a Sexually Oriented Business" means and includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;

(3) The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Section 5-1.8.103. Permit and License Required.

(a) No sexually oriented business shall operate without a valid sexually oriented business permit issued by the City for the particular type of business. It shall be unlawful to operate a sexually oriented business without such permit.

(b) Each individual to be employed in a sexually oriented business, who engages in the services rendered by a nude model studio, sexual encounter establishment, or a live performer or entertainer, shall obtain a Sexually Oriented Business Employee License.

Section 5-1.8.104. Authority Delegated

(a) The City Manager or designee shall grant, deny, revoke, renew, suspend, and cancel sexually oriented business permits for proposed or existing sexually oriented businesses. The City Manager or designee shall ascertain whether a proposed sexually oriented business for which a permit is being applied for complies with all locational requirements of the City"s zoning regulations now in effect or as amended or enacted subsequent to the effective date of this Section.

(b) The California City Police Department shall provide information on whether an applicant has been convicted of a specified criminal act during the time period set forth.

(c) The City is responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

DIVISION 2. Applications

Sec. 5-1.8.201. Permit Application.

(a) Any person desiring to operate a sexually oriented business shall file with the City an original and two copies of a sworn permit application on the standard application form supplied by the City or designee.

(b) The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(i) An individual: The individual shall state legal name and any aliases and submit satisfactory proof the applicant is at least eighteen years of age;

(ii) A partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence the corporation is in good standing under the laws of California, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than the applicant; the applicant must state the sexually oriented business"s fictitious name and submit the required registration documents.

(3) Whether the applicant or any of the other individuals listed pursuant to this Section, within the two or five year period (as specified below) immediately preceding the date of the application, has been convicted of a specified criminal act, and, if so, the specified criminal act, the date of conviction and the place of conviction.

(4) Whether the applicant or any of the other individuals listed in the application pursuant to this Section has had a previous permit under the Article or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to this Section has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is identified under this Section whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant or any other individual listed under this Section holds any other permits or licenses under this Code or other similar sexually oriented business ordinances from another city or county and, if so, the names and locations of such other permitted businesses.

(6) The single classification of permit for which the applicant is filing.

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

(8) The applicant"s mailing addresses and residential address.

(9) A recent photograph of the applicant(s).

(10) The applicant"s driver"s permit number, Social Security number, and State or federally issued tax identification number.

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(12) A straight-line drawing prepared by a registered land surveyor or civil engineer depicting the property lines and the structures containing any established existing uses regulated by this Code within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 1,000 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 1,000 feet of the property to be certified. For purposes of this Section, other than a "line performance," a use shall be considered existing or established if it is in existence at the time an application is submitted. For permit renewals, the original survey may be filed in lieu of a new survey.

(13) If the applicant is an individual, the applicant must sign the application for a permit as applicant. If the applicant is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application as applicant. If a corporation is the owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application as applicant.

(14) If an applicant wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified anatomical areas, the applicant shall also comply with the application requirements set forth below concerning exhibitions of sexually explicit films or videos in video booths.

(c) Applicants for a permit under this Section shall have a continuing duty to promptly supplement application information required by this Section if such information changes in any way from what is stated on the application. The failure to comply with this continuing duty within thirty days from the date of such change, by supplementing the application on file with the City Manager or designee, shall be grounds for suspension of a permit.

(d) If the City Manager or designee determines or learns at any time the applicant has improperly completed the application for a proposed sexually oriented business, the City Manager shall promptly notify the applicant of such fact and allow the applicant ten days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(e) The applicant shall pay a non-refundable application fee at the time of filing an application in an amount from time-to-time established by the council by resolution.

(f) Prior to obtaining any permit or license to operate any sexually oriented

business defined in this Article, and as part of any application for a permit under this Chapter, the applicant shall obtain from the City a certification that the proposed location of such business complies with the locational requirements of Title 9 of this Code.

(g) The fact a person possesses other types of State or City permits or licenses does not exempt a person from the requirement of obtaining a sexually oriented business permit.

(h) By applying for a permit under this Article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager or his/her designee, the California City Police Department and all other City agencies charged with enforcing the laws, ordinances and codes applicable in the City of their respective responsibilities under this Article.

(i) The applicant shall provide the City with the names of any and all employees who are required to be licensed pursuant to this Article. This shall be a continuing requirement even after a permit is granted or renewed.

Sec. 5-1.8.202. <u>License Applications.</u>

(a) Before any applicant may be issued a Sexually Oriented Business Employee License, the applicant shall submit on a form to be provided by the City Manager or designee the following information:

(1) The applicant's name or any other names (including `stage" names) or aliases used by the individual;

(2) Age, date, and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) State driver's license or identification number;

(7) Social Security number; and

(8) Acceptable written proof that the individual is at least eighteen (18) years of age.

(9) Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant"s face, and the applicant"s fingerprints on a form provided by the California City Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(10) A statement detailing the license or permit history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(11) Whether the applicant has been convicted of a “specified criminal”

act described in this Article. This information shall include the date, place, nature of each conviction or plea of *nolo contendere* and identifying the convicting jurisdiction.

(b) The City Manager or designee shall refer the Sexually Oriented Business Employee License Application to the California City Police Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within thirty days from the date the completed application is filed. After the investigation, the City Manager or designee shall issue a license unless the report from the California City Police Department finds one or more of the following is true:

(1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the sheriff's department or other department of the city;

(2) The applicant is under eighteen years of age;

(3) The applicant has been convicted of a "specified criminal act" as defined in this Article;

(4) The Sexually Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this Article;

(5) The applicant has had a Sexually Oriented Business Employee License revoked by the city within two (2) years of the date of the current application;

(c) A license granted pursuant to this Section shall be subject to annual renewal by the City Manager or designee upon the written application of the applicant and a finding by the City Manager or designee and the California City Police Department that the applicant has not been convicted of any "specified criminal act" as in this Article or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application. The renewal of the license shall be subject to payment of a fee as set by a resolution of the City Council.

Sec. 5-1.8.203. <u>Investigation</u>.

(a) Upon receipt of an application properly filed with the City and upon payment of the non-refundable application fee, the City Manager or designee shall immediately stamp the application as received and shall immediately send photocopies of the application to the California City Police Department and any other City agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this Article. This investigation shall be completed within twenty (20) days of receipt of the application by the City or its designee. At the conclusion of each investigation, each department or agency shall indicate on the photocopy of the application approval or disapproval of the application, date, signature, and, disapproved, state the reasons therefor. The California City Police Department shall only be required to certify the NCIC records request check. The California City Police Department shall not be required to approve or disapprove applications.

(b) The City shall disapprove an application if it finds the proposed sexually

oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the City. After its indication of approval or disapproval, each department shall immediately return the photocopy of the application to the City Manager or designee.

(c) The applicant must be qualified according to the provisions of this Article and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

Sec. 5-1.8.204. Action on Application.

(a) The City Manager or designee shall grant or deny an application for a permit within sixty days from the date of its proper filing. The application shall be deemed approved on the sixtieth day, unless the City Manager or designee denies the application and states the reasons(s) for that denial.

(b) If granted, the permit shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate the Sexually Oriented Business whether permitted or not may be subject to prohibitions against Public Nudity and Indecency pursuant to the United States Supreme Court decision in Barnes v. Glen Theatre, Inc., 111 S.Ct. 2456 (1991). The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.

(c) Denial of Application for Permit. The City Manager or designee shall deny the application for any of the following reasons:

(1) An applicant is under eighteen years of age.

(2) An applicant or an applicant's spouse is overdue on payment to the City of taxes, fees, fines, or penalties assessed or imposed in relation to a sexually oriented business.

(3) An applicant is residing with a person who has been denied a permit by the City to operate a sexually oriented business within the preceding twelve months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve months.

(4) An applicant has failed to provide information required by this Article or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.

(5) The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.

(6) The permit fees required by this Article have not been paid.

(7) An applicant is in violation of, or is not in compliance with, any of the provisions of this Article including but not limited to the zoning locational requirements for a sexually oriented business under Title 9 of this Code.

(8) The granting of the application would violate a statute, ordinance, or court order.

(9) The applicant has a permit under this Article which has been suspended or revoked.

(10) An applicant has been convicted of a “specified criminal” act for which:

(i) Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the “specified criminal acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the “specified criminal acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(iii) Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for “specified criminal acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any twenty-four month period;

(iv) The fact a conviction is being appealed shall have no effect on disqualification of the applicant; An applicant who has been convicted of the above described “specified criminal acts” may qualify for a sexually oriented business permit only when the time period mentioned above has elapsed.

(v) An applicant has knowingly employed an employee who does not have a valid license as required by this Article.

(vi) The applicant applies for a permit for a particular location within a period of twelve months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

(vii) If the City Manager or the City Manager's designee, denies the application, he/she shall notify the applicant of the denial and state the reasons(s) for the denial.

DIVISION 3. Permits

Sec. 5-1.8.301. Annual Fee.

(a) The holder of a sexually oriented business permit shall pay an annual fee as established by the Council by resolution.

(b) Each applicant for an employee license shall pay a permit fee is to cover reasonable administrative costs of the licensing application process in an amount from time-to-time established by the Council by resolution.

Sec. 5-1.8.302. Inspection.

(a) An applicant or permittee shall permit representatives of the Code Enforcement Office, the County Health Department, and the Fire Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(b) It shall be unlawful and a person who operates a sexually oriented business or the agent or employee of the operator, regardless of whether or not a permit has been issued for the business under this Article, and such person commits a misdemeanor for refusing to permit such lawful inspection of the premises at any time it is occupied or open for business.

Sec. 5-1.8.303. Expiration of Permit.

(a) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in this Article. Application for renewal shall be made at least thirty days before the expiration date, and when made less than thirty days before the expiration date, the expiration of the permit will not be affected.

(b) When the City Manager or designee denies renewal of the permit, the applicant shall not be issued a permit under this Article for one (1) year from the date of denial. If, subsequent to denial, the City Manager or designee finds the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety days have elapsed since the date the denial became final.

Sec. 5-1.8.304. Suspension of Permit.

(a) The City Manager or designee shall suspend a permit for a period not to exceed thirty days if the City Manager determines a permittee, or an employee of a permittee, has:

(1) Violated or is not in compliance with any section of this Article; or

(2) Been under the influence of alcoholic beverages while working in the sexually oriented business premises; or

(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this Article; or

(4) Knowingly permitted gambling by any person on the sexually oriented business premises; or

(5) Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, the determination being based on investigation by the department charged with enforcing such rules or laws. In the event of such violation, the City Manager or designee shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to

correct the violation before the expiration of the 7-day period, the City Manager or designee shall forthwith suspend the permit and shall notify the permittee of the suspension.

(6) Engaged in a permit transfer contrary to the intent of this Article. If the City or its designee, suspends a permit on the ground a permittee engaged in a permit transfer contrary to this Article, the City Manager or designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this Article has been satisfied.

(7) Operated the sexually oriented business in violation of the hours of operation.

(8) Knowingly employs a person who does not have a valid license as required by this Article.

(b) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

Sec. 5-1.8.305. Revocation of Permit.

(a) The City Manager or designee shall revoke a permit if a cause of suspension occurs and the permit has been suspended within the preceding twelve months.

(b) The City Manager or designee shall revoke a permit upon determining that:

(1) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises; or

(3) A permittee or an employee has knowingly allowed prostitution on the premises; or

(4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee‟s permit was suspended; or

(5) A permittee has been convicted of a “specified criminal act” for which the time period required in by this Article has not elapsed; or

(6) On two or more occasions within a twelve-month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact a conviction is being appealed shall have no effect on the revocation of the permit; or

(7) A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business, or

(8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

(9) A permittee has been operating more than one sexually oriented

business under a single roof except as provided in Title 9 of this Code.

(c) When the City Manager or designee revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the City Manager or designee finds the basis for revocation has been corrected, the applicant shall be granted a permit if at least ninety days have elapsed since the date revocation became effective.

Sec. 5-1.8.306. Judicial Review of Permit Denial, Suspension or Revocation.

After denial of an application or a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action by the Planning Commission. If the denial, suspension or revocation is affirmed upon review, the administrative action shall be promptly reviewed by the City Council. The decision of the City Council is final unless changed by a court of competent jurisdiction.

Sec. 5-1.8.307. Transfer of Permit.

(a) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

(b) A permittee shall not transfer a permit to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the permit from the City Manager or designee which provides the transferee is the permittee, which amendment may be obtained only if the transferee has completed and properly filed an application with the City Manager or designee, setting forth the information required of applicants for permits under this Article; and

(2) Pays a transfer fee of twenty percent (20%) of the annual permit fee.

(c) No permit may be transferred when the City Manager or designee has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(d) A permittee shall not transfer a permit to another location.

(e) Any attempt to transfer a permit either directly or indirectly in violation of this Section is void and the permit shall be deemed revoked.

DIVISION 4. Regulations

Sec. 5-1.8.401. Exhibition of Sexually Explicit Films or Videos in Video Booths.

(a) A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented motel/hotel and regardless of whether or not a permit has been issued to the business under this Article, which exhibits on the

premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager"s stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager"s station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer"s or architect"s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City Manager or designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(b) No alteration in the configuration or location of a manager"s station may be made without the prior approval of the City Manager or designee.

(c) The owners and operator of the premises shall ensure at least one employee is on duty and situated at each manger"s station at all times any patron is present inside the premises.

(d) The interior of the premises shall be configured in such a manner so that there is an unobstructed view from a manager"s station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager"s stations designated, the interior of the premises shall be configured in such a manner there is an unobstructed view of each area of the premises to which any patron is permitted access from at least one of the manager"s stations. The view required in this subsection must be by direct line of sight from the manager"s station.

(e) The owners and operator, and any agents and employees present on the premises shall ensure the view area specified herein remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to ensure no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Section.

(f) No viewing room may be occupied by more than one person at any time.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2.0) foot candles as measured at the floor level.

(h) The owners and operator and any agents and employees present on the premises shall ensure the illumination described above is maintained at all times that any patron is present on the premises.

Sec. 5-1.8.402. Minors and Sexually Oriented Businesses.

A person commits a misdemeanor who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, and knowingly or with reasonable cause to know, permit, suffer, or allows:

(1) Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or guardian;

(2) A person under eighteen (18) years of age to remain at the business premises unless accompanied by a parent or guardian;

(3) A person under eighteen (18) years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or

(4) A person who is under eighteen (18) years of age to work at the business premises as an employee.

Sec. 5-1.8.403. Advertising.

(a) It shall be unlawful and a person commits a misdemeanor who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, and advertises the presentation of any activity prohibited by any applicable State statute or local ordinance.

(b) It shall be unlawful and a person commits a misdemeanor who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, and displays or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(c) The permittee shall not allow any portion of the interior premises of a sexually oriented business to be visible from outside the premises.

(d) All off-street parking areas and premises" entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. This required lighting level is established to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

Sec. 5-1.8.404. Hours of Operation.

(a) It shall be unlawful and a person commits a misdemeanor who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, and allows such business to remain open for business, or to permit any employee to engage in a performance,

solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 9:00 a.m. of any particular day.

(b) It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 1:00 a.m. and 9:00 a.m.

Sec. 5-1.8.405. Nudity at Sexually Oriented Businesses Not Offering for Sale Alcoholic Beverages Subject to Prohibition Pursuant to the U.S. Supreme Court Decision in *Barnes v. Glen Theatre, Inc.*

Public nudity is prohibited within the City , including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended.

DIVISION 5. Enforcement

Sec. 5-1.8.501. Criminal Prohibitions For The Operation of A Sexually Oriented Business Without A Valid Permit

(a) The following additional criminal provisions shall also apply to sexually oriented businesses in addition to the criminal provisions found at other sections of this Article.

(b) It shall be unlawful and a person commits a misdemeanor who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this Article, and said person knows or should know that:

(1) The business does not have a sexually oriented business permit under this Article for any applicable classification;

(2) The business has a permit which is under suspension;

(3) The business has a permit which has been revoked; or

(4) The business has a permit which has expired.

Sec. 5-1.8.502. Exemptions.

(a) It is a defense to prosecution for any violation of this article that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or:

(3) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

(iii) Where no more than one nude model is on the premises at any one time.

(b) It is a defense to prosecution for a violation of this Article that an employee of a sexually oriented business, regardless of whether or not it is permitted under this Article, exposed any specified anatomical area during the employee‟s bona fide use of a restroom, or during the employee‟s bona fide use of a dressing room which is accessible only to employees.

Sec. 5-1.8.503. Criminal Penalties and Additional Legal, Equitable, and Injunctive Relief.

(a) In addition to whatever penalties are applicable under the Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this Article, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment not to exceed sixty (60) days, or both, in the discretion of the Court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(b) Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(c) Further, nothing in this Section shall be construed to prohibit the City from prosecuting any violation of this Article by means of a Code Enforcement Board established pursuant to the authority as provided by the laws of the City.

(d) All remedies and penalties provided for in this Section shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law.

Sec. 5-1.8.504. Immunity From Prosecution.

(a) The City Manager and designee, the California City Police Department and all other departments, and all other City officers, agents and employees, charged with enforcement of State and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this Article.

(b) It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others.

(c) Such devices, instruments or paraphernalia include but are not limited to; phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse.

(d) A violation of this section is a misdemeanor punishable by a fine of up to $1000

and six months incarceration or both.

ARTICLE 9. OTHER

Sec. 5-1.901. Covering or Capping Required.

Abandoned septic tank, well, pit, or other abandoned excavation, more than five feet in depth and not less than four feet in width at its greatest dimension, shall be covered and capped so there is no danger to persons.

Sec. 5-1.902.37 Sex Offender Residency.

(a) No sex offender shall reside within two thousand (2,000) feet from the exterior boundaries of the property where a child day care center, park, or school is located, unless the sex offender established residency prior to July 16, 2009, or unless the child day care center, park or school commences operation after the sex offender has established residency.

(b) The following terms are defined for the purposes of this section:

(1) "Child day care center" means a licensed facility which provides non-medical care on a less than twenty-four-hour basis to children in need of personal services, supervision, or assistance but does not include a family day care home as defined by Health and Safety Code Section 1596.78.

(2) "Park" means an open space intended for recreational use where children regularly gather.

(3) "Sex offender" means a person who is required to register under Penal Code Section 290, regardless of whether that person is on parole or probation.

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37 Amended by Ord. No. 09-676 on June 2, 2009.

CHAPTER 2. GAMES

ARTICLE 1. BILLIARD AND POOL HALLS

Sec. 5-2.101. Licenses.

(a) A license shall be secured for pool rooms and billiards halls.

(b) Places where billiard tables or pool tables are maintained for public use shall be and remain closed between the hours of 2:00 a.m. and 6:00 a.m. of every day.

(c) No minor shall be permitted in a poolroom, or other gaming place unless accompanied by parent or guardian or if the minor has in possession written permission of parent or guardian to engage in such activities. such written permission shall be presented, upon demand, to the owner, proprietor, or operator of such establishment and to legally constituted officers of the City.

(d) This section shall not permit minors to be present in a public billiard hall, poolroom, or other gaming place within the City where distilled spirits are sold or consumed.

(e) No owner, proprietor, or operator of a public billiard hall, poolroom, or other gaming place within the City where beer, wine, or distilled spirits are sold or consumed shall permit any violation of this article.

ARTICLE 2. COIN-OPERATED GAME MACHINES

Sec. 5-2.201. General.

(a) No person shall rent, lease, or sell a game machine in the City without a license from the City. Such license shall be referred to as an "operator's license."

(b) No person shall use a game machine or offer a game machine for use by other persons without first having secured a license from the City. Such license shall be referred to as a "game machine license."

(c) No license shall permit a person under the age of fourteen (14) years to operate a game machine without being accompanied by a parent or guardian.

(d) For the purposes of this article, "game machine" means a machine, device, or apparatus, the operation or use of which is permitted, controlled, or made possible by the deposit or placing or any coin, plate, disc, slug, or key into any slot, crevice, or other opening, and which is offered for use as a game or contest of any description of for amusement, or which may be used for any such game or contest or for amusement. A game machine which is so constructed or regulated that it may be activated or operated from more than one coin box, slot, or position, shall be considered to be one game machine only.

Sec. 5-2.202. Exceptions.

(a) This article does not permit the licensing, maintenance, or operation of a game machine forbidden by State law or permit the operation of a game machine in such a manner as to constitute gambling or otherwise be contrary to State law.

(b) This article shall not apply to a vending machine designed and operated as to sell and deliver merchandise, furnish a service only, equivalent in market value to the value of the coins deposited without the payment or delivery, or the promise of payment or delivery, of anything except the merchandise kept for sale or the service offered therefor.

Sec. 5-2.203. Application.

A person who desires a license under this article shall make application to the City Clerk on a form provided by the City Clerk.

Sec. 5-2.204. License.

The City Clerk shall issue the license when the application is complete.

Sec. 5-2.205. Licenses: Suspension: Revocation.

The Council may suspend or revoke an operator"s license or game machine license.

ARTICLE 3. BINGO GAMES

Sec. 5-2.301. General.

No person shall conduct a bingo game without a permit from the City.

Sec. 5-2.302. Definitions.

The following words are defined for the purposes of this article:

(a) "Bingo Game" means such a game as is defined in the California Penal Code.

(b) "Charitable Organization" means such an organization as is defined in the California Penal Code.

Sec. 5-2.303. Applications.

A person who proposes to conduct a bingo game within the City must provide the City Clerk with the following information authenticated by verification:

(1) Date of application;

(2) Name of applicant;

(3) Legal capacity of applicant, e.g., corporation, partnership, individual;

(4) Mailing address of applicant;

(5) Proposed location of bingo game.

(6) Description of the building where the bingo game is to be conducted, including dimensions and type of construction.

(7) Statement the building conforms to applicable laws;

(8) Statement the applicant understands the application shall be considered by the City Council only after full investigation and a report thereon has been made by designated City officials;

(9) Statement no intoxicating liquors or beverages will be sold, given away, dispensed or consumed in the area designated for bingo games;

(10) Statement the permittee will conform to State and City laws;

(11) Statement the applicant has read and understands this article;

(12) Financial statement indicating the operators are capable of meeting the financial requirements of this Article.

Sec. 5-2.304. Investigation and Report.

The Chief of Police, or designee, shall conduct an investigation of the character and integrity of each applicant within 30 days from the date of the application and submitted to the Council at the next regular meeting date subsequent to the conclusion of the investigation.

Sec. 5-2.305. Action on Application.

(a) The City Council may deny the application for a bingo permit if:

(1) The investigation report indicates the applicant does not possess a reputation for good character and integrity;

(2) The financial statement indicates the applicant will be unable to meet the financial obligation imposed by the City; or

(3) For other cause.

(b) If application is denied, the applicant shall be provided with a written statement detailing the reasons for the Council"s determination and the applicant shall be given an opportunity to present rebuttal evidence to the Council in writing within 20 days from the date of notification of the Council"s action.

Sec. 5-2.306. Permit Conditions.

Each permit shall include the following terms and conditions:

(a) No person who has been convicted of a felony or crime of moral turpitude may participate in the operation of a bingo game.

(b) The bingo games shall be conducted in a building which complies with laws.

(c) The operator of the bingo games shall comply with the Penal Code.

(d) Bingo games may be conducted only between the hours of 12:00 noon and 12:00 midnight and not more than 3 days per week. No bingo session shall exceed 6 continuous hours and not more than one (1) bingo session shall be permitted in any one day by any one permittee. The permittee may not conduct additional bingo sessions at locations where 3 sessions have been authorized by the City to be conducted during that week. For the purposes of this subsection, a week begins on Sunday.

(e) No person shall serve or consume alcoholic beverages within the rooms where bingo is being played.

(f) No persons under the age of 13 shall operate or participate in a bingo game.

(g) Bingo permit, rules and regulations and the permittee"s rules of bingo operation shall be conspicuously posted at the public entrance to the room where bingo is played. Posted rules shall be readable, legible and accessible to participants.

(h) A member of the permittee"s organization shall be designated as a bingo manager. The bingo manager shall be responsible for the conduct and operation of the bingo games and for compliance with all applicable laws, rules and regulations promulgated thereunder. The bingo manager shall be present during the playing of bingo games.

(i) The total value of prizes awarded for any one bingo game shall not exceed the current retail value of $250.00 in the aggregate, whether the prizes are in cash or some other form. Prior to the commencement of each game, the prize shall be announced and a facsimile of the type of games to be played shall be awarded immediately following each bingo game.

(j) Games shall be completed during each session.

(k) Bingo numbers shall be announced and displayed in full view of players. An adequate public address system shall be used for this purpose.

(l) Each card shall have an equal opportunity to win each game.

(m) Advertising or publicity for bingo shall include reference to the valid bingo license permit number issued by the City.

(n) At least two members of the permittee"s organization shall jointly count bingo proceeds. Such proceeds shall be deposited into a special bingo account on the next banking day and shall not be commingled with other monies. The monies deposited in the special account may be transferred to another account or fund of the permittee"s organization or to another account or fund of other organization or entity associated or affiliated with the permittee"s organization for the purpose of implementing charitable expenditures of bingo proceeds, provided:

(1) No monies from sources other than bingo proceeds are placed in such fund;

(2) The purpose of such fund is clearly designated as a part of the title or subtitle of the fund and in the books and records of the organization;

(3) Expenditures shall be for the purposes permitted by the Penal Code;

(4) Disbursements from the special fund shall be by consecutively numbered checks signed by two authorized officers of the permittee and shall be payable to a specific individual or organization. There shall be written on each check the nature of the expenditure for which the check is drawn. No check shall be drawn to "cash" other than for the payment of incidental bingo expenses. Such checks shall be marked "for deposit to the petty cash fund." Such petty cash fund shall not at any time contain more than $25.00 and a receipt shall be obtained for each disbursement indicating the amount disbursed, the individual or organization receiving the cash disbursement is made.

(o) No person shall play a bingo game on credit.

(p) Bingo financial records including books and records of the permittee and organizations or entities associated with or affiliated with the permittee for the purpose of disbursing charitable expenditures of bingo proceeds shall be available for inspection by the Chief of Police, or designee.

Sec. 5-2.307. Revocation of Permit.

(a) The following shall be cause for revocation of a bingo permit:
(1) Determination the application for the permit contained untrue statements;
(2) Violation of any federal, state, or local law;
(3) Failure to pay all fees in a timely manner;
(4) Violation of any permit condition;
(b) When a permit is revoked pursuant to this Article, the permittee may file a written appeal and a request a hearing before the City Council.

Sec. 5-2.308. Termination of Permits.

Permits issued shall expire on midnight one year from the date of issuance. The owner of unrevoked permit may apply to renew permit for an additional one-year term. Applications for renewal of permits shall contain the information which is required for the issuance of a permit in the first instance.

Sec. 5-2.309. Transfer and Modification.

Permits may not be transferred to a new location unless application for a new permit is made and the application is approved in accordance with this Article. A change in the items listed in the application shall be promptly reported to the City Clerk and Chief of Police in writing. Each change in the person described in the application shall be considered a license modification for which a fee from time-to-time established by the Council by resolution shall be paid to cover the cost of investigating the new person or persons and for the issuance of a modified permit.

ARTICLE 4. CARD CLUBS

Sec. 5-2.401. General.

(a) No person, owner or employee shall operate a card club without first having obtained a permit pursuant to this article.
(b) No card club shall employ a person without such person having been photographed and fingerprinted by the Police Department within 3 days prior to their employment.

Sec. 5-2.402. Definitions.

The following words are defined for the purposes of this article:

(a) “Card Club” means a business or enterprise licensed for the playing of draw poker, low ball, the game of panguingue (pan), high-low, hold-em, stud poker, seven card stud, pai-gow, California aces, Asian poker or super nine.

(b) “Employee” means a person acting as agent, employee or otherwise, of the owner, as owner, or under the direction of the owner of any card club.

(c) “Owner” means persons, firms, associations, partnerships, corporations or other entities having an interest, legal or equitable, in a card club or card club license or permit.

(d) “Operate” means to form, maintain or participate in the formation or maintenance of a card club.

Sec. 5-2.403. Applications.

A person who intends to operate a card club must provide the City Clerk with the following information authenticated by a verification:

(a) Date of application;

(b) Name of applicant;

(c) Legal capacity of the applicant, e.g., corporation, partnership, individual;

(d) If applicant is an individual, present business address, mailing address and residential address;

(e) If applicant is not an individual, information shall be presented for each partner or corporate officer;

(f) Proposed location of the card club;

(g) Nature of game for which the license is to be issued;

(h) Number of tables or other units to be placed, employed or used;

(i) Description of the businesses to be conducted at the licensed location;

(j) Description of the building including dimensions and type of construction;

(k) Statement the building conforms to laws;

(l) Statement the applicant understands the application shall be considered by the Council only after a full investigation and a report made by the Police Department and building inspector or authorized representative;

(m) Statement recognizing no intoxicating liquors or beverages are to be sold, given away, dispensed, consumed or permitted in the area designated for the playing of draw poker or pan, except malt beverages or liquors may be sold and dispensed in an area designated for the playing of draw poker, low ball, the game of panguingue (pan), high-low, hold-em, stud poker, seven card stud, pai-gow, California aces, Asian poker or super nine under the following conditions:

(1) No free or “on the house drinks” may be served in the area designated as the “card room;”

(2) No beverages shall be served on the surface of the “playing table” designated as the area for playing cards; and

(3) Beverages will be sold, dispensed or served on a compact portable “caddy” or “tray table” for the exclusive use of beverages or food service.

(n) Statement the permittee shall conform to State and City laws.

(o) Statement the applicant has read and understood this article;

(p) Financial statement which indicates the owners of the card club are

capable of meeting the financial requirements of this article.

Sec. 5-2.404. Application Fees.

The owner shall deposit with the City Clerk a non-refundable application fee in an amount to be established from time to time by the City Council by resolution. Each employee employed by a card club shall pay an application fee also in the amount to be established by the City Council from time to time by resolution.

Sec. 5-2.405. Investigation and Reporting.

The Chief of Police shall conduct an investigation of the character and integrity of each applicant within 30 days from the date of the application and submitted to the Council at the next regular meeting after conclusion of the investigation.

Sec. 5-2.406. Action Upon Application.

(a) The City Council may deny the application if:

(1) The investigation report indicates the applicant does not possess a reputation for good character and integrity:

(2) The financial statement indicates the applicant will be unable to meet the financial obligations imposed upon the card club by the City; or

(3) Other cause deemed material by the Council.

(b) If the permit is denied, the applicant shall be provided a written statement detailing the reasons for the determination and giving opportunity to present rebuttal evidence to the Council in writing within 20 days from the date of the notification of the Council‟s action.

Sec. 5-2.407. Fees.

(a) An annual permit fee shall be paid to the City for each card club in an amount to be determined by the City Council from time to time by a resolution. Fees shall be paid at the time the permit is issued and at each anniversary.

(b) Each card club shall pay an annual fee in an amount to be established from time to time by the City Council based upon the number of tables operated during the preceding year. If a card club increases the number of tables operated during such licensed period, it shall pay to the City the established fee for additional tables. The license fee shall be paid at the time of issuance of each renewal permit. The license fee payable at the time of the initial issuance of a permit shall be based upon the number of tables intended to be operated or utilized by the card club for the first year of its license.

(c) A verified statement of the amount of gross revenue shall be submitted to the City each quarter by the owner of each card club simultaneously with the payment of quarterly table fees. Permittee shall maintain books and records in sufficient detail so as to enable the City to determine the gross income of permittee on a quarterly basis. The City Manager, Finance Director or independent auditor may inspect the

books, records and accounts of the permittee at a reasonable time upon written request.

Sect. 5-2.408. Revocation of Permit.

(a) The following shall be cause for the revocation of a card club permit:

(1) A determination the application for permit contained untrue statements;

(2) A violation of state, federal or local law;

(3) Failure to pay fees in a timely manner;

(4) Refusal to permit inspection of books and records;

(5) Failure to maintain card tables in full view of the public and of any patrons of said card club;

(6) The construction or erection of partitions or other devices which conceal persons playing cards;

(7) Failure to maintain the designated card playing area free of intoxicated persons or intoxicants unless such intoxicants are otherwise permitted.

(b) When a permit is revoked, permittee may file a written appeal and request a hearing before the Council.

Sec. 5-2.409. Expiration and Renewal.

(a) Permits shall expire on midnight one year from the date of issuance.

(b) The owner of an unrevoked permit may, prior to its expiration, apply to renew such permit for an additional one-year term. Applications for renewal of permits shall contain the information required for the issuance of a permit in the first instance.

Sec. 5-2.410. Transfer of Permits.

Permits may not be transferred unless the proposed transferee makes application for a new permit and the application is approved.

Sec. 5-2.411. Card Club Operations.

Each card club operating under this Article shall comply with all permit conditions and the following:

(a) At least 15 tables shall be operated.

(b) Permittee may not operate more card tables than are stated in the application or permit.

(c) No person under the age of 21 years shall be allowed in the designated card club areas.

(d) The schedule of operating hours shall be specified by the permit.

(e) No signs shall be permitted on the exterior of building advertising card games or draw poker, low ball, the game of panguingue (pan), high-low, hold-em, stud poker, seven card stud, pai-gow, California aces, Asian poker or super nine, except pursuant to a special permit approved by the Planning Commission. The permit may

be denied or conditionally approved by the Commission in its sole discretion subject to review by the Council.

(f) No subletting, “farming out” or assigning of gaming tables shall be permitted.

(g) Draw poker, low ball, the game of panguingue (pan), high-low, hold-em, stud poker, seven card stud, pai-gow, California aces, Asian poker or super nine, shall be confined to one floor of operation.

Sec. 5-2.412. Security Patrol.

The operator, permittee, owner or other person in control of each card club shall provide security for each card club under his control. “Security” means the enforcement of rules and regulations of the federal, state and city government. Security shall also be provided to the immediate parking area of designated card clubs and to those persons who use such parking areas.

ARTICLE 5. EXPERIMENTAL GAMING ACT

Sec. 5-2.501. Purpose and Scope.

This Article regulates gambling within the City as permitted by the People"s Experimental Gaming Act, herein "Gaming Act". No person shall gamble, permit or encourage gambling prior to the passage of the Gaming Act, except in compliance with state law. No person shall gamble, permit or encourage gambling after the passage of the Gaming Act except in compliance with the Gaming Act, this article, and State law.

Sec. 5-2.502. Definitions.

Unless otherwise apparent from context, the following terms are defined for the purposes of this article:

(a) “Gaming” or “gambling” means acts, games and contrivances by which one risks money or other things of value on a contest or chance of any kind.

(b) “Casino” means a place where gaming is permitted by the City.

(c) “License” means the authority to operate a casino evidenced by a document issued by the City pursuant to this article.

Sec. 5-2.503. General.

(a) No person shall gamble except at a duly licensed casino.

(b) No person shall own or operate a casino without a valid and subsisting license secured in accordance with this Article.

(c) Violation of this section is a misdemeanor and a public nuisance.

Sec. 5-2.504. License.

This article sets forth the requirements for filing an application for a license. No application for a license shall be filed or received except in compliance with this article.

Sec. 5-2.505. Application.

(a) Any person desiring to own or operate a casino shall submit a written application for a license with the City Clerk, under oath, setting forth the following information:

(1) Applicant"s name, age, sex, present address, and addresses of all residences and descriptions of all occupations and businesses for the past 5 years;

(2) The name of the owner of the premises where the casino is to be operated and the name of his authorized agent, if any;

(3) The names, ages, addresses, occupations and businesses for the past 5 years of persons having an interest, directly or indirectly, in applicant"s business, whether as partners, directors, officers, joint ventures, lessees, holders of 10% or more of the stock, controlling persons, and the proposed casino operator.

(b) A licensee may request renewal of a license making an application as set forth in this article.

Sec. 5-2.506. Fees.

An application fee shall be paid when the application is filed in an amount established by resolution of the City Council.

Sec. 5-2.507. Investigation.

The City Clerk shall forthwith transmit the application under this article to the Office of the Chief of Police for investigation and report. The application and report shall be presented for presentation to the City Council with the Chief"s report.

Sec. 5-2.508. Public Hearing.

The City Council shall conduct a public hearing with at least two weeks" prior published and posted notice to consider each application for a license. The applicant shall be present and may present testimony under oath and documentary evidence. Any interested person may also present testimony under oath and documentary evidence.

Sec. 5-2.509. Findings and Decision.

The City Council shall adopt written findings and a decision for each application within 30 days after the public hearing on the application. Approved licenses shall comply with the requirements of this Article.

Sec. 5-2.510. License Conditions.

(a) Each licensee and all persons identified in the application shall be of good moral character.

(b) Each license shall be subject to at least the following requirements:

(1) Licenses are valid for a period of one year from the date of issuance.

(2) Except as provided below, a license shall not be transferred to any other party without the consent of the Council.

(3) A license may be transferred by operation of law to a receiver or assignee for benefit of creditor or to an executor, administrator, guardian, heir or devisee. Before continuing business, such receiver, assignee, guardian, administrator, executor, heir or devisee shall file a statement with the City Clerk addressed to the Council setting forth the facts and circumstances showing such person is the lawful successor to the rights of the licensee.

Sec. 5-2.511. License Revocation or Suspension.

(a) A license issued under this Article may be revoked or suspended on the following grounds:

(1) Material misstatement of fact in the application;
(2) Failure to satisfy license conditions;
(3) The licensee"s conviction of a serious crime of moral turpitude;
(4) Attempt to transfer without permission of the City;
(5) Failure to pay fees in a timely manner; or
(6) Failure to comply with any provision of this Article.

(b) The City Manager shall provide the licensee of written notice setting forth the grounds for revocation or suspension and giving the licensee at least 30 days opportunity to respond. The City Manager shall consider the licensee"s response (or lack of response) before taking action.

(c) The licensee may appeal the City Manager"s decision to the City Council by filing a written notice of appeal within 10 days of the City Manager"s decision. The City Council shall conduct a public hearing to consider an appeal by the licensee. The City Council shall use administrative rules of evidence. The decision of the City Council shall be final.

Sec. 5-2.512. Public Nuisance.

Operating or owning a casino without a license is a public nuisance. The City Attorney shall abate such nuisance.

Sec. 5-2.513. Force and Effect.

If any provision of this Article is held to be unenforceable by a court of competent jurisdiction, any license issued pursuant to this Article shall be suspended until a lawful measure is enacted.

CHAPTER 3. PUBLIC PROPERTY

ARTICLE 1. PARADES

Sec. 5-3.101. Permits: Required.

No person shall organize, hold, or participate in a parade on a City street without first obtaining a permit as set forth in this article. For the purposes of this article, "parade" means an organized formation or procession of persons or vehicles, or both.

Sec. 5-3.102. Permits: Applications: Forms.

(a) The permit required by this article shall be requested by a written application upon a form prepared by the City Clerk. The application shall set forth the following information:

(1) The name of the person desiring the permit;

(2) The time and place, including the route and termini, of the parade; and

(3) The approximate or estimated number of persons and vehicles which will participate.

(b) The application shall be filed with the City Manager.

Sec. 5-3.103. Permits: Denial.

No permit for a parade shall be denied because of the danger of a riot or a breach of the peace, property damage, or other disorderly or unlawful conduct unless evidence is shown or presented to the City Manager of facts to support proof of such danger. No application shall be denied without a notice to the applicant of the time of a hearing by the City Manager.

ARTICLE 2. LOITERING

Sec. 5-3.201. Curfew.

(a) No person under the age of eighteen years shall be on a public street, lane, alley, public park, playground or other public grounds, public places and public buildings or vacant lots, either on foot or in a vehicle, between the hours of 10:00 p.m. and 5:00 a.m. of the following day, unless the minor is:

(1) Accompanied by a parent, guardian or other adult person having custody or charge of said minor; or

(2) At a legitimate place of business, trade, profession or occupation at which the minor is employed; or

(3) At a public library, night class, study hall, school activity, place of worship or teen center supervised or sponsored by adults of good moral character; or

(4) On the streets going directly to or returning directly from any of the places mentioned above.

(5) Engaged in lawful First Amendment activities.

(b) It is unlawful for any parent, guardian or other adult person having care, custody or control of a minor under the age of eighteen years to permit such minor to violate this section.

ARTICLE 3. CHARITABLE SOLICITING

Sec. 5-3.301. Charitable Solicitations: Permits Required.

(a) No person shall solicit contributions for charitable purposes unless such solicitor exhibits a permit from the City.

(b) No person shall solicit in a City building or other public building within the City.

ARTICLE 4. VENDING ON PUBLIC PROPERTY

Sec. 5-3.401. Sales Locations Restricted.

No person shall sell goods on a public street, highway, road, alley or sidewalk within the City.

ARTICLE 5. TAXI FRANCHISES

Sec. 5-3.501. Franchise Required.

No person shall maintain or operate a taxi service without a franchise from the City.

Sec. 5-3.502. Application for Franchise.

(a) A person who desires to obtain a taxi franchise shall make application to the City Manager. The application shall contain the information required by the City Manager to determine whether the franchisee will comply with this article including the following:

(1) Name, address and telephone number;
(2) Type of franchise;
(3) Proposed service area;
(4) Plan for providing service;
(5) Evidence the franchisee is capable of implementing the plan for services;
(6) Applicant's agreement to comply with the terms of this Article.

(b) The City Manager shall prepare a report and make a recommendation on the application.

Sec. 5-3.503. Hearing.

(a) The Council shall consider the report and recommendation of the City Manager at a duly noticed public hearing conducted within 30 days after the date of the

report. The hearing shall be preceded by 10 days" prior mailed notice to the applicant and by notice published at least once, at least 10 days before the hearing. The Council shall receive the testimony of interested persons at the hearing. The hearing may be continued from time to time.

(b) The Council shall render its decision on the application at the conclusion of the hearing. The Council's decision shall be set forth in an ordinance and shall be final when the ordinance is adopted and effective.

(c) The franchise shall be accepted in writing after the first reading of the ordinance and before adoption of the ordinance.

Sec. 5-3.504. Transfer of Franchise.

(a) A franchise may not be transferred by operation of law. A franchise may be transferred with the approval of the Council upon showing the transferee would be eligible to obtain a franchise in the first instance.

(b) A franchisee who desires to transfer a franchise shall make application to the City Manager. The application shall include the written agreement of the transferee to be bound by the terms and conditions of the franchise. The City Manager shall prepare a report and recommendation on the application. The Council shall review the City Manager's report and recommendation.

(c) The Council shall set forth its decision on the application in a resolution. The Council's decision shall be final when the resolution is adopted and effective.

Sec. 5-3.505. Termination.

(a) A franchise is terminated when: it expires by its term; the franchisee voluntarily abandons the franchise; or the franchisee violates the terms and conditions of the franchise.

(b) The City Manager shall provide the franchisee at least 10 days" prior written notice of intent to terminate the franchise. The notice shall state the reasons for terminating the franchise.

(c) Except when the franchise has terminated by its terms, the franchisee may contest the City Manager's determination by filing a written appeal with the City Manager within 10 days of the date of the notice. When the franchise has terminated by its terms, the franchisee may request renewal of the franchise by filing an application for a franchise. The City Manager shall file a report and recommendation with the Council concerning each proposed termination for which a request for hearing has been filed. If no request for hearing is filed, the City Manager's decision is final.

(d) The Council shall consider the City Manager's report and recommendation at a duly noticed public hearing if written appeal has been filed with the City Manager. The hearing shall be preceded by at least 10 days" prior written notice to the franchisee and notice published once 10 days before the hearing. The Council shall render its decision at the conclusion of the hearing. The Council's decision shall be set forth in an ordinance and shall be final when the ordinance is adopted and effective.

Sec. 5-3.506. Limitations.

(a) A taxi franchise is nonexclusive.

(b) No privilege or exemption shall be granted or conferred by any franchise except as specifically prescribed in this article.

(c) A privilege claimed under a franchise by the franchisee in any street or public property shall be subordinate to any prior lawful occupancy of the streets or public property.

(d) Time shall be of the essence of the franchise. The franchisee shall not be relieved of the obligation to comply promptly with this article or by any failure of the City to enforce prompt compliance.

(e) The franchisee shall have no recourse against the City for loss, cost, expense, or damage arising out of this article or of franchise, or because of the enforcement of this article.

(f) The franchisee shall be subject to laws, rules, regulations, and specifications.

(g) No person, firm or corporation in the existing service area of the franchisee shall be arbitrarily refused service. The franchisee shall not be required to provide service to a customer who does not pay the applicable fee or monthly service charge.

(h) The Council shall impose additional terms and conditions for the granting of a franchise necessary to implement this article.

Sec. 5-3.507. Franchise Fees.

(a) Franchise fees shall be established from time-to-time by the Council by resolution and shall be calculated and paid as set forth herein.

(b) The franchisee shall file with the City, within 30 days after the expiration of a calendar year, or portion, during which such franchise is in force, a financial statement prepared by a certified public accountant, or person otherwise satisfactory to the Council, showing in detail the gross annual receipts of the franchisee during the preceding calendar year, or portion thereof. The franchisee will pay to the City, within 15 days after the time for filing such statements, the sum set forth in this section, or unpaid balance, for the calendar year, or portion thereof, covered by such statements.

(c) The City may inspect the franchisee's records showing the gross receipts from which its franchise payments are computed and the right of audit and recalculation of any and all amounts paid. No acceptance of payment shall be construed as a release or as an accord and satisfaction of claims the City may have for further or additional sums.

(d) When holding over after the expiration or other termination of a franchise without the consent of the City, the franchisee shall pay to the City reasonable compensation and damages of not less than 100% of the franchisee's total gross profits during such period.

Sec. 5-3.508. Taxi Rates.

(a) No rate, fee or charge shall be levied or collected for taxi service except in compliance with this section.

(b) The franchisee shall submit proposed rates for taxi service to the Finance Director. The Finance Director shall cause a notice to be published of the proposed rates. The rates are effective 10 days after publication.

(c) The approved rates shall be posted within each taxicab at a location visible to passengers.

(d) The franchisee shall not charge more than the approved rates, but may charge less.

Sec. 5-3.509. Taxicabs.

(a) Each vehicle used for taxi service by the franchisee shall be maintained at all times in a mechanically-safe and clean condition. Each vehicle shall include: an exterior display signifying that it is a franchised taxicab, and an instrument or device by which the charge for use of the vehicle is calculated and registered and upon which such charge is indicated by means of figures visible to the passengers. Each vehicle shall be insured against liability for personal injury in a minimum amount from time-to-time determined by the Police Chief. The franchisee shall cause the City to be named as an added insured on such policy.

(b) Prior to commencement of service, the franchisee shall obtain a certificate from the Chief of Police that each vehicle to be used for taxi service has complied with this section. A certificate shall also be obtained each time the franchisee proposes to substitute or add a new vehicle to provide taxi service.

(c) The Chief of Police shall prepare forms to be used by the franchisee to apply for the certificate. The application form shall provide such information as the Chief of Police deems necessary to determine the vehicle satisfies the requirements of this article.

(d) If, after review of the application and inspection of the vehicle, the Chief finds the application and vehicle comply with the requirements of this article, the Chief shall forward a recommendation to the Council for action.

(e) Each vehicle shall be inspected at least annually, after any accident, and may be inspected more frequently as necessary to assure compliance with this article.

Sec. 5-3.510. Taxicab Drivers.

(a) The franchisee shall not engage any person to operate or drive a vehicle to be used for taxi service unless the driver is duly licensed and qualified to carry passengers. A driver who has been convicted of a crime involving moral turpitude, including, but not limited to, using, possessing, selling or transporting any controlled substance or dangerous drug, or who has been convicted of driving under the influence of alcohol or drugs within 3 years of the application, or who has been convicted of reckless driving within 2 years of the application, shall be presumed not qualified to operate a taxi within the City.

(b) Prior to commencement of service, each driver engaged by the franchisee to drive a vehicle to be used for taxi service shall obtain a certificate from the Chief of Police the driver has complied with this section. The certificate shall also be obtained each time the franchisee proposes to substitute or add a new driver to provide taxi service.

(c) The Chief shall prepare forms to be used to apply for a driver's certificate. The application form shall provide such information as the Chief deems necessary to determine the driver satisfies the requirements of this article.

(d) If, after review of the application and the applicant's driver's record, the Chief determines the application and the driver comply with the requirements of this article, the Chief shall issue a certificate to the driver.

(e) Each driver's certificate shall be reviewed at least annually, after any accident, and more frequently as necessary to assure compliance with this article.

Sec. 5-3.511. Operations.

(a) Every vehicle used for taxi service shall display the following in a place visible from the passenger's compartment: a notice showing the name of the franchisee; the certificate issued by the Chief of Police under this article for the vehicle and for the driver; and the rate schedule approved by the Council.

(b) The driver shall take the most direct route possible that will carry the passenger safely and expeditiously to their destination unless specifically directed otherwise by the passengers.

(c) When a vehicle is engaged, the passengers have the exclusive right to full and free use of the passenger compartment and no additional passengers shall be solicited or carried therein, without the consent of the existing passengers.

(d) Any passenger who refuses to pay the fare upon arrival at the passenger's destination, shall be guilty of an infraction.

Sec. 5-3.512. Taxi Stands.

The franchisee shall secure an encroachment permit from the Director of Public Works before establishing any fixed points of departure within the City. As used herein, a fixed point of departure for taxi service is also known as a “taxi stand.” The City Manager may issue an encroachment permit as to any state highway within the City provided that this Code is first approved in writing by the California Department of Transportation.

CHAPTER 4. PUBLIC AND PRIVATE PROPERTY
ARTICLE 1. SPECIAL EVENTS

Sec. 5-4.101. Purpose.

This chapter regulates the establishment, operation and cleanup of special events.

Sec. 5-4.102. Permits Required.

(a) No person or entity shall operate, maintain, conduct, advertise or provide admission for a special event without a permit issued by the City Manager. As used herein, a "special event" means a carnival, community celebration, off-road vehicle race, outdoor festival, music event, sporting event, fair, animal race, religious festival, revival meeting, block parties, and similar public gatherings with expected attendance of at least 300 persons.

(b) A special event conducted without the required permit(s) is subject to closure at any time during the event. The promoter, business owner or landowner may be subject to cost recovery by the agencies participating in the closure.

(c) When special events have received a land use approval by a federal or state agency, including, but not limited to, the Bureau of Land Management and the U. S. Forest Service and such is properly certified to the City Manager, the City Manager may, limit or waive the provisions of this Article adequately controlled by such federal or state agency.

Sec. 5-4.103. Application.

(a) At least thirty (30) days prior to the scheduled special event, the applicant shall apply for a permit under this article and shall supply such information as the City Manager may reasonably require about the location, intensity and level of services required.

(b) The application shall be accompanied by an application fee in an amount established by the Council by resolution.

Sec. 5-4.104. Application Review.

(a) The City Manager shall review the application and consult with the Police Chief and Fire Chief.

(b) The City Manager shall take into consideration relevant information, including, but not limited to, the following:

(1) The event site(s) and provisions for adequate ingress/egress and adequate parking;

(2) The impact on adjacent properties;

(3) An applicant‟s request to play or broadcast music, especially between the hours of 10:00 p.m. and 7:00 a.m., in view of the proximity to the nearest residence, business or other occupied land use, the topography of the site and surrounding area, and the time limits such music is proposed to be played;

(4) Topographical and ecological considerations;

(5) Electrical illumination requirements;

(6) Inclement weather contingencies;

(7) Water facilities;

(8) Food concessions;

(9) Sanitation facilities;

(10) Medical/first aid facilities;

(11) Overnight camping problems;

(12) Bonding and insurance requirements;

(13) Fire protection, including location of fire hydrants and supplemental water sources;

(14) Communication, including temporary or additional telephones and an adequate public address system;

(15) Adequate office space(s) and communication equipment for all regulatory personnel on site by the permit holder;

(16) Cleanup trash disposal;

(17) Restoration of landscape;

(18) Final accounting procedures, billings and/or reimbursement; and

(19) The recommendation of City Police Department.

(c) The Chief of Police shall provide a written recommendation to the City Manager within ten (10) days of receipt of the application. The Police Chief shall take into consideration relevant information including, but not limited to the following:

(1) The applicant‟s previous relevant experience and background;

(2) Provisions for special access way(s) for emergency vehicles;

(3) Police protection;

(4) Crowd control measures;

(5) Control of alcoholic beverages and dangerous substances;

(6) Emergency evacuation procedures; and

(7) News releases.

The Chief of Police may recommend denial of the application if:

(1) Information contained in the application, or supplemental information requested from the applicant is found to be false in any material detail; or

(2) Another special event permit application has been received prior in time, or has already been approved, to hold another event at the same time and place requested by the applicant, or so close in time and place as to cause undue traffic congestion, or the City Police Department is unable to meet the needs for law enforcement services for both events; or

(3) The time, route or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to great traffic congestion; or

(4) The concentration of persons, animals and vehicles at the site of the event or the assembly and disbanding areas around an event will prevent proper law enforcement, fire, paramedic or ambulance services to areas contiguous to the event; or

(5) The size of the event will require diversion of so great a number of City police personnel to ensure participants stay within the boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the City. Nothing herein authorizes a recommendation to deny a permit because of the need to protect participants from the conduct of others if reasonable permit conditions can be imposed to allow for adequate protection of event participants with the number of law enforcement officers available to police the event; or

(6) The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the City streets, or a previously granted encroachment permit; or

(7) The event shall occur at a time when a school is in session at a route or location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class thereof.

When the grounds for recommending denial of an application for permit specified in subsections (2) through (7) above can be corrected by altering the date, time, duration, route or location of the event, the Chief of Police shall conditionally recommend approval of the application upon the applicant"s acceptance of conditions for permit issuance. The conditions imposed shall provide for only such modification of the applicant"s proposed event as necessary to achieve compliance with subsections (2) through (7) above.

Sec. 5-4.105. Appeals.[38]

The decision made of the City Manager may be appealed to the City Council in accordance with Title 1, Chapter 4.

Sec. 5-4.106. Permits: Conditions.

Every permit issued pursuant to this Article shall include at least the following conditions:

(a) Permit is not transferable;

(b) The permit shall be conspicuously posted upon the premises of the special event in a manner prescribed by the City Manager;

(c) If the Chief of Police determines the event will endanger the public peace, welfare, health or safety unless the applicant obtains extra police protection, extra police protection shall be a condition for the issuance of a permit and shall be at applicant"s expense;

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38 Amended by Ord. No. 07-656 on Dec. 4, 2007.

(d) The permit shall expire on a date certain.

(e) Liability insurance naming the City, its officers, employees, agents, employees and volunteers as additional named insureds in amounts sufficient to protect, defend and indemnify the City, its officers, employees, agents, servants and volunteers from losses, claims, liability, injury and damage arising out of, or connected to, the special event.

(f) A permit fee shall be paid in an amount established by the Council. A bond, posted prior to the event, to ensure conditions are met, including cleanup and restoration of landscape.

Sec. 5-4.107. Permit: Grounds for Suspension or Revocation.

(a) The City Manager may suspend a permit issued pursuant to this Article based upon reasonable causes, which may include the following:

(1) Nonpayment of permit fees;
(2) Violation of permit conditions;
(3) Violation of law;
(4) Disorderly conduct or use of dangerous substances occasioned by the operation of the special event; or
(5) Information contained in the application, or supplemental information requested from the applicant is found to be false in any material detail.
(6) Transferring permit to any other person, organization, place, date and time.

(b) The Police Chief may summarily suspend a special event permit if the operation of the event constitutes an immediate public health or safety hazard. At the time of suspension, the Chief of Police shall issue a written notice to the permit holder (with a copy to the City Manager) stating the grounds for the suspension and notifying the permit holder of the right to a hearing on the suspension. The City Manager shall render a decision at the conclusion of the hearing. The City Manger may continue the suspension in effect until the grounds for suspension no longer exist.

(c) The City Manager shall commence revocation proceedings by mailing a notice not less than ten (10) days prior to the date set for hearing, informing the permit holder of the causes for revocation, and the time and place at which the revocation matter will be heard. If the revocation notice is given on or within twenty-five (25) days of the start date of the event, the City Manager shall take reasonable steps to expedite the hearing process. The City Manager shall render a decision at the conclusion of the hearing. If an urgent situation exists relative to the public health, safety or welfare for a specific event, the revocation may be effective immediately.

ARTICLE 2. PARTIES AND UNRULY GATHERINGS

Sec. 5-4.201. Purpose.

Parties or gatherings at private residences within the City may, on occasion, disturb the public peace, safety and welfare and require law enforcement services over and above those normally provided. The City shall require those persons utilizing or requiring law enforcement services beyond those provided to the public-at-large to defray the City"s expense for providing the service.

Sec. 5-4.202. No Admission Charge.

No person shall charge admission to a party in any residential zone. As used herein, "charge admission" means the demand and receipt of a tangible benefit, monetary or otherwise, which is a motivating influence for admission to a party. Non-commercial activity, such as gifts by guests, sharing of expenses for food and beverages, or reciprocal hospitality shall not be considered to be an admission charge. "Charge admission" does not include a donation for religious, charitable, civic, or political purposes. As used herein, "party" means five (5) or more persons meeting together for social, recreational or amusement purposes.

Sec. 5-4.203. Cost Reimbursement for Police Services.

(a) The person or persons responsible for an unruly party or gathering or on whose property the unruly party or gathering is held, or if such person is a minor, then the parents or legal guardians of the minor, shall be jointly and severally liable for the following costs attributable to the event.

(b) The actual cost of law enforcement services beyond the initial response by the officer necessary to abate the conditions. The Police Department shall accurately compute the cost of providing such services and advise the City Manager of such costs, as well as any other costs of damage to public property or injuries to personnel resulting from the law enforcement response. The person responsible for the event shall be billed for these costs by the City Manager upon notice of the charges from the City Police Department and payment shall be due and payable within fifteen (15) days of the billing date. Should the amount due not be paid, the City may collect the debt, as well as any costs incurred in collecting the debt due to nonpayment, pursuant to any available provision of law. (Chapter 4, Articles 1 and 2 adopted by Ord. 03-605 on 2/4/03.)

CHAPTER 5. DAYTIME CURFEW[39]

Sec. 5-5.101. Daytime Curfew.

(a) No juvenile subject to compulsory education or compulsory continuation education shall be in or upon a public street, alley, park, playground, public ground, public place, public building, place of amusement, any establishment or vacant lot during the hours of 8:30 a.m. to 1:30 p.m. on days when the juvenile's school is in session.

(b) This provision shall not apply to a juvenile who is:

(1) Accompanied by a parent or guardian;

(2) On an emergency errand directed by a parent or guardian;

(3) Going or coming directly to or from a place of gainful employment or to or from a medical employment;

(4) Who has permission to leave the school campus for lunch or other school related activity and has in possession a valid proof of permission is such proof of permission is required;

(5) If exempted from compulsory education or compulsory continuation education from private or public school;

(6) Authorized to be absent from school pursuant to Education Code Sections 48205, 48222, or 48224, or other applicable state or federal law authorizing private schooling or private schooling at home;

(7) Exercising First Amendment rights protected by the United States Constitution; or

(8) Emancipated pursuant to law.

Sec. 5-5.102. Parental Responsibility.

The parent or guardian of a juvenile shall not knowingly permit or exercise sufficient control to prevent the juvenile from violating this Article.

Sec. 5-5.103. Enforcement.

(a) A peace officer may issue a citation to the juvenile, parent or guardian found to be in violation of this Article and may detain a juvenile until the juvenile can be replaced the care and custody of a parent or guardian.

(b) Violation of this Article is punishable as a misdemeanor or by requiring the juvenile, parent or guardian to perform city or school approved work projects or community service not to exceed twenty hours over a period of sixty days in times other than the juvenile's hours of school attendance or the parent's or juvenile's hours of employment.

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39 Chapter 5 added by Ord. No. 10-693 on Dec 21, 2010.

(c) The police department may file the first violation of this Article as an infraction.

(d) Welfare and Institutions Code section 625.5 applies to this Article. A fee for the actual cost of administration and transportation services shall be paid by the juvenile, parent or guardian.

TITLE 6. SANITATION AND HEALTH

CHAPTER 1. ANIMALS
ARTICLE 1. REQUIREMENTS

Sec. 6-1.101. Scope.

This chapter deals with the care and control of animals.

Sec. 6-1.102. Definitions.

The following terms are defined for the purposes of this chapter:
"Dog" is a domesticated animal of the *canine* species.
"Cat" is a domesticated animal of the *feline* species.
"Owner" is a person who owns or has custody of an animal.
"Puppy" is a dog under the age of four months.
"Stray dog" is a dog found in the City without a license tag.

Sec. 6-1.103. Requirements.

(a) Dog owners shall:
(1) Obtain a license from the City;
(2) Restrain the animal with a leash not more than ten feet in length when the animal is not within an enclosed yard; and
(3) Vaccinate the animal.

(b) Animal owners shall:
(1) If the animal is confined, maintain the place of confinement in a clean and sanitary condition;
(2) Refrain from selling, bartering or giving away the animal from public property; and
(3) Refrain from depositing dead animals on public property.

(c) All persons shall:
(1) Report the whereabouts of animals suspected of having rabies and the whereabouts of animals in contact with animals suspected of having rabies.
(2) Report the whereabouts of animals which have bitten another animal or human.

Sec. 6-1.104. Exemptions.

(a) A puppy need not be licensed or vaccinated.

(b) A dog specially trained to aid and guide the movements of a sight-impaired person need not be restrained by a leash.

Sec. 6-1.105. Rabid Animals.

(a) Any person having knowledge of the whereabouts of an animal known to have or suspected of having rabies or of an animal of a species subject to rabies which has been in intimate contact with a rabid or suspected rabid animal, shall report the facts immediately to the Animal Control Officer who shall notify the local health officer.

(b) Any animal which has bitten a person or has otherwise exposed a person to possible contact with rabies shall be dealt with by the Animal Control Officer in the same manner as the local health officer is authorized to act by the California Code of Regulations.

Sec. 6-1.106. Reporting of Animal Bites.

A person having knowledge of the biting of a person or another animal by a rabid or suspected rabid animal shall immediately report the facts to the Animal Control Officer who shall notify the local health officer.

Sec. 6-1.107. Reporting of Suspected Rabid Animals.

Any person having knowledge of the whereabouts of an animal known to have or suspected of having rabies or of an animal of a species subject to rabies which has been in intimate contact with a rabid or suspected rabid animal, shall report the facts immediately to the Animal Control Officer who shall notify the local health officer.

Sec. 6-1.108. Reports.

(a) During such period of time as the City is within an area declared to be rabies areas by the State Department of Health, any person having knowledge of the biting of a person by an animal subject to rabies, shall immediately report the facts to the Animal Control Officer who shall notify the local health officer, and the biting animal shall be isolated in accordance with California Code of Regulations.

(b) In determining whether or not a dog is vicious, the Animal Control Officer shall be guided by the following:

(1) Whether or not the dog has bitten any person at any time other than the occasion which gives rise to the original classification as vicious;

(2) Circumstances surrounding the occasion indicating the temper or ferocity of the dog;

(3) The reputation of the dog in the community in regard to its temper and ferocity; and

(4) Its general menace to the public.

(c) The provisions of this section shall be operative even though the dog in question has been vaccinated and licensed as required by this Chapter.

Sec. 6-1.109. Animal Cages.

It shall be unlawful for any person, firm or corporation owning, possessing or controlling any dog, cat, fowl, reptile, pet or any animal of any kind to permit the pen, cage, yard or other facilities in which such animal is kept and maintained to accumulate dropping, food, garbage, refuse or any other matter so as to cause flies, odors or other noxious, or unsanitary conditions to exist, or to allow any pen, cage, yard or other facilities in which such animal is kept to be maintained in any condition which is dangerous to the health or safety of any person.

Sec. 6-1.110. Sale of Animals.

Except as permitted herein, it shall be unlawful for any person to display, sell, offer for sale, barter or give away, upon any street, sidewalk, or other public place in the City, as pets or novelties, any cat, dog, fish, fowl, reptile, rodent, or other live animal. The display, advertising for sale, or sale of such live animals legally for sale in or at licensed pet shops, kennels, aviaries, fish hatcheries or for sale at ranches or stables is permitted.

Sec. 6-1.111. Dead Animals: Place in Public Places.

It shall be unlawful for any owner or person, having had the possession or control of any animal while alive, to place the body of such animal after its death, or cause or permit it to be placed, or to knowingly allow or permit the dead animal to remain in or upon any public street, alley, sidewalk, lane, or other public place. The Animal Control Officer shall order the owner or person who had the possession or control of such animal while alive to bury or destroy the dead animal placed on public streets, alleys, sidewalks, or other public places within the City.

ARTICLE 2. LICENSES

Sec. 6-1.201. Scope.

This Article describes the requirements for animal licenses.

Sec. 6-1.202. Licenses and Fees.

Every person owning or maintaining any dog in the City, except dogs under the age of 4 months shall obtain a license and pay to the license collector an annual license fee established by the City Council by resolution. The City Clerk is designated as the license collector.

Sec. 6-1.203. Exemptions.

Notwithstanding any other provision of this chapter, no license fee shall be required for a seeing eye dog owned by, or in the possession of, a person with impaired vision or canine use for police patrol.

Sec. 6-1.204. Delinquent: Penalties.

A penalty fee established by the Council by resolution is authorized if the license for a dog is not obtained within thirty (30) calendar days after the due date for the purchase of such license.

Sec. 6-1.205. Due Dates.

The license fee shall be due and payable on July 1 of each year, or as soon thereafter as a dog subject thereto is brought into the City, or whenever a dog exempted by reason of being less than 4 months of age reaches the age of 4 months. The license fee shall be charged against, and be payable by, the owner or the person having the care, custody, and control of such dog or who has in possession or harbors such dog.

Sec. 6-1.206. Tags.

Upon the exhibition of the proper certificate of vaccination or the proper certificate or exemption from vaccination and the payment of the license fee, there shall be delivered to the person making such payment, a metal tag, with the number and year stamped or cut thereon, which dog tag shall be securely fastened to a collar or harness which shall be worn at all times by the dog for which the tag was issued. If the dog is exempted from vaccination as provided in this article, the dog tag shall have a distinguishing mark as evidence of such fact. The dog tag while attached to the dog‟s collar or harness shall be prima facie evidence that the dog for which the tag was issued has been licensed during the fiscal year for which such tag was issued and has vaccinated or is exempt from the requirement of vaccination.

Sec. 6-1.207. Tags: Duplicates: Fees.

Whenever a dog tag issued for the current fiscal year has been lost, taken, or stolen by persons unknown to the owner or person having the care, custody, or control of the dog for which the dog tag was issued, such owner or person having such care, custody, or control of such dog, upon the payment of the fee established by the Council by resolution and the exhibition of the certificate of vaccination or exemption from vaccination of such dog, and on making and subscribing to an affidavit of such loss of such tag, may receive from the License Collector a duplicate tag for the remaining portion of the fiscal year for which the original dog tag was issued.

Sec. 6-1.208. Vaccinations: Required.

It shall be unlawful for a person owning, harboring, or having the care, custody, or possession of any dog to keep or maintain such dog in the City unless such dog has been vaccinated as provided in this article. Except dogs under the age of 4 months fastened securely by chain, rope, or leash or confined within the private property of their owners, and except dogs exempted from the requirements of vaccination by reason of the likelihood of serious injury as set forth in this article.

Sec. 6-1.209. Vaccinations: Prerequisite to Issuance.

The License Collector shall not license a dog until the owner presents an official vaccination certificate attesting to adequate rabies immunization, as determined by the State Department of Health for the entire licensing period, or certificate from a licensed veterinarian issued within the preceding sixty (60) days stating that in his opinion the rabies vaccine would be likely to seriously injure the dog. A dog so excepted from rabies vaccination shall be restricted to the enclosed yard of the owner or person in possession of the dog except when such dog is held upon a chain, rope or leash.

Sec. 6-1.210. Vaccinations: Performance: Certificates.

The vaccination required by this article shall be performed by a duly qualified and licensed physician or veterinarian, referred to in this article as the "vaccinator." The vaccinator shall issue a certificate of vaccination to the owner or person in possession of such dog.

ARTICLE 3. ANIMAL CONTROL OFFICER

Sec. 6-1.301. Scope.

This Article describes the power and duties of the Animal Control Officer.

Sec. 6-1.302. Impoundment.

(a) The Animal Control Officer shall impound an animal not in the immediate control of its possessor, owner, or agent, or otherwise in violation of this article or other law or ordinance.

(b) If a dog is found in the City without a license tag attached to its collar or harness, as provided in this Chapter or if such dog has a current license tag but is not controlled as required by this Chapter, such dog shall be deemed a "stray dog." The Animal Control Officer or other authorized officer shall capture and confine stray dogs.

Sec. 6-1.303.40 **Custody.**

(a) Any officer or other person capturing or holding an unlicensed dog or a cat shall make reasonable efforts to locate and notify the owner that the dog or cat is being held at the pound and may be reclaimed within three days from the date of seizure, not counting the day picked up or weekends or holidays.

(b) The Animal Control Officer shall:

(1) Provide sustenance for animals in custody and shall not alter, nor permit to be altered, a mark or brand thereon and shall not permit cruel treatment;

(2) Charge and collect fees established by the council by resolution from persons redeeming impounded animals; and

(3) Keep a true and faithful record of the number and description of all animals taken into his custody, with the date of their impounding and the date and manner of their disposition.

(c) If an animal, except a dog, is impounded because of age, disease, or other infirmity, and is unfit or dangerous to be kept impounded, the Animal Control Officer may destroy such animal within 24 hours thereafter.

(d) A dog impounded which has no tag or other proof of current rabies immunization shall be separately confined in a safe place.

(e) If the Animal Control Officer determines, after giving the owner a notice of quarantine, a dog is a vicious dog, although not afflicted with rabies, the Animal Control Officer shall order the person who owns or has the custody of such dog to keep the dog securely fastened by chain or securely confined within the private property of such owner or person having the custody of such dog, or to keep the dog in such manner as the Animal Control Officer shall direct, to prevent it from biting, or having the opportunity of biting, any person, including persons lawfully on the premises where the dog is so fastened or contained, until further order of the Animal Control Officer.

(f) An animal which has bitten a person or has otherwise exposed a person to possible contact with rabies shall be dealt with by the Animal Control Officer in the same manner as the local health officer is authorized to act by the California Administrative Code.

40 Amended by Ord. No. 11-698 on Feb. 15, 2011.

Sec. 6-1.304. Disposition.

(a) The owner or person entitled to control of a impounded animal, except a dog, may at any time before the sale or other disposition of such animal, redeem the animal by paying to the City all redemption fees.

(b) Animals, other than dogs, cats, and animals afflicted with rabies, taken into custody by the Animal control Officer, if not reclaimed within 24 hours thereafter, may be sold by the Animal Control Officer after giving at least 3 days" notice of such sale. The notice shall describe the animal, shall state the time and place of the sale, and shall be posted on the bulletin board outside the City Hall and at the entrance to the pound. A copy of such notice shall be mailed at least 3 days in advance of the sale to the owner or person formerly in possession or control of such animal at his residence or place of business, if known to the Animal Control Officer.

(c) At the time advertised in the notice of the sale, as provided for in this Chapter, the Animal Control Officer shall sell all animals so advertised at public auction to the highest bidder for cash. If no bid is offered for the animals, the Animal Control Officer shall dispose of them by private sale, by gift to a petting zoo, or by destroying them.

(d) The proceeds of the sale provided for in this Chapter, after first deducting the fees and charges of the Animal Control Officer, including the costs of sale, shall be paid by the Animal Control Officer to the City Treasurer, who shall turn the proceeds over to the owners of such animals sold upon a warrant ordered by the Council if claimed within six months thereafter. If not so claimed, the proceeds shall be transferred by the City Treasurer to the General Fund of the City.

(e) If the owner does not claim the impounded dog within six days after its seizure, and if the City continues to hold possession of the dog, the City may deliver it to any other person desiring the dog upon the payment of the fees established by the Council by resolution, or the City may otherwise dispose of or destroy the dog in a humane manner.

(f) The Animal control Officer may on the request of owner or possessor of a dead animal which was kept or maintained in the City immediately prior to its death, forthwith bury or destroy the dead animal, or cause the dead animal to be buried or destroyed, for which service the Animal Control Officer shall charge and collect a fee. This section shall have no application to animals used for the purpose of making a test or performing any experiment in a doctor"s or dentist"s office, hospital, laboratory, of any similar office, institution, organization, or place.

(g) If the owner or person who had the possession or control of the animal

while alive fails to bury or destroy the dead animal after being ordered by the Animal Control Officer, the Animal Control Officer may employ a person to bury or destroy dead animals and shall collect fee from the owners or persons formerly having had the possession or control of such animals. If the owners or persons having had the possession or control of the animals are unknown, the Animal Control Officer may employ a person to remove the dead animals at a cost not in excess of the charges established by the City.

(h) If a rabid animal, clinically suspected rabid animal, or an animal which has bitten a person, dies or had been killed, the Animal Control Officer shall take possession of and preserve the remains for disposition pursuant to California Code of Regulations.

(i) After the expiration of the redemption period, the Animal Control Officer may release impounded, but otherwise abandoned animals to person of good character who show willingness to properly care for the animal.

(j) Animals are released without warranties or guaranties. If, within five (5) days of adoption, an animal becomes sick, it may be returned to the Animal Shelter with a written notice by a certified veterinarian the animal is unfit for adoption. An exchange animal shall be provided within a 30-day period. No refunds will be given. The Animal Control Officer may extend the exchange period.

(k) The Animal Control Officer or designee shall not release an impounded dog, cat, or Vietnamese pot-bellied pig unless the certificate issued by a licensed veterinarian shows the animal has been spayed or neutered or a spay/neuter deposit has been collected in the amount from time-to-time established by the Council by resolution. Deposits collected by the Animal Control Officer shall be kept in a separate account for spay/neuter refunds. The deposit shall be paid to the licensed veterinarian on proof the required spay/neuter operation has been timely performed. A dog, cat or Vietnamese pot-bellied pig up to six (6) months of age upon release shall be spayed or neutered within sixty (60) days or the deposit shall be deemed unclaimed. A dog, cat, or Vietnamese pot-bellied pig under six (6) months of age at the time of release shall be spayed or neutered within six (6) months or the deposit shall be deemed unclaimed. Age determination shall be made by the Animal Control Officer or licensed veterinarian.

Sec. 6-1.305. <u>Acts by Deputies: Authorization</u>.

The License Collector may deputize without compensation the Animal Control Officer, or any duly qualified and licensed veterinarian to license any dog, collect the license fee established by the Council by resolution, and issue to the person paying such fee the dog tag provided for in this Chapter at the same time such dog is vaccinated with canine rabies vaccine and the certificate of vaccinated is issued or at the same time such dog is given a certificate of exemption from such vaccination. Any person so authorized by the License Collector to perform such duties shall account to

the License Collector not less than once each month for all dogs so licensed and license fees collected.

Sec. 6-1.306. Canine Patrol.

(a) Peace officers, who are trained as handlers, may be accompanied by trained canines in the performance of police or fire business.

(b) No person shall injure, annoy or harass a canine which is accompanying a peace officer who is on police or fire business.

CHAPTER 2. WASTE MANAGEMENT [41]

Sec. 6-2.101. Definitions.

The following terms are defined for the purposes of this Chapter:

(a) "Authorized private receptacle" means a waste storage and collection receptacle approved by the City.

(b) "Garbage" means and includes kitchen and table refuse, offal, swill and other accumulations of animal, fruit or vegetable matter which attend or result from the dealing in, preparation, use, consumption, decay, growing, handling, or storage of meat, fish, fowl, fruits, or vegetables.

(c) "Litter" means garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as hereinafter prohibited tends to create a danger to the public health, safety and welfare.

(d) "Park" means a park, reservation, playground, recreation center or other public area in the City owned or used by the City and devoted to active or passive recreation.

(e) "Private Premise" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yards, grounds, walks, driveways, porches, steps, vestibules, or mailboxes belonging to such dwelling, house, building or other structure.

(f) "Public Place" means streets, sidewalks, boulevards, alleys or other public ways, public parks, squares, spaces, grounds and buildings and the portions of private premises held open to the public.

(g) "Refuse" is solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, abandoned automobiles, and solid market and industrial wastes.

(h) "Residential Establishment" means and includes every private premise. Residential establishments shall not include hotels, motels, lodge house, clubs, tourist camps, trailer camps, churches, business, and industrial establishments or lodge containing more than one dwelling unit or upon which any commercial or industrial occupation is conducted.

(i) "Rubbish" means and includes trimmings from lawns, trees, plants, or flower gardens and boxes, wood, paper, straw, packing materials, leaves, stones, leather, rubber, clothing, carpets, bedding, feathers, bottles, glass, crockery, brick, ashes, small cans, wires, metals and similar materials.

(j) "Sharps" means any needles, syringes and lancets used for application, removal, or testing needed for medication, fluid sampling, or any other application.

(k) "Storage" means the placing or maintaining of garbage, rubbish, refuse, or litter in containers of any type for any period of time, but shall not include the temporary accumulation of refuse during the period of time an owner or occupant of property is actually engaged in cutting

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41 Amended by Ord. No. 07-655 on Nov. 11, 2007.

trees or shrubbery trimming, or clearing property of refuse or rubbish.

(l) "Waste" means garbage, litter, refuse, and rubbish.

Sec. 6-2.102. Accumulation of Waste.

(a) No person shall throw or deposit waste in or upon a public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon a public place.

(b) It shall be the duty of every person in possession, charge, or control of any property within the City to keep such property in a sanitary condition. For the purposes of this section, sanitary condition means all parts of such property are free and clean of any accumulation of combustible or non-combustible garbage.

(c) Except as otherwise provided in this Chapter, it shall be unlawful for any person to deposit, keep or accumulate or permit or cause to be deposited or to remain on any property in the City, any waste.

(d) It is unlawful for any person to place, deposit, or dump or cause to be placed, deposited, or dumped upon private property without the permission of the property owner.

(e) No person shall sweep into or deposit in a public place within the City, the accumulation of waste from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalks and twelve feet of the public place in front of their premises or business free of waste.

(f) If a person within the City has not complied with an order of the Code Enforcement Officer, or their designated representative, to remove accumulation of waste deemed by the Code Enforcement Officer, or designee to be unsanitary, unsafe, unsightly, or an existing emergency which will make such accumulation dangerous to the public health to delay its removal, the Code Enforcement Officer, or their designated representative, may enter at any time upon the premises and remove, or cause to be removed, the offensive accumulation, and the person responsible for such accumulation shall be liable to the City for the costs thereof, together with any expenses of collection, in addition to other penalties provided for violations of this Chapter.

Sec. 6-2.103. Burying and Burning.

The placement or burial of waste in a hole or excavation or burning of waste within the City is prohibited and is a misdemeanor.

Sec. 6-2.104. Hazardous and Biohazard Waste

The placement of hazardous or biohazard waste, material, fluids, equipment, retainers, or medical sharps in a residential or commercial container covered by this chapter is prohibited and is a misdemeanor.

Sec. 6-2.105. Storage.

No person shall store waste in any boxes, bags, barrels, or containers of any type within a public place or between any front lot line and the main building on a residential or commercial lot, or within that portion of the street side of a corner lot equal to the depth of the required street side yard.

This Section shall not preclude the storage of waste in a covered bin or container of a commercial establishment, with a capacity not less than three (3) cubic yards, in front of a main building if such bin or container is within a solid wall enclosure lawfully erected and maintained in such a manner to allow access to the bin or container for collection of waste by a franchised hauler.

This Section shall not preclude the storage of waste from renovations of residential or commercial buildings or major landscaping work in temporary use covered containers of not less then three (3) cubic yards, and such container may be placed in view from a public place if such placement is for the convenience of the collection by the City or franchised hauler and is not in violation of any other municipal Code, and any such temporary use shall be limited to the reasonable time needed to complete such renovations or work not to exceed six months.

This Section shall not preclude the storage of waste in a covered container for collection and removal by the City or franchised hauler.

This Section shall not preclude a person, whose waste is collected or removed by the City or franchised hauler, from placing or maintaining a waste container in the manner set forth in this chapter within the public place in front of the premises from which such waste emanated; provided, however, no such waste container shall be placed within any public place earlier than 6:00 a.m. on the day preceding the day for the collection of waste, nor be allowed to remain within the public place later than 6:00 a.m. on the day following such collection.

Sec. 6-2.106. Receptacles: Bailing: Bundling.

Every person in possession, charge, or control of a residential establishment, boardinghouse, restaurant, hotel, motel, apartment, eating house, lodge hall, club, tourist camp, trailer camp, church, business, or industrial establishment, or lot containing more than one dwelling unit or upon which any commercial or industrial occupation is conducted within the City shall provide, or cause to be provided, portable receptacles as determined by the city to contain the amount of waste ordinarily accumulating at such place during the intervals between collections. Such receptacle shall be designated by the City. The containers shall be filled no more than level full and shall have the lids of such portable receptacles kept closed or shall be kept covered if a lid is not available, except when depositing waste, to prevent the loss of any waste material.

Sec. 6-2.107. Receptacles: Placement for Collection.

(a) Receptacles shall be placed, as required by the franchised hauler, within five (5) feet of the public place on collection days and shall be readily accessible for collection.

(b) Notwithstanding the provisions of this Chapter, persons storing waste in containers may request the franchised hauler to enter upon their residential establishment to collect such containers.

(c) Waste shall be enclosed in closable retainers in such a manner so that no portion of the waste shall leak or spill out during the period of storage, prior to, or during its collection.

Sec. 6-2.108. Collection: General.

Collection of waste from single or multi-family residential and commercial properties is a municipal function. The City, or its designee, shall collect waste pursuant to uniform rules and regulations adopted from time-to-time by resolution. Collection of trash from other properties shall be pursuant to franchise.

Sec. 6-2.109. Collection: Limitations.

(a) Except as otherwise provided in this chapter, it shall be unlawful for a person to move or convey, or cause or permit to be moved or conveyed, any waste upon or along any public place, or other public thoroughfare in the City without a franchise issued by the City.

(b) This Section shall not apply to a person who is employed by the City and who shall be assigned by the City Manager to the work of gathering or collecting waste, or to a franchised hauler with whom the City is contracting for the collection and removal of waste from residential, commercial, or other establishments in the City, or to an employee of such franchised hauler during the time such contract/franchise shall be enforced.

(c) This Section shall not apply to City designated cleanup day(s), or City beautification activities.

(d) This Section shall not apply to property owners, renters, or property managers collecting, removing, or conveying items too cumbersome or large for ordinary and customary collection, i.e., furniture, appliances, tree trimmings, etc., from the property they own, rent, or manage for the purpose of lawful disposal.

(e) This section shall not apply to Contractor/Builder construction sites complying with policies established by the City.

(f) This section shall not apply to any properly licensed and permitted landscaping service, handyman service, or yard cleanup service business or individuals providing assistance to senior or incapacitated citizens. Businesses and individuals providing such service shall show proof of lawful disposition of any waste collected and disposed of under this exception.

Sec. 6-2.110. Collection: Applications.

(a) Every person who owns, and every person who occupies, any developed real property within the city, whether residential or otherwise shall make an agreement for waste collection with the City or franchised hauler.

(b) Every person requiring collection service pursuant to this Chapter shall apply for such service and shall agree the City shall be held harmless for any loss occasioned by such entry upon such property. Applications for service pursuant to the provisions of this Chapter shall be in the form provided by the City Clerk or designated representative.

Sec. 6-2.111. Collection: Frequency.

The person with whom the City is contracting for the collection and removal of waste from properties within the City or, in the absence of such a contract, the City and its agents and employees, shall at such time as the Council may from time to time establish by resolution, collect waste located at or resulting from the lawful use of such property within the City. Collection days shall be Monday through Friday of each week, unless otherwise determined by the Council, whereupon notice in writing specifying the days of collection shall be given by the City to all persons within the City of whom the disposal service is rendered.

The City Manager or designee may authorize the collection of waste at times or from places otherwise prohibited by this chapter if, in his opinion, such collection is necessary for the protection of the property or health of the general public.

Sec. 6-2.112. Collection: Charges.

(a) The charges for the collection of ordinary and customary waste within the City by the City or franchised hauler shall be established by the Council by resolution.

(b) The rates established by the Council by resolution shall apply only to the collection, at the regular intervals set forth in this Chapter, normally resulting from the lawful use of residential and business establishments, and shall not apply to unusual or seasonal accumulations of waste, nor to waste created at or resulting from the use of purposes other than such residential and business establishments.

(c) Each person establishing an account for waste collection shall be liable for payment of fees established by the Council by resolution. The City may lien the property of the customer for due and uncollected fees.

(d) Business, commercial, industrial, and multiple-dwelling rates shall be established by the Council by resolution. Additional containers shall be billed at the rate established by the Council by resolution.

(e) The City Manager or designee or the franchised hauler, by agreement, may impose restrictions upon the amount of waste collected from any single property or establishment per week.

(f) The picking up and hauling of unusual or excess accumulations of waste shall be as determined by the City or franchised hauler at the rate established by the Council by resolution for handling and hauling such waste.

(g) This Section shall not preclude the charging and collection of a different rate for supplying rubbish bins and the collection of waste from any business, commercial, or industrial property not otherwise determined by this chapter.

Sec. 6-2.113. Collection: Complaints: Adjustments.

The City Manager or designee shall adjust any rate complaint between the person receiving disposal service and the City‟s franchised hauler, any, and either aggrieved party thereupon may appeal in accordance with Title 1, Chapter 4.

Sec. 6-2.114. Enforcement.

The Code Enforcement Officer shall be responsible for the enforcement of this Chapter.

Sec. 6-2-115. Compliance.

Owners of improved residential or commercial property shall place waste in a closeable retainer so as to preclude the loss of contents if the receptacles supplied by the City or the franchised hauler should open or be knocked over. The property owner or occupant shall make reasonable effort to maintain the receptacle in a serviceable condition, ensure lids are closeable and contact the City or franchised hauler if repair or replacement is required and ensure the area where such receptacle is collected by the City or franchised hauler is clear of loose or any collection of other waste not retained in the receptacle before, during, and after the receptacle is emptied.

CHAPTER 3. HEALTH & SANITATION CODE

Sec. 6-3.101. Adoption of County Health & Sanitation Code.

Part 3 of the Ordinance Code of the County, being the Health and Sanitation Code of the County, as amended, three (3) copies of which are on file in the Office of the City Clerk for public record and inspection, is adopted by reference and made a part of this Chapter as though set forth in this Chapter in full, subject however, to the amendments, additions, and deletions set forth in this Chapter, and the Code shall be known as the Health and Sanitation Code of the City.

CHAPTER 4. PRIVATE WATER SYSTEMS

Sec. 6-4.101. Scope.

This chapter governs the construction, operation and maintenance of private water systems.

Sec. 6-4.102.[42] Definitions.

The following terms are defined for the purposes of this chapter:

"Private water system" means wells, pipelines, reservoirs, pumps and other devices used to transport water.

"Abandonment" means the cessation of use of all or parts of a private water system for a period of 30 days or more.

Sec. 6-4.103.[43] General Rule.

(a) A person shall not construct, operate or maintain a private water system without first securing a permit as required by this chapter.

(b) No person shall extract water from the Fremont Valley Groundwater Basin without a permit from the City Engineer as set forth in this chapter.

(c) The City Engineer may grant a permit for a private water system or a private well if:

(1) The City cannot serve the applicant"s property from the public water system;

(2) The property will be connected to the public water system when a pipeline of appropriate size is available to deliver water to the property from the public water system; and

(3) Water pumped from the basin is used on lands of the applicant overlying the basin.

Sec. 6-4.104. Construction Permits.

(a) A construction permit is required for the construction of any part of a private water system. The permit will be issued by the public works director if the owner of the system: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be constructed in accordance with criteria established by the city; (4) obtains the director"s approval of the plans and (5) constructs the system in accordance with the approved plans.

(b) The council shall approve the criteria for the construction of private water systems upon the recommendation of the Public Works Director. The criteria shall include protection from cross-connections.

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42 Amended by Ord. No. 09-677 on June 16, 2009.
43 Amended by Ord. No. 09-677 on June 16, 2009.

Sec. 6-4.105. Operations Permit.

(a) An operations permit is required before any part of a private water system is operated or maintained. The permit will be issued by the Director of Public Works if the owner of the system: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be operated in accordance with criteria established by the city; (4) obtains the director"s approval of the plans; and (5) operates the system in accordance with the approved plans.

(b) The council shall approve the criteria for the operation of private water systems upon the recommendation of the Public Works Director. The criteria shall include protection from cross-connections.

Sec. 6-4.106. Revocation of Permits.

(a) A construction or operations permit may be revoked if the permit holder fails to comply with this chapter or fails to satisfy permit conditions. Except when public health or safety is threatened, the Director of Public Works shall give the permit holder at least 10 days prior written notice of intent to revoke the permit. The notice shall state the reasons for the revocation and invite the permit owner to answer the allegations. If public health or safety is threatened, the Director"s notice shall be by the best practical means in light of the threat.

(b) The permit holder may contest the Director"s decision by filing a written appeal with the City Clerk within 10 days of receipt of the director"s notice. The appeal shall state the permit holder"s rebuttal to the Director"s allegations.

(c) The City Council shall conduct a public hearing to consider the appeal of the permit holder at the next regular meeting held not sooner than 5 days nor more than 15 days after the appeal is filed with the City Clerk. The council shall consider all relevant evidence. The decision of the council is final.

Sec. 6-4.107. Abandonment of Systems.

(a) A permit shall be obtained before any part of a private water system is abandoned. The permit will be issued by the Director of Public Works if the permit holder: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be abandoned in accordance with criteria established by the city; (4) obtains the director"s approval of the plans; and (5) the system is abandoned in accordance with the approved plans.

(b) The council shall approve the criteria for the abandonment of all or part of a private water system upon the recommendation of the Public Works Director. The criteria shall include protection from cross-connections.

CHAPTER 5. PRIVATE SANITATION SYSTEMS

Sec. 6-5.101. Scope.

This chapter governs the construction, operation and maintenance of private sanitation systems. This chapter supplements and does not replace provisions of state law dealing with private sanitation systems.

Sec. 6-5.102. Definitions.

The following terms are defined for the purposes of this chapter:

"Private sanitation system" means wells, pipelines, reservoirs, pumps and other devices used to transport sewage or waste water.

"Abandonment" means the cessation of use of all or parts of a private water system for a period of 30 days or more.

"Sanitation Code" means Part 3 of the Ordinance Code of the County, being the Health and Sanitation Code of the County, as amended, three copies of which are on file in the Office of the City Clerk for public record and inspection.

Sec. 6-5.103.[44] General Rule.

(a) A person shall not construct, operate or maintain a private water sanitation system without first securing a permit as required by this chapter.

(b) The permit shall not allow a private sewage disposal system to service property within Building Code Occupancy Groups Assembly (A), except A2, Educational (E), Institutional (I), or multi-family residential (R) without the consent of the Regional Water Quality Control Board.

Sec. 6-5.104. Construction Permits.

(a) A construction permit is required for the construction of any part of a private sanitation system. The permit will be issued by the public works director if the owner of the system: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be constructed in accordance with criteria established by the city; (4) obtains the director's approval of the plans; and (5) constructs the system in accordance with the approved plans.

(b) The council shall approve the criteria for the construction of private sanitation systems upon the recommendation of the Public Works Director. The criteria shall include compliance with the Sanitation Code.

Sec. 6-5.105. Operations Permit.

(a) An operations permit is required before any part of a private water system is operated or maintained. The permit will be issued by the Director of Public Works if the owner

44 Amended by Ordinance No. 09-675 on May 19, 2009.

of the system: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be operated in accordance with criteria established by the city; (4) obtains the director's approval of the plans; and (5) operates the system in accordance with the approved plans.

(b) The council shall approve the criteria for the operation of private sanitation systems upon the recommendation of the Public Works Director. The criteria shall include compliance with the Sanitation Code.

Sec. 6-5.106. Revocation of Permits.

(a) A construction or operations permit may be revoked if the permit holder fails to comply with this chapter or fails to satisfy permit conditions. Except when public health or safety is threatened, the Director of Public Works shall give the permit holder at least 10 days prior written notice of intent to revoke the permit. The notice shall state the reasons for the revocation and invite the permit owner to answer the allegations. If public health or safety is threatened, the Director's notice shall be by the best practical means in light of the threat.

(b) The permit holder may contest the Director's decision by filing a written appeal with the City Clerk within 10 days of receipt of the director's notice. The appeal shall state the permit holder's rebuttal to the Director's allegations.

(c) The City Council shall conduct a public hearing to consider the appeal of the permit holder at the next regular meeting held not sooner than 5 days nor more than 15 days after the appeal is filed with the City Clerk. The council shall consider all relevant evidence. The decision of the council is final.

Sec. 6-5.107. Abandonment of System.

(a) A permit shall be obtained before any part of a private sanitation system is abandoned. The permit will be issued by the Director of Public Works if the permit holder: (1) applies for the permit on forms approved for that purpose by the director; (2) submits the completed application forms with the required application fee; (3) submits plans showing the system will be abandoned in accordance with criteria established by the city; (4) obtains the director's approval of the plans and (5) the system is abandoned in accordance with the approved plans.

(b) The council shall approve the criteria for the abandonment of all or part of a private sanitation system upon the recommendation of the Public Works Director. The criteria shall include compliance with the Sanitation Code.

CHAPTER 6. LAND CLEARING ACTIVITIES

Sec. 6-6.101. Purpose and Scope.

This Chapter regulates land clearing activities.

Sec. 6-6.102. Definitions.

(a) "Land Clearing Activities" means the removal of natural vegetation from unimproved real property from one lot or parcel more than ½ acre in size.

(b) "Natural Vegetation" refers to flora or vegetation occurring naturally and does not refer to planted crops.

Sec. 6-6.103. Permit Required.

(a) No person shall engage in land clearing activities without a permit from the City.

(b) The City Engineer shall issue the permit subject to such conditions appropriate to ensure the prevention of soil erosion and dust abatement in the area to be cleared. Such conditions may include the following:

(1) The construction of earthen berms at appropriate intervals;

(2) The planning and irrigation of the land with grass or other mutually agreeable vegetation within a specified period not to exceed 180 days;

(3) The posting of a bond to cover the cost of removal of blown sand and debris from adjacent public properties; and

(4) The execution of an agreement to hold the City and the neighboring property owners free and harmless form any damage from blowing dust and sand.

Sec. 6-6.104. Revocation of Permit.

The City Engineer may revoke a land clearing permit on three days" prior written notice.

Sec. 6-6.105. Council Appeals.[45]

An applicant may appeal the decision of the Public Works Director in accordance with Title 1, Chapter 4.

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45 Amended by Ord. No. 07-656 on Dec. 4, 2007.

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CHAPTER 7. HAZARDOUS MATERIALS DISCLOSURE

Sec. 6-7.101. Findings and Purpose.

(a) Hazardous substances and hazardous wastes which are present in the community may pose acute and chronic health hazards to individuals who live, visit and work in the City and who are exposed to such substances as a result of fire, spills, industrial accidents, or other types of releases and emissions.

(b) The people who live, visit and work in the City have a right and need to know of the use and dangers of hazardous materials in the community in order to plan for and respond to potential exposure to such materials.

(c) Basic information on the location, type and the health risks of hazardous materials used, stored or disposed of in the City is not now available to firefighters, health officials, planners, elected officials and residents.

(d) It is the intent of the Council to recognize the community's right and need for basic information on the use, handling, storage, and disposal of hazardous materials in the City and that it establish an orderly system for the provision of such information.

(e) It is further the intent of the Council that the system of disclosure set forth herein shall provide the information essential to firefighters, health officials, planners, elected officials, workers and their representatives, and residents in meeting their responsibilities for the health and welfare of the community in such a way that the statutory privilege of trade secrecy is not abridged.

Sec. 6-7.102. Definitions.

The following terms are defined for the purpose of this Chapter:

(a) “Business” means and employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, association, city, county district, and the state, or any department or agency.

(b) “Carcinogen” means a substance which:

(1) the International Agency for Research on Cancer states that there is sufficient evidence of carcinogenicity in animals or that there is a potential of human carcinogenicity, or that the substance is a confirmed human carcinogen; or,

(2) the National Cancer Institute has found an animal bioassay that there is positive evidence of carcinogenesis in animals or humans.

(c) “Case number” means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances.

(d) “Chemical name” means the scientific designation of a substance in

accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(e) "Common name" means any designation or identification such as a code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

(f) "Disclosure form" means the written request for information prepared by the Fire Chief or designee, pursuant to this Chapter.

(g) "EPA Waste Stream Code" means the identification number assigned pursuant to the regulations of the U.S. Environmental Protection Agency to specific types of hazardous waste.

(h) "Handle" means to use, generate, process, produce, package, treat, store, or dispose of a hazardous substance, waste, or material in any fashion.

(i) "Hazardous material" means any hazardous substance, hazardous waste as defined in this Ordinance, or any material designated pursuant to this Chapter.

(j) "Hazardous substance" means any substance or product:

(1) for which the manufacturer or producer is required to prepare an MSDS for the substance or product pursuant to the Hazardous Substance or product pursuant to Hazardous Substances Information and Training Act (commencing with Section 6360, Chapter 2.5, Part 1 of Division 5 of the California Labor Code) or pursuant to any applicable federal law or regulation.

(2) which is listed as radioactive material set forth in appendix B of Chapter 1 of Title 10 of the code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission.

(3) which is known by the business in which it is found to present a significant risk of personal injury or illness as a result of foreseeable use, handling, release, exposure or contamination.

(k) "Hazardous waste" means hazardous or extremely hazardous waste as defined by Sections 25115 and 25117 of the California Health and Safety Code.

(l) "MSDS" means a Material Safety Data Sheet prepared pursuant to Section 6390 of the California Labor Code. For any hazardous substance for which a Material Safety Data Sheet is not required to be prepared pursuant to Section 6390 of the California Labor Code, a Material Safety Data Sheet which contains the information specified in Section 6391 of the California Labor Code shall satisfy the definition of an MSDS under this Ordinance.

(m) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

(n) “Reproductive toxin” means any substance or agent which can affect reproductive functions causing congenital defects or impairments, spontaneous abortions, impaired spermatogenesis, reduced fertility and/or intrauterine growth retardation which is included in the Appendix compiling human and animal evidence for adverse reproduction affects of chemicals and chemical processes in Chemical Hazards to Human Reproduction by Ian T. Nesbit and Nathan J. Karch, Noyes, 1983, or the current revision thereof, and for which an MSDS is required.

(o) “SIC code” means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

(p) “Use” means the handling, processing, or storage of a hazardous substance.

(q) “User” means any business which uses or handles a hazardous substance or a hazardous waste.

Sec. 6-7.103. Designation of a Hazardous Material.

(a) A material may be added to the list of hazardous materials upon finding by the Fire Chief or designee, the material satisfies the following criteria: the material, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the community.

(b) A material added to the list of hazardous materials pursuant to subsection (a) shall be designed as either a hazardous substance or a hazardous waste by the Fire Chief or designee.

Sec. 6-7.104. Filing of a Hazardous Materials Disclosure Form.

(a) A business which uses or handles a hazardous material must annually submit a completed disclosure form to the Fire Chief or designee.

(b) Within 15 days of any:

(1) significant change in the use or handling of a hazardous material, including a significant increase in the quantity of a previously disclosed hazardous material (for the purposes of this Ordinance, a significant increase means an increase of 50% or more of such hazardous material);

(2) use of handling of a previously undisclosed hazardous material;

(3) change of business address;

(4) change of business ownership; or,

(5) change of business name.

The user shall submit to the Fire Chief or designee, a disclosure form detailing the new

use or handling or other appropriate information.

Sec. 6-7.105. Administrative Procedure.

(a) Upon receipt of a disclosure form, the Fire Chief or designee, shall review each disclosure form and shall either accept the disclosure form if it provides complete and adequate information needed for the protection of safety and health or of the environment, or return the form to the user describing what additional information must be included in the form before it may be accepted.

(b) The Fire Chief or designee, shall maintain files of all disclosure forms received, or copies thereof, for at least three years, and shall index the disclosure forms by street address and/or parcel number, and shall cross reference them by SIC number(s) and the Case number(s) or EPA Waste Stream Code(s) listed on the disclosure form.

(c) The Fire Chief or designee, may, for the purposes related to this Ordinance, undertake actions including, but not limited to, the maintenance and verification of the files relating to the Hazardous Materials Disclosure Ordinance, the acquisition of additional information on hazardous materials and their handling, public education regarding hazardous materials, and the promotion of recycling of wastes and of compliance with this Ordinance.

(d) Subject to the provisions of this chapter, relating to trade secrets, the disclosure form will be publicly available according to the following procedures:

(1) Written application for the information shall be submitted to the Fire Chief or designee. Said application shall include the applicant's name, address, and telephone number. The written application shall also include the identification of the specific file requested for disclosure. The applicant shall declare on the application if he or she is interested in disclosure of trade secret information.

(2) The information requested shall be provided within twenty working days after the submission of the application, except for trade secret information, which shall be subject to the provisions of this Chapter.

Sec. 6-7.110. Content of the Disclosure Form.

(a) The disclosure form shall be prepared by the Fire Chief or designee. The disclosure form shall include, but not be limited to, requests for the following:

(1) A copy of the MSDS for every hazardous substance used or handled by the business completing the disclosure form.

(2) A listing of the chemical name, any common names, and the Case number of every hazardous substance used or handled by the business completing the disclosure form.

(3) The EPA Waste Stream Code of every hazardous waste handled by the business completing the disclosure form.

(4) Information on the method of storage used for the materials

disclosed herein.

(5) The maximum amount of each hazardous material disclosed in either subdivision (2) or (3) which is used or handled at any one time by the user over the course of the year.

(6) Sufficient information on how and at what location within the business the hazardous material disclosed in subdivisions (2) and (3) are used or handled by the use r to allow fire and safety personnel to prepare adequate emergency responses to potential releases of the hazardous materials. This information shall include a map of the business establishment, drawn to scale, and in a format and detail that the Fire Chief or designee, determines to be legible and understandable. Said map will not be made available to the public.

(7) Sufficient information on any releases of the hazardous material disclosed in subdivisions (2) and (3) into the air, water, sewers, or land to permit the community to understand the sources and content of hazardous material releases.

(8) The SIC code of the business, if applicable.

(9) The name and phone number of the person representing the business and able to assist emergency personnel in the event of an emergency involving the business during non-business hours.

(b) Upon request, all users must provide information beyond that specifically requested in the disclosure form to the Fire Chief or designee, upon the determination that such information is necessary to protect health and safety or the environment. Such additional information shall be subject to the trade secret provisions of this chapter.

Sec. 6-7.111. Exception to Disclosure.

(a) A substance designated as a hazardous substance by this Chapter solely by is presence on the Nuclear Regulatory Commission list of radioactive materials, shall be exempt from the requirement that a MSDS be submitted with the disclosure form.

(b) Hazardous substances contained solely in consumer products packaged for distribution to, and use by, the general public shall be exempt from disclosure under this Chapter unless the Fire Chief or designee, has provided notice that the storage of certain quantities of specified consumer products requires disclosure under this Chapter in response to public health concerns.

(c) Beginning one year after the enactment of this Chapter, any business using or handling less than eight (8) pounds, or one (1) gallon, or 200 cubic feet in the gaseous state at standard temperature and pressure, per month, whichever is the lesser, of a product for formulation containing a hazardous material, shall be exempted from the requirements of a disclosure of that use or handling unless:

(1) the Fire Chief or designee, has provided notice that it has lowered the weight or volume limits of this exemption for a specific hazardous material in response to public health concerns; or,

(2) the substance is a carcinogen or reproductive toxin, as defined in

this Chapter.

(d) Use and handling of petroleum products not elsewhere classified and/or used exclusively in the transportation industry shall be exempt from disclosure under the provisions of this Chapter.

Sec. 6-7.112. Fees.

(a) Within two months of the enactment of this Chapter, the Fire Chief or designee, shall prepare a report for the Council describing the anticipated City Cost of receiving, maintaining, providing education and training, and making available to other City and County agencies, people employed in the City and their representatives, and county residents the information covered by the Hazardous Materials Disclosure Ordinance. The report shall include the estimated cost to the Fire Chief or designee, of obtaining from a manufacturer or producer of a hazardous substance an MSDS in the event that a user fails to supply the appropriate MSDS with the disclosure form, or of obtaining information to supplement that provided in the MSDS if such information is deemed necessary by the Fire Chief or designee to provide for the safety and health of the community.

(b) Upon receipt of the report and comment from interested parties, the Council will establish a schedule of fees to be paid by businesses using or handling hazardous materials which is sufficient to cover the costs to the City of administering this Chapter.

Sec. 6-7.113. Enforcement.

(a) A person who violates this Chapter, or who fails to comply with any order made under this Chapter by competent authority, where such violation or failure is not intentional and has not resulted in nor significantly contributed to personal injury, shall be deemed guilty of an infraction and such person shall be guilty of a separate offense for each day or portion thereof during which any such violation or lack of compliance is caused or permitted to continue.

(b) A person who intentionally violates this Chapter or negligently violates this Chapter where such negligence has resulted in or significantly contributed to personal injury, or who intentionally fails to comply, or who negligently fails to comply when such failure has resulted in or significantly contributed to personal injury, with any order made thereunder by competent authority shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than $500 or by imprisonment in jail for more than six months or by both such find and imprisonment. A conviction for any offense under the provisions of this Chapter shall not excuse the violation or authorize its continuance and the person or persons convicted of such offense shall be required to correct or remedy said violation with reasonable diligence. Each day that a condition prohibited to be maintained or continued shall constitute a separate and distinct offense.

Sec. 6-7.114. Trade Secrets.

(a) If a user believes a request for information made by either the disclosure form or pursuant to this Chapter involves the release of a trade secret, the user shall provide the information nonetheless and shall notify the Fire Chief or designee, in writing of the information which the user believes involves the release of a trade secret. As used herein, trade secret shall have the meaning given to it by section 6254.7 of the Government Code and Section 1060 of the Evidence Code. The Fire Chief or designee, shall treat this information as a trade secret upon the user establishing that the information describes a manufacturing process or the percentage of a chemical substance in a mixture which is unknown to competitors.

(b) The information for which trade secret protection is sought shall be submitted to the Fire Chief or designee, on a separate form, clearly and conspicuously marked as containing trade secret information.

(c) If the claim for trade secret protection under the provisions of this section is denied by the Fire Chief or designee, the user shall be notified of this denial within sixty days of submission of the claim. The user may request a review of the denial of the claim of trade secrecy and may submit further information in support of the claim within thirty (30) days after receipt of the denial to City Attorney who shall review the claim of trade secrecy within thirty (30) days after receipt of the request for review and shall notify the user of the granting or continued denial of the claim. No information for which a claim of trade secrecy has been made shall be disclosed to the public prior to ninety (90) days after submission of the claim, or one hundred twenty days after submission of the claim if a review of the claim has been requested by the user.

(d) Where a claim for trade secret protection is granted under this section, the disclosure form to be publicly disclosed shall indicate the number of materials about which information is claimed to be trade secret, the maximum quantity, and, if the user has provided the information pursuant to this Chapter, the expected average quantity of materials used or handled at the facility.

(e) Subject to this Chapter, the Fire Chief or designee, shall protect from disclosure any and all trade secrets coming into its possession, as defined in Section 6254.7 of the Government Code and Section 1060 of the Evidence Code, when requested in writing by the user.

(f) Information reported to or otherwise obtained by the Fire Chief or designee, which is exempt from disclosure pursuant to this Section, shall not be disclosed to anyone except:

(1) an officer or employee of the City, the County of Kern, the State of California, or the United States of America, in connection with the official duties of that officer or employee under the law of the protection of health, or to contractors with the City or County of the Fire Chief or designee, disclosure is necessary and required for the satisfactory performance of a contract for performance of work, or to protect the

health and safety of the employees of the contractor; or

(2) to any physician or registered nurse where the physician or registered nurse certifies that such information is necessary to the medical treatment of his or her patient. Said certification shall be in writing to the Fire Chief or designee.

(g) For the purpose of this section, fire and emergency response personnel and county health personnel operating within the jurisdiction of the City shall be considered employees of the City.

(h) Information claimed as a trade secret must be disclosed to a physician or registered nurse by the Fire Chief or designee. No physician or registered nurse who obtains possession of or access to this information, and, who knows that the unauthorized disclosure of this information is prohibited, shall disclose this information in any manner to any person not entitled to receive it.

(i) No officer or employee of the City for former officer or employee who, by virtue of such employment or official position, has possession of or has access to information the disclosure of which is prohibited by this section, and who knows that the unauthorized disclosure of this information is prohibited, shall disclose this information in any manner to any person not entitled to receive it. For the purposes of this section, a contractor with the City and employee of such contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the City.

(j) Information certified by appropriate officials of the United States as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure as specified by such officials or in accordance with the laws of the United States.

(k) Upon receipt of a request for the release of information to the public which includes information which the user has notified the Fire Chief or designee, is a trade secret pursuant to this section, the Fire Chief or designee, shall notify the user in writing of said request by certified mail. The Fire Chief or designee shall release the information forty-five (45) days, the user institutes an action in appropriate court for a declaratory judgment that information is subject to protection as a trade secret or for an injunction prohibiting disclosure of said information tot he general public. The use and the public requesting the information shall be considered the real parties in interest in any such action and the City, if named, will be a disinterested party.

(l) The provisions of this section shall not permit a user to refuse to disclose information required pursuant to this Chapter to the Fire Chief or designee.

Sec. 6-7.115. <u>Other Liability or Responsibilities</u>.

(a) The disclosure of hazardous materials information pursuant to the provisions of this Chapter shall not affect other liability or responsibility of a business with regard to safeguarding the health and safety of an employee or other person(s).

(b) The degree of protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. The standards set forth herein are minimal standards and this Chapter does not imply that compliance will ensure that there will be no improper release of hazardous materials. This Chapter shall not create liability on the part of the City, or any officer or employee thereof, for nay damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder. Persons using or handling hazardous materials within the City should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this Chapter as necessary or desirable to ensure that there is no improper release of hazardous materials.

CHAPTER 8.46
TOBACCO RETAILER'S PERMIT

Sec. 6-8.101.Purpose.

This chapter is established to regulate the retail sale of tobacco products.

Sec. 6-8.102.Definitions.

As used in this Chapter:

"Department" means the Kern County Environmental Health Services Department, the *ex officio* health department of the City.

"Director" means the Environmental Health Services Director or his/her designee, the *ex officio* health officer of the City.

"Tobacco product" means (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, hookah tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipe holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or ingestion of tobacco products.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco products or tobacco paraphernalia, or who distributes free or low cost samples of tobacco products or tobacco paraphernalia. This definition applies regardless of the quantity of tobacco, tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange. "Tobacco retailing" means engaging in any of these things.

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46 Chapter 8 Added by Ord. 07-645 on Feb 20, 2007.

"Newly established business" means a business which was not engaged in tobacco retailing within the County of Kern during the immediately preceding permit renewal period.

"Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

Sec. 6-8.103.Requirements for tobacco retailer's permit.

(a) It shall be a misdemeanor for any person, within the City, to act as a tobacco retailer without first obtaining and maintaining a valid Tobacco Retailer's Permit, pursuant to this chapter, for each location at which that activity is to occur. No permit will be issued to authorize tobacco retailing at any place other than a fixed location; peripatetic tobacco retailing and tobacco retailing from vehicles are prohibited.

(b) Each day that a person offers tobacco, tobacco products or tobacco paraphernalia for sale or exchange without a valid permit shall constitute a separate violation.

(c) A tobacco retailer without a valid Tobacco Retailer's Permit, including a person whose permit has been suspended or revoked:

(1) Shall not keep any tobacco products or tobacco paraphernalia at the regulated facility. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a license under this section.

(2) Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

(d) This section shall become operative July 1, 2007.

Sec. 6-8.104.Application procedure.

(a) Application for a Tobacco Retailer's Permit shall be submitted to the department in the name of the person proposing to conduct retail tobacco sales and shall be signed by each person or an authorized agent thereof. Each person shall be responsible for reviewing the conditions of conducting retail tobacco sales within the City and shall agree to abide by these conditions by signing the application under penalty of perjury. All applications shall be submitted on a form supplied by the department and shall contain the following information:

(1) The name, mailing address and telephone number of the applicant.

(2) The business name, address and telephone number of each location for which a Tobacco Retailer's Permit is sought.

(3) A single name and mailing address to receive all communications and notices required by or authorized by this chapter. If such address is not provided, each permittee shall be understood to consent to the provision of notice at the business address specified in subparagraph 2.

(4) Proof that the location for which a Tobacco Retailer's Permit is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.

(5) Such other information as the department deems necessary for the administration or enforcement of this chapter.

(6) Verification that the permittee has undertaken a training program in the laws relating to the sale of tobacco products in California as provided by or approved by the City's Public Health Services Department.

(b) An application for a Tobacco Retailer's Permit must be obtained by a newly established business on or before the last day of the month following the month in which the business started. All information submitted as part of the application process shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department with any updates within ten (10) business days of a change.

Sec. 6-8.105.Issuance of permit.

(a) The permit shall state on its face:

(1) Legal owner,

(2) Any fictitious business name used by the owner,

(3) Business address,

(4) Date permit issued, and

(5) Permit number.

(b) Upon the receipt of an application for a Tobacco Retailer's Permit, the department shall issue the permit, subject to this chapter and verification by the department that there is no substantial record of evidence that demonstrates one of the following bases for denial:

(1) The information presented in the application is incomplete, inaccurate or false; or

(2) The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect; or

(3) The application seeks authorization for tobacco retailing that is unlawful pursuant to this Code or any other applicable law.

(4) The application seeks authorization for tobacco retailing at a location for which this chapter prohibits issuance of a permit. However, this subsection shall not constitute a basis for denial of an application if the applicant provides the department with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.

Sec. 6-8.106.Display of permit.

(a)Each permittee shall prominently display the permit at each location where tobacco retailing occurs and according to applicable portions of this chapter.

(b) A person who fails to display a permit required by law shall be punishable by a fine of $10 for the first offense, $100 for the second offense, $250 for the third offense, and $500 for the fourth and each succeeding offense.

(c) This section shall become operative July 1, 2007.

Sec. 6-8.107.Fees for permit.

A fee shall be charged for a Tobacco Retailer's Permit of $165 annually. The fee shall be adjusted, no more frequently than annually, to recover the cost of administration of the permit program, including the cost of issuing the permit, renewing the permit, administering the retailer permit program, retailer education, retailer inspection and compliance checks, documentation of violations, and

other related actions. All fees are non-refundable, except where required by law and shall be used exclusively to fund the program. Fees shall not be prorated.

Sec. 6-8.108.Renewal of permit, delinquency.

Renewal of the Tobacco Retailer's Permit shall be subject to the provisions of this chapter.

Sec. 6-8.109.Permits not transferable.

(a) A Tobacco Retailer's Permit is non-transferable. If a new person acquired a business engaged in tobacco retailing, that person must apply for a new permit on or before the last day of the month following the month in which the tobacco retailing business is acquired. The transferee of the permit must apply for a permit in the transferee's name before acting as a tobacco retailer.

(b) Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

(1) the location has been fully transferred to a new owner or fully transferred to entirely new owners; and

(2) the new owner(s) provide the City with clear and convincing evidence that the new owner(s) have acquired or are acquiring the location in an arm's length transaction.

Sec. 6-8.110.Administrative violations.

(a) The violations set forth in this section are cumulative to, and in addition to, any other violations of state or local law and shall be punished as specified in Section 6-8.111 .

(b) In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a permit is issued, it shall be a violation of this chapter for a permittee, or any of the permittee's agents or employees, to:

(1) Violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing.

(2) Sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.

(c) No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing. The current minimum age is eighteen years.

Sec. 6-8.111.Administrative penalties.

(a) Upon a determination by the director that a person has engaged in any conduct that violates the provisions of this chapter, the director may suspend a Tobacco Retailer's Permit, impose administrative penalties, or both suspend the permit and impose administrative penalties.

(b) The department shall notify the offender there has been an initial determination of violation under the provisions of this chapter, and shall specify the violation and the sanction imposed, including the effective date of the suspension, if any. The notice shall further state the offender may, within fifteen (15) days, submit to the department any written or documentary evidence to contest the initial determination of violation. After receiving such evidence as may be provided, the department shall prepare a final written decision and shall serve this decision upon the tobacco retailer. Upon written request, the offender shall have the right to receive copies of any records or files upon which the administrative decision is based. This final determination shall be served within thirty (30) days of the initial determination.

(c) When this chapter permits the director to suspend a permit, the maximum suspension permitted by law may be imposed.

(d) When this chapter allows the director to impose an administrative penalty, the maximum penalty may be imposed.

Sec. 6-8.112.Right to administrative review and procedures.

(a) The tobacco retailer shall have the right to appeal the decision of the department to the city council. To obtain a review of the final determination, the tobacco retailer must file with the City clerk within fifteen (15) days of the date of

the final determination, a written request for a hearing. The timely filing of a request for hearing shall hold in abeyance any license suspension until the administrative review is heard and decided.

(b) If a review is requested, the City clerk shall provide written notice, within thirty (30) days of its receipt of the request, to the tobacco retailer of the date, time and place of the hearing on the appeal.

(c) At the time fixed in the notice, the city council shall proceed to hear testimony from any interested person regarding the specified violation deemed by the department to be the basis for the proposed administrative penalty, and any other matter which the city council may deem pertinent thereto.

(d) Upon the conclusion of the hearing, the city council will make a determination based on the evidence presented at the hearing, and may impose a suspension penalty without regard to the limits in this chapter.

(e) The decision of the city council shall be final.

Sec. 6-8.113.Youth Decoys.

The City shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "Youth Decoy") if the potential violation occurs when:

(a) the Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the City; or

(b) the Youth Decoy is participating in a compliance check funded in part, either directly or indirectly, through subcontracting by the Kern County Department of Public Health or the California Department of Health Services.

CHAPTER 9. FOOD ESTABLISHMENT GRADING [47]

Sec. 6-9.101. Purpose.

The purpose of this chapter is to establish standards for the issuance of a grading score which represents the compliance of food establishments with local ordinances and state law.

Sec. 6-9.102. Definitions.

As used in this chapter:

"Department" shall mean the Kern County Environmental Health Services Department, the *ex officio* health department of the City.

"Food Establishment" shall mean a food establishment as defined in the California Uniform Retail Food Facilities Law, Section 113780, of the California Health and Safety Code. These are commonly referred to as restaurants, take-out fast food, delis, markets or similar operations.

"Director" shall mean the Environmental Health Services Director or his/her designee, the *ex officio* health officer of the City.

"Inspection" shall mean an evaluation of the food establishment conducted on site by the Department.

"Inspection Report Form" shall mean the written report prepared and copy issued to a food establishment provided by the Department after conducting any inspection to determine compliance with all applicable federal, state, and local laws and regulations relating to the protection of public health.

"Inspection Summary Report" shall mean a card that is posted at the conclusion of the inspection which is based on the results from the Inspection Report Form. The Inspection Summary Report will indicate a letter grade or numeric score.

"Re-score Inspection" shall mean an evaluation of the food establishment conducted by the Department at the request of the permittee to reassess compliance with applicable laws and regulations.

Sec. 6-9.103. General Requirements.

All food establishments shall be inspected and graded uniformly using an Inspection Report Form. The grade of each food establishment shall be determined by the Director using the scoring method provided on the form. The Inspection Summary Report of each food establishment shall be posted.

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47 Chapter 9 added by Ord No. 07-644 dated Jan 16, 2007.

The letter “A” shall indicate a final score of 90% or higher.

The letter “B” shall indicate a final score of less than 90% but not less than 80%.

The letter “C” shall indicate a final score of less that 80% but not less than 75%.

A numeric score shall be indicated for a final score of less than 75%. Establishments that score below 75% will be required to close immediately and the Environmental Health Permit will be suspended.

The Inspection Summary Report shall be posted at a food establishment by the Director upon completion of an inspection.

Sec. 6-9.104. Posting Requirements.

The Inspection Summary Report shall be posted at or near each entrance to the food establishment used by its patrons or in a conspicuous place selected by the Director.

The Inspection Summary Report shall not be defaced, marred, camouflaged, hidden or removed. It shall be unlawful to operate a food establishment unless the Inspection Summary Report is posted.

Sec. 6-9.105. Inspection Summary Report – Period of Validity.

An Inspection Summary Report shall remain valid until the Director completes the next inspection of the food establishment.

Sec. 6-9.106. Appeal Process.

If, after completion of an inspection, the permittee disagrees with the inspection findings or the resulting Inspection Summary Report, the permittee may request an appeal.

The permittee shall submit a written request for an appeal on a standardized form as determined by the Department within five business days following the inspection.

The appeal shall be heard within three business days following the written appeal request.

The appeal shall be heard by the Director, at which time the appeal shall be considered and a final determination issued within one business day.

The previously issued Inspection Summary Report shall remain posted until final resolution is obtained through the appeal process. After resolution of the appeal process, the new Inspection Summary Report shall be posted within one business day.

Sec. 6-9.107. Re-Score Inspection.

At the discretion of the permittee, a re-score inspection may be requested to reassess compliance.

A re-score inspection must be requested by the permittee on a standardized form as determined by the Department within seven days of the original inspection. Only one re-score inspection may be requested within each fiscal year.

The Director shall conduct a re-score inspection within seven days of receiving the request and submission of the inspection fee by the permittee.

At the conclusion of the re-score inspection, the Inspection Summary Report shall be issued, based upon the scoring method set forth in this chapter.

A requested re-score inspection is separate and independent of all inspections as determined by the Director.

Sec. 6-9.108. Enforcement and Penalties.

Removal of the Inspection Summary Report is a violation of this chapter and may result in the suspension or revocation of the Environmental Health Permit.

Any person who violates any provision of this chapter is guilty of a misdemeanor and subject to the provisions as specified in this title.

CHAPTER 10. CONSTRUCTION AND DEMOLITION RECYCLING[48]

Sec. 6-10.101 GENERAL

This chapter regulates recycling of debris from demolition and construction within the City. This chapter provides for inventory of recyclable materials and accounting for the recycling of such materials.

Sec. 6-10.102 DEFINITIONS

The following definitions apply for purposes of this chapter:

"Contractor" means any type under the laws of California, or who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, remodeling or landscaping service relating to buildings or accessory structures in the City.

"Construction" means building, landscaping, remodeling, addition, removal or destruction involving the use or disposal of Designated Recyclable and Reusable Materials as defined herein.

"Demolition and construction debris" or "debris" means:

(1) Discarded materials generally considered to be not water soluble and non hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure or landscaping. and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.

(2) Clean cardboard, paper, plastic, wood, and metal scraps from construction or landscape project.

(3) Non-construction and demolition debris wood scraps.

(4) Insignificant amounts of other non-hazardous wastes generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.

(5) Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

"Designated Recyclable and Reusable Materials" means:

(1) Masonry building materials including products generally used in construction including, but not limited to asphalt, concrete, rock, stone and brick.

(2) Wood materials including any and dimensional lumber, fencing or construction wood that 'is not creosoted, preservative pressure treated, contaminated or painted.

(3) Vegetative materials including trees: tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.

(4) Metals including metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.

(5) Roofing Materials including wood shingles as well as asphalt, stone and

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48 Added by Ord. No. 08-09-670 on 1/6/09.

slate based roofing material.

(6) Salvageable Materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.

"Project" means a demolition or construction activity for which a city permit is required, and, in the case of associated activities such as a housing development consisting of numerous single-family homes, an apartment complex consisting of several detached buildings, or a commercial development consisting of' several detached building, the "overall project" shall be defined as the entire development for purposes of determining exemption or non-exemption from the waste reduction requirements of this chapter.

Sec. 6-10.103 DIVERSION REQUIREMENTS

At least the following specified percentages of the waste tonnage of demolition and construction debris generated from every demolition, remodeling and construction project shall be diverted from going to landfill by using recycling, reuse, and diversion programs:

(a) Demolition: Fifty percent (50%) of waste tonnage, including concrete and asphalt, and fifteen percent (15%) of waste tonnage excluding concrete and asphalt;

(b) Reroofing of structures as a separate project: Fifty percent (50%) of wood, slate or stone waste, and fifty percent (50%) of asphalt shingles when the Building Department certifies that a reasonable recycling option for this material is available; and

(c) Construction and Remodeling: Fifty percent (50%) of waste tonnage. Separate calculations and reports will be required for the demolition and for the construction portion of projects involving both demolition and construction.

Sec. 6-10.104 COVERED PROJECTS

The following projects shall comply with requirements for a Waste Management Plan and deposit:

(a) Demolition of buildings 500 square feet or larger;

(b) New construction projects for buildings larger than 500 square feet, and smaller buildings which are part of an overall project which totals 500 square feet or more;

(c) Work requiring more than a permit for plumbing, electrical, or mechanical work;

(d) Installation of pre-fabricated patio enclosures and covers if foundation or other structural building modifications are required:

(1) Installation of pre-fabricated accessories such as signs or antennas where structural building modifications are required.

(2) New roofs with significant removal of existing roofing materials (tear-off).

Sec. 6-10.105 EXEMPTION FROM DIVERSION REQUIREMENT

(a) Application: If an Applicant believes it is infeasible to comply with the diversion requirements of this chapter due to the circumstances delineated in this Section, the Applicant may apply for an exemption at the time the initial Waste Management Plan is submitted. Exemptions may be granted based on the following considerations:

(1) Lack of storage space onsite;

(2) Contamination by hazardous substances;

(3) Low recyclability of specific materials; and

(4) Seismic tie-down projects.

The Applicant shall indicate on the Waste Management Plan the maximum rate of diversion the applicant believes is feasible for each material and the specific circumstances that the applicant believes make it infeasible to comply with the Diversion Requirement.

(b) Determination by Compliance Official: The Building Department or the City's authorized agent shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. The Building Department shall determine whether the exemption will be granted, and may substitute an alternative lesser diversion requirement upon determination that it may reasonably be achieved by the Applicant using locally available diversion opportunities.

Sec. 6-10.106 WASTE MANAGEMENT PLAN

(a) Every applicant shall submit a properly completed initial Waste Management Plan, on a form as prescribed by the City, to the Building Department as a portion of the building or demolition permit process. The Plan will show how the applicant will satisfy the diversion requirement by diverting specific materials from disposal. The applicant will be encouraged to consult with the City's authorized agent in preparation of the Plan. Approval of the Plan as complete and adequate shall be a condition precedent to issuance of any building or demolition permit. The applicant shall submit an amended Waste Management Plan for review and approval prior to any deviation from the procedures set forth in the initial Plan.

(b) The City Manager may designate the City's franchised solid waste hauler or another qualified entity as the City's authorized agent to review initial Waste Management Plans of permit applicants; to consult with permit applicants on waste diversion options; and to review completed Waste Management Plans and accompanying documentation to certify to the Building Department whether the requirements of this chapter have been fulfilled by the applicant. Any finding of the City's authorized agent may be appealed to the Building Department. In fulfilling this role, the City's authorized agent will not discriminate in any way against diversion services or alternatives that are available from other entities besides itself.

(c) As a condition precedent to issuance of any permit for a building or a demolition permit that involves the production of solid waste destined to be delivered to a landfill, the applicant shall post a deposit in a form acceptable to the Building Department in the amount of 35 cents per square foot of buildings to be built or demolished. The deposit shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the building official, that no less than the required percentages or proven proportion of those percentages of the tons of debris generated by the demolition or construction project have been diverted from landfills and have been recycled or reused. If a lesser percentage of tons or cubic yards than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the extent there is a failure to comply with the requirements of this chapter.

Sec. 6-10.107 ONSITE PRACTICES

During the term of the demolition or construction project, the contractor shall recycle or divert the required percentages of materials, and keep records thereof in tonnage or in other measurements approved by the Building Department that can be converted to tonnage. The City or its authorized agent will evaluate and monitor each project to gauge the percentage of materials recycled, salvaged and disposed from the project. The required diversion of a minimum of the required percentages of the demolition and construction debris will be measured separately with respect to the demolition segment and the construction segment of a project where both demolition and construction are involved.

Sec. 6-10.108 NOTICE OF RECYCLING CONTRACTORS

The Building Department shall maintain a list of contractors which have stated they are available for deconstruction of structures and recovery of salvageable materials. Notice shall be given by the Department to each such contractor through procedures established by the Department of every demolition permit application that is subject to the provisions of this chapter. Every nonexempt demolition project shall be made available by the applicant for proposals and bids for deconstruction and salvage, including allowing inspection of the premises by qualified deconstruction contractors. Consideration of such proposals and bids shall not obligate the permit applicant to accept any proposal or bid. It shall be the responsibility of the owner, the general contractor, and all subcontractors to recover the maximum feasible amount of salvageable, designated recyclable and reusable materials prior to demolition. Recovered and salvaged, designated, recyclable and reusable materials from the deconstruction phase shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged materials may be given or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale. Title to recyclable materials forwarded to the operator of recycling facilities or of a landfill will transfer to the service provider upon departure of materials from the site.

Sec. 6-10.109 REPORTING

Within sixty (60) days following the completion of any demolition project or construction project, the contractor shall, as a condition precedent to final inspection and to issuance of any

certificate of occupancy, submit documentation to the Building Department or the City's authorized agent which proves compliance with the requirements of this chapter. The documentation shall consist of a completed Waste Management Plan showing actual data of tonnage of materials recycled and diverted, supported by receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged or otherwise disposed of. In the alternative, the permittee may submit a letter stating that no waste or recyclable materials were generated from the project, in which case this statement shall be subject to verification by the Building Department or the City's authorized agent. If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the Building Department or the City's authorized agent before issuance of a building permit for the construction project. Any deposit shall be forfeited if the permittee does not meet the reporting requirements of this section.

Sec. 6-10.110 VIOLATION OF A PUBLIC NUISANCE

Each violation of this chapter is a public nuisance and will be subject to abatement as such. The costs of abatement of such nuisance shall be a lien upon the property involved.

TITLE 7. PUBLIC FACILITIES

CHAPTER 1. WATER SERVICE

ARTICLE 1. GENERAL

Sec. 7-1.101. Scope.

This chapter applies to potable water service from the City, fees and deposits to cover the cost, the rates for water delivered, the time and manner of payment for services rendered, regulations regarding water usage, protection of the system from mechanical and health hazards, and rules and charges for extending mains and permitting connections to existing mains.

Sec. 7-1.102. Definitions: General.

The following terms are defined for the purposes of this Chapter:

(a) "Active Service" refers to service to property through a meter turned on by the City for which fees, charges and deposits have been paid.

(b) "Applicant" means a person applying for water service.

(c) "Customer" means a person receiving water service.

(d) "Domestic Service" means the delivery of water for human habitation, commercial and irrigation purposes, other than temporary service or fire protection service.

(e) "Inactive Service" refers to a meter turned-off by the City and for which fees and deposits have been paid.

(f) "Sealed Service" means a service connection without a meter for which the fees, charges and deposits are outstanding.

(g) "Service" or "water service" means the furnishing of water to a customer.

(h) "Service Connection" means the piping necessary to conduct water from the City's water main to the property including the meter, meter box, valves and appurtenant equipment within the meter box.

(i) "Unit" means one hundred cubic feet or 748 gallons.

(j) "Connection Fees" means the various fees levied to cover the cost of constructing potable water system improvements, installing meters to serve new customers and setting up the new accounts.

(k) "Service Fees" means fees levied to cover operation and maintenance of facilities to provide water service such as meter service charges, commodity charges and pumping charges.

ARTICLE 2. COMMENCEMENT OF SERVICE

Sec. 7-1.201.[49] **General.**

(a) Each person desiring to initiate water service or change an existing water service shall execute an application form, pay required fees and deposits and meet the conditions set forth herein. Each single-family dwelling shall be served through at least one water meter of at least 3/4" size and such additional meters as the property owner may request. Each unit of a duplex dwelling shall be served through at least one water meter of at least 3/4" in size. Each unit of a multi-family larger than a duplex shall be served through at least one water meter of at least one inch (1") in size. The property owner may request additional meters.

(b) Each water service applicant who desires to enjoy overlying rights priority for water service shall assign the overlying rights associated with the applicant‟s property to the City. The City will then deliver the applicant‟s water as a customer of the City.

Sec. 7-1.202. Applications.

(a) The application form shall include an agreement to abide by rules and regulations of the City and such information the Director of Public Works may reasonably request. The application shall be for service to a particular and identified property. Service is not assignable to other property.

(b) If the application is for property not previously served by the City, the applicant shall also present evidence of compliance with local ordinances implementing the Water Conservation in Landscaping Act. The application for service shall be treated as an application for concurrent review of a landscape plan.

(c) If the application is for a commercial account in the name of a corporation or partnership, the applicant shall provide a personal guarantee from an owner or principal of the applying entity, regardless of the form of organization, as follows:

> "I hereby certify I am a principal/officer of the organization listed on the attached application. I accept full responsibility for all fees and charges related to water and sewer service for the organization."

Sec. 7-1.203. Responsibility.

(a) The rendering of service obligates the applicant to pay for service for a minimum of one month.

(b) The applicant is responsible for expenditures made by the City as a result of the submission of the application, even though the applicant withdraws the application prior to completion of the installation of the service connection.

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49 Amended by Ord. No. 09-677 on June 16, 2009.

(c) If an applicant incorrectly describes the property or location where the service connection is desired, and as a result the service connection is installed at an incorrect location, the applicant shall pay expenses incurred for corrections necessitated by such error.

(d) Two or more parties who join to make application for service to a commonly owned property shall be jointly and severally liable for water service, and single periodic bills shall be sent to their designee.

Sec. 7-1.204. Fees: General.

Service will be commenced after submittal of an application and on payment to the City of the applicable fees, charges and deposits set forth in this Article.

Sec. 7-1.205. Fees: Existing Service.

If the applicant's property can be served from an inactive service, the applicant shall not be required to pay connection fees. If the applicant requests a change in meter size, additional charges shall be assessed or credits allowed. If the applicant requests a sealed service be activated, the applicant shall pay outstanding connection fees and service fees for the service.

Sec. 7-1.206. Fees: New Service.[50]

(a) If the applicant's property cannot be served from an existing service connection but can be served from an existing water main, the applicant shall pay service fees and deposits, connection fees and, if applicable, a pro rata share of the cost of the main in accordance with existing main extension refund agreements.

(b) If the applicant's property cannot be served from an existing main, the applicant shall pay connection fees; security deposits and service fees; and the cost of improvements necessary to extend service to the applicant's property provided:

(1) If the water system improvements are identified in an improvement plan for a bond issue and bond proceeds are available, the improvements shall be constructed by the City using bond funds to pay for the cost of design and construction under the uniform policies of the City for expenditure of bond funds.

(2) If the water system improvements are identified in a water system capital improvement plan, the improvements shall be constructed by the City. Water system improvements are identified in the water system capital improvement plan if the improvements are described in the plan or if the improvements are approved by the council as a substitute for the improvements described in the plan.

(c) If the applicant pays for the cost of a pipeline extension to serve the applicant's property, the applicant may enter into a main extension refund agreement.

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50 Amended by Ord. No 09-674 on March 17, 2009.

Sec. 7-1.207. Installation Charges.

The City Council shall establish installation charges by resolution.

Sec. 7-1.208. Connection.

The City Council shall establish connection fees by resolution.

Sec. 7-1.209. Fire Protection Fees.

(a) Applicants for private fire protection service shall also pay the actual cost of installation of such service including the costs of a suitable meter device from the distribution main of the City to the applicant's property line.

(b) With the approval of the fire department, temporary service may be provided through an existing, metered fire hydrant. When a fire hydrant is not available for temporary service, a connection may be made to an existing City main at a location acceptable to the Director of Public Works. The applicant for temporary service is responsible for the payment of billings for service charges and commodity charges for water delivered through the temporary meter, and for the return of the temporary meter to the City in the same condition as existed at the time of delivery or installation. To insure such return, the customer shall, before the delivery or installation of the temporary meter, deposit with the City and amount equal to twice the current replacement cost of the temporary meter applied for, plus an amount sufficient to guarantee the payment of the estimated annual water bills, as estimated by the Director of Public Works. Such deposit will be refunded, net of any costs incurred by the City, with interest calculated from the date of deposit.

Sec. 7-1.210. Water System Improvements.

(a) An applicant for water service required to construct water system improvements shall pay costs incurred by the City for:

(1) The preliminary design of such improvements;

(2) Reviewing the plans and specifications prepared by the applicant for such improvements; and

(3) Construction or inspecting the Improvements.

(b) Before work commences, the applicant shall deposit an amount equal to the Director of Public Works' estimate of the preliminary design costs. After a preliminary review of the plans and specifications and before the plans are returned to the applicant with comments, the applicant shall deposit an amount equal to the Director of Public Works' estimate of the costs which will be incurred by the City for plan check services. Prior to construction, the applicant shall deposit an amount equal to the Director of Public Works' estimate of the costs which are to be incurred by the City for inspection.

(c) “Costs incurred by the City” include: the costs of consulting services, if any, to perform the tasks described above; 15% of the costs of consulting services to reflect

administrative and overhead expenses; amounts paid by the City to employees working at an hourly rate; reasonable supervision costs; and transportation costs.

Sec. 7-1.211. Trash Collection.

Water service shall not be provided to improved property unless the customer secures and maintains trash collection service from a person authorized by the City to collect trash. The City Manager may waive this requirement when the property is temporarily unoccupied.

Sec. 7-1.212. Miscellaneous Fees.

The City Council shall establish miscellaneous fees by resolution.

Sec. 7-1.213. Deposits: Existing Service Connection.

The City Council shall establish deposits for existing services by resolution.

Sec. 7-1.214. Deposits: Connection Fees.[51]

The City Council shall establish deposits for new service by resolution:

(a) A deposit toward connection fees, equal to the then current fees, shall be made prior to the date of final inspection of water facilities or the date the certificate of occupancy is issued, whichever occurs first. If prior to final inspection or issuance of the certificate of occupancy, the council finds the fees are for improvements or for which an account has been established and funds appropriated, or for which the City has made expenditures or has adopted a proposed construction schedule or plan, the fees shall be paid on demand. "Appropriated" means authorization by the council to make expenditures and incur obligations for specific purposes. The fees shall be deposited on a lump sum basis for each dwelling in a residential property subdivision which contains more than one dwelling when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first. The applicant shall execute a deposit agreement before the issuance of a statement of service required for a building permit, if the fee is not fully deposited when the application is made or may not be fully deposited when service commences.

(b) The City shall invest, account for and expend connection fees as follows:

(1) Except for temporary investments, the fees shall be deposited in separate accounts to avoid commingling with other money.

(2) The fees shall be expended solely for the purpose for which the fee was collected.

(3) Interest earned by monies in the separate account shall be deposited in the account and expended only for the purpose for which the fee was originally collected.

(4) On or before September 1 of each year, the City shall make

51 Amended by Ord. No 09-674 on March 17, 2009.

available to the public the beginning and ending balance in the separate account for the prior fiscal year, and the fee, interest and other income, the amount of expenditure and the amount of refunds. The council shall review this information at the next regularly scheduled public meeting not less than 15 days after the information is available.

(c) The deposit shall be paid over to the general fund when facilities are constructed or the City makes a binding commitment to construct the facilities.

(d) The council shall make findings at least once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in the separate account(s) five or more years after deposit of the fee to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The findings required by this subsection shall only be made for monies in the possession of the City and need not be made with respect to instruments of credit taken to secure payment of the fee at a future date.

(e) The City shall refund to the then current record owner or owners of lots or units of the development project or projects on a pro rated basis, the unexpended or uncommitted portion of the fee and interest accrued thereon, for which a need cannot be demonstrated pursuant to this section. Provided, if the administrative costs of refunding exceed the amount to be refunded, the fees shall be allocated for some other purpose which serves the project(s) on which the fee was originally imposed. If the fees are not refunded to the record owner, the council shall conduct a duly-noticed public hearing before expending the fees for another purpose.

(f) An applicant who does not desire or is not required to make a cash deposit for connection fees, shall enter into a deposit agreement. The deposit agreement shall be recorded and constitutes a lien against the property for which service is sought.

Sec. 7-1.215. Deposits: Other.

The City Council shall establish miscellaneous deposits by resolution.

Sec. 7-1.216. Credits: No Change in Existing Service.

The City Council shall establish credits by resolution.

ARTICLE 3. CONDITIONS OF SERVICE

Sec. 7-1.301. General.

Applicants and customers shall accept such conditions of pressure and service as are provided by the distribution system of the City at the location of the proposed service connection, and hold the City harmless for damage arising out of low or high pressure conditions or interruptions in service.

Sec. 7-1.302. Main Frontage Required.

(a) Permanent water service shall not be provided unless a City water main of adequate size extends across the entire frontage of the property to be served or unless a limited services agreement is approved by the Director of Public Works.

(b) Property presently receiving service, but not immediately adjacent to a City water main, may continue to receive service until such time a City water main is installed immediately adjacent to such property. At that time, the Director of Public Works will give written notice and the service connection will be relocated to the new main. Failure to connect plumbing to the new service connection will result in the discontinuance of service to the property.

Sec. 7-1.303. Locating Connections.

(a) Service connections will be installed as near as possible to the location desired by the applicant, within the projection of side property lines, and shall meet the minimum size determined by local plumbing code requirements or the Director of Public Works. Service connections will be made only adjacent to the City's distribution mains, at locations readily accessible by public streets, alleys, or other rights-of-way capable of accommodating City vehicles and equipment.

(b) An applicant may apply for as many service connections as reasonably required provided the applicant meets the requirements concerning potential cross-connections.

Sec. 7-1.304. Types of Service.

(a) City provides permanent, temporary or surplus water service.

(b) Permanent service is service to property meeting the frontage requirements, other temporary service.

(c) Temporary Service is service for a period of less than 6 months. Temporary service includes interim service to a subdivision during a construction phase.

(d) Surplus water service is service under contract of water in excess of the current requirements of the City to property outside the City.

Sec. 7-1.305. Pressure, Supply and Emergency Storage.

(a) The City will exercise reasonable diligence and care to deliver a continuous and adequate supply of water to the customer at a reasonable constant pressure and to avoid shortage or interruption in delivery. The City offers water at its system pressure, and the applicant must install adequate plumbing and protective devices in accordance with the current Uniform Plumbing Code to use the available water at whatever

reasonable constant pressure is available in the system. The City is not responsible for the maintenance of pressure and reserves the right to discontinue service while making repairs required in the operation of the water system. Customers depending upon a continuous supply should provide for their own emergency storage.

(b) Regulators will be required and furnished by owner, ahead of the City's meter where static pressures are in excess of 65 PSI. The City assumes no liability for the accuracy of the regulator pressure setting, nor the reliability of the regulator.

Sec. 7-1.306. Design Standards.[52]

The size, type and quality of materials and location of the lines and appurtenances thereto shall be specified by the Director of Public Works and the Fire Chief in accordance with Standard City Specifications for water system construction and design standards, as adopted by the council.

Sec. 7-1.307. Applicants Required to Provide Rights-of-Way.

An applicant for water service or a main extension shall dedicate or cause to be dedicated to the City an easement or easements for the installation, maintenance and replacement of water system facilities to serve applicant.

Sec. 7-1.308. Size and Number of Water Connections.

An applicant who desires service for commercial or industrial uses shall make application for the number, size and types of service connections which will serve the projected highest water use configuration of the property. Before service commences, the Director of Public Works may require the applicant obtain service connections which differ in number, size or type from the service connections requested by the applicant if the Director of Public Works determines the application does not accurately portray the projected highest water use configuration. After service commences, the Director of Public Works may also refuse to change the number, size or type of service connections if the Director of Public Works determines the applicant negligently or intentionally failed to accurately project the highest water use configuration. If the number, size or type of service connections is changed after service commences, the property owner shall pay for the changes at the rates prevailing at the time of the change.

Sec. 7-1.309. Types of Extensions.

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52 Amended by Ord. No 09-674 on March 17, 2009.

An applicant may provide for the extension of facilities by the following: (1) entering into a special contract; (2) construction of an individual main extension; (3) installing and dedicating a subdivision main extension; or (4) qualifying for the construction of facilities by the City.

Sec. 7-1.310. Special Contracts.[53]

(a) When a City water main is not contiguous to the entire frontage of the applicant's property, the Director of Public Works may enter into a "Limited Service Agreement" in lieu of requiring a main extension.

(b) When existing facilities do not deliver a sufficient water pressure to the property, the Director of Public Works may enter into an "Elevation Agreement" in lieu of requiring the installation of the special facilities.

(c) If an applicant is otherwise required to provide for the extension of City facilities but may obtain service from facilities operated by another water purveyor, the Director of Public Works may enter into a "Water Purveyor Agreement" with the other water purveyor to provide such service.

(d) The "Limited Service Agreement," "Elevation Agreement" and "Water Purveyor Agreement" shall be in the form approved by the council.

Sec. 7-1.311. Individual Main Extension: Privately Financed.

The applicant shall pay the cost of the main extension necessary to satisfy the appropriate frontage requirements in the following ways:

(a) The applicant may contract for the installation of the main extension by private contractor. The design, construction, collection of fees and deposits, inspection and acceptance of the work shall be in the same amounts and in the same manner as for subdivision construction. If refunding agreements are allowed, the applicant must furnish satisfactory evidence on the cost of the work, including at least two legitimate bids received for the work. Completion bonds will be required if the applicant requires the City certify water service will be available to the premises before the work is completed.

(b) The applicant may have the City install the main extension. Deposit for the construction of the main extension will be provided in accordance with the schedule of costs from time to time promulgated by the Director of Public Works and available at the City office. The deposit schedule shall reflect the City's costs for the pipeline, necessary appurtenances, administration, design and surveying fees.

Sec. 7-1.312. Individual Main Extensions: Refunding Agreements[54]

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53 Amended by Ord. No 09-674 on March 17, 2009.

Two methods are available for a customer to obtain a partial refund the cost of an individually financed main extension:

(a) After acceptance of a privately financed main extension, the City will require applicants whose property fronts upon the main extension to pay to the City a pro rata share of the original cost of the main extension before rendering service to the applicant. The City will refund such collections to the person who paid for the main extension, or successors or assigns. The terms and conditions of such refund shall be set forth in a Main Extension Refund Agreement executed by the Director of Public Works on behalf of the City. The Agreement shall provide, among other things:

(1) The refund shall be collected from persons who connect to the main within 10 years from the date of acceptance of the main by the City; and

(2) The person entitled to receive the refund shall keep the City informed as to their whereabouts.

The 10-year refund deadline may be extended for an additional 10 years upon written application to the council, presented at least 60 days prior to the expiration of the first ten year period.

(b) If the main is shown on an improvement plan of the City, indicating its proposed installation within a reasonable period of years, an agreement to refund the cost of the presently required section of the main may be entered into by the City, to be paid at such time as the main is scheduled for installation but, in no event, shall any such City refund be made more than 10 years after the City's acceptance of the main.

Sec. 7-1.313. Subdivisions.[55]

(a) An application for service to property to be subdivided shall not be acted upon until the completion of a preliminary design report at the applicant's expense.

(b) The preliminary design report is the basis for the Director of Public Works' recommendation to the council as to the facilities required, and the estimated amount of City participation in the proposed water system.

(c) The Director of Public Works shall also review the preliminary design to determine the feasibility of providing recycled water service to the proposed subdivision. The Director of Public Works shall make his recommendations to the council as to such feasibility when the preliminary design report for the subdivision is presented to the council. To the extent feasible, the preliminary design shall use the criteria established for landscaping plans adopted by the city or county with jurisdiction by law under the Water Conservation in Landscaping Act. The preliminary design shall be at least as strict as the criteria established under the Water Conservation in Landscaping Act and may include additional water conservation requirements.

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54 Amended by Ord. No 09-674 on March 17, 2009.
55 Amended by Ord. No 09-674 on March 17, 2009.

(d) The council shall consider the report and recommendation of the Director of Public Works and the preliminary design report. The council shall approve the final design report for the water system improvements for the subdivision.

(e) Subdividers shall install the water system shown in the final design report, including service connections to each lot. The timing of City construction shall be at the sole discretion of the council.

(f) Before the City will certify it will furnish water to the subdivided lands, the subdivider shall provide the City with security sufficient to insure the water improvements described in the final design report will be constructed. Such improvement security shall be subject to the approval of the City. Such security shall be equal to 100% of the total estimated cost of the improvement at the end of the period allowed for completion of the facilities plus such additional amount, if any, necessary to guarantee the work for a period of one year following its completion against any defects in workmanship, labor done, or defective materials, furnished. The amount may be increased or decreased by the council upon the recommendation of the Director of Public Works.

(g) Subdivision distribution lines and service connections, including meters and other appurtenances, shall become and remain the property of the City and shall be dedicated to the City before the City will undertake water service to the subdivision. The total construction cost of the water system shall be certified to the City by the subdivider.

Sec. 7-1.314. Subdivisions: Payments Prior to Completion.[56]

(a) Prior to approval of water system plans, the subdivider shall execute a deposit agreement for sufficient number of meters to serve each lot within the proposed subdivision. If additional meters are required prior to completion of construction; or if any lots require an increase in meter size, added fees and deposits shall be paid and revisions made in the deposit agreement. A credit will be allowed for excess deposits.

(b) Construction water will be provided through a temporary service connected to the City's metered facilities through a main tap designed to accommodate the permanent water system required to service the subdivision for which such temporary water is requested. Fire hydrant meters may be used only at the discretion of the Director of Public Works.

(c) The subdivider may pay the construction and conservation fees for the size of such master meter in addition to the cost of the meter and installation, and obtain water at regular rates or pay only for the setting of the master meter and obtain water at temporary water rates.

(d) Temporary service connections shall be discontinued and terminated within six months after installation, unless, an extension of time is granted in writing by the Director of Public Works. Upon discontinuance of such temporary service, a refund of the

56 Amended by Ord. No 09-674 on March 17, 2009.

salvage value of the recovered meter will be made.

(e) Prior to the acceptance by the City of the water system, the subdivider shall pay the master meter charges and bi-monthly service charges for each parcel within the subdivision occupied or approved for occupancy by the local agency with jurisdiction by law.

(f) On acceptance by the City of the water system for a subdivision and payment of the final bill, the master meter charges shall cease and the subdivider shall be no longer responsible for the payment of bi-monthly service charges for parcels within the subdivision.

(g) On acceptance by the City of a portion of the water system for a subdivision, the subdivider shall no longer be responsible for the payment of bi-monthly service charges for the parcels within the portion of the subdivision receiving service from the accepted portion of the water system. The City will set up and maintain meter reading routes for meters turned on in areas accepted by the council. The total water passing through such meters will be subtracted from the subdivider's Master Meter reading, prior to the preparation of the master meter water bill.

Sec. 7-1.315. Subdivisions: Service Charges: Individual Customers.

(a) A person who occupies property prior to the acceptance or partial acceptance of the water system by the City serving the property is not a customer of the City.

(b) On acceptance a partial acceptance of the water system serving a subdivision, service to individual parcels receiving or capable of receiving service from the accepted water system shall terminate unless application for water service is made and fees and deposits made in accordance with these regulations.

Sec. 7-1.316.[57] **City Work: General.**

(a) The City intends to install certain transmission and distribution mains, pumping plants, and tanks throughout the City and within improvement districts with the proceeds of bonds, as the need arises. The City may undertake the expansion of facilities to serve the applicant's property if the facilities are shown on an improvement district plan or provide general City benefit.

(b) The construction fund shall be used to pay for the installation of facilities to accommodate new customers and water demand. Facilities satisfy system deficiencies including but not limited to applicant's property, the Director of Public Works shall recommend to the council construction funds be expended for such propose.

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57 Amended by Ord. No. 08-669 on Oct 21, 2008.

(c) When there is an existing distribution main in the public street or right-of-way, from which corner property may receive water service from the City, and a service connection is requested (except by a subdivider, who shall be required to pay the entire expense of the necessary main extension) beyond the corner property on the other frontage of the public street and the requested service connection requires an additional main extension, the City will install, at its expense, the necessary water main for the width of the corner property or 150 feet, whichever is the shorter. Distances shall be measured from the front line of the corner property, projected if necessary to eliminate property returns.

(d) The City shall supply a meter box, meter, valves, pipes and connections to the upstream side of the meter. Customer shall install pipes and valves on the downstream side of the meter to satisfy the customer"s needs.

Sec. 7-1.317. Financing of Oversized Facilities.

(a) Should the City desire to install facilities in excess of those needed to meet the applicant's service and fire flow demands, the cost of the excess facilities shall be borne by the City.

(b) Should an applicant desire the installation of a water main to meet specialized service or fire flow requirements, the costs of the extra work shall be borne by the applicant. In such a case, the City will not participate in the side frontage as provided above. However, the side frontage will be deducted from the total frontage prior to calculating the unit reimbursement amount for the frontage.

(c) On acceptance of the facility with excess capacity, the City will, for a period of ten years following such acceptance, require subsequent applicants whose property fronts upon the facilities, to pay to the City the applicant's pro rata share of the original cost of the facilities before rendering service. The City will refund such collections to the person, successors of assigns, who provided the excess capacity. If the subsequent applicant's water service and fire flow requirements could have been met without the facilities with excess capacity, the subsequent applicant shall only be required to pay the City pro rata share of outstanding un-reimbursed costs of the facilities without considering excess capacity.

Sec. 7-1.318. Relocations of Facilities.

City facilities relocated for the convenience of someone other than the City shall be moved at the sole expense of the person requesting the relocation. If construction is endangering the safety of a City facility, or is causing a facility to become a hazard, the facility will be relocated by the City, and the person causing the hazard shall pay for the full cost of the relocation.

Sec. 7-1.319. Ownership of Mains.

Mains and appurtenances connected to the City's distribution system shall become the property of the City, and shall be operated and maintained by the City. Dedication of such mains and appurtenances to the City shall be made, in a form acceptable for recording, prior to commencement of service through the new system.

Sec. 7-1.320. Assessment District.

A group of applicants for service along a street or right-of-way in which a main could be installed to satisfy frontage requirements, and who represent 60% or more of the owners of frontage may file an application to form an assessment district to finance the improvement. The cost of forming the assessment district shall be advanced by the applicants, and prorated among the beneficiaries of the improvement on the successful completion of proceedings. A deposit in an amount determined by the Director of Public Works must be made to cover the costs of the preliminary design prior to proceedings being instituted by the City. No refunds will be made of monies expended if the proceedings are terminated prior to completion.

Sec. 7-321. Fire Hydrants.

(a) Fire hydrants shall be installed by the City in accordance with water system design reports when requested by a property owner.

(b) If the fire hydrant is not located where the City may readily inspect for illegal connections or not constructed to City standards for public usage, a detector check valve shall be installed to detect illegal connections and water leaks. When a fire hydrant is constructed to City standards for public hydrants on a main constructed solely for this purpose and can be inspected for misuse from public vantage point by City personnel, the requirement for a detector check valve may be waived. But the requirement shall not be waived for private-owned fire suppression sprinkler systems.

(c) The requirements for installation of a detector check valve may be waived when it is not possible to install the valve due to a high water pressure. When the requirement for a detector check valve is waived for this reason, the applicant shall provide the City with perpetual access to the fire hydrant to make inspections to determine compliance with rules and regulations and shall construct the hydrant in accordance with City standards for public fire hydrants. When both of these conditions cannot be met, the Director of Public Works may authorize the installation of a single service to provide both domestic and fire service complete with a pressure regulator and a compound meter to measure water delivered to the property. In this case, the main meter of the compound meter shall act as a detector check valve and be subject to all fees and penalties associated herein. The applicant shall pay the City the actual cost of installing the necessary facilities.

ARTICLE 4. CONTINUATION OF SERVICE

Sec. 7-1.401. General.

A customer shall continue to receive water service from the City by compliance with the provisions of this Article.

Sec. 7-1.402. Water Pricing.[58]

(a) During the last three months of each fiscal year, the council shall determine whether rates charged for water recover the reasonable cost of water service, including capital costs and operation and maintenance. The council shall amend the rates annually, if necessary, to satisfy the foregoing criteria.

(b) During the annual review of rates, the council shall determine whether rate changes made by the Director of Public Works satisfy the criteria set forth herein. The council shall adjust the rate changes made by the Director of Public Works as necessary to satisfy these criteria.

Sec. 7-1.403. Potable Water Bi-monthly Meter Service Charge Inside the City.

The City Council shall establish bi-monthly water rates by resolution.

Sec. 7-1.404. Potable Water Temporary Service Rates.

The City Council shall establish temporary service rates by resolution.

Sec. 7-1.405. Private Fire Protection Service.

The bi-monthly charge for private fire protection service shall be [*amount*].

Sec. 7-1.406. Service Outside of City.

(a) The rate for surplus water shall be the same rate as the rate for water sold through temporary meters unless the agreement for surplus water delivery approved by the Council establishes a different rate.

(b) The rate for water used on land or property located both inside and outside the City shall be apportioned according to the place of use as determined by the Director of Public Works.

Sec. 7-1.407. Billing Adjustments.

For the purpose of computing water charges, each meter on the property will be computed separately. Readings of two or more meters will not be combined as equivalent to measurement through one meter, except in instances the City, for its operating convenience, substitutes two or more meters of a smaller size in battery for a single larger meter on the same service connection, in which event the total equivalent capacity of the smaller meters shall be substituted for the size of a single meter of a similar capacity.

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58 Amended by Ord. No 09-674 on March 17, 2009.

Sec. 7-1.408. Bills Due When Presented.

Meters shall be read periodically and as soon after the meter reading date as practical. The City shall mail or deliver a statement for the preceding period. Bills and charges shall be due and payable at the office of the City upon presentation. Failure to receive a bill does not relieve a customer of liability for payment.

Sec. 7-1.409. Billing Frequency.

(a) Domestic services will normally be billed bimonthly. Exceptions will be made at the discretion of the Director of Public Works, if more frequent billing is warranted. Normally, temporary and large services will be billed monthly.

(b) A person proposing to use at least 50 acre feet of water during a 30 day period for recreational uses, such as the filling of a lake, may request the billing for the water delivered to be spread over not more than twelve consecutive months next following the commencement of delivery of water for such purposes.

Sec. 7-1.410. Application of Deposits to Delinquent Accounts.

A consumer's deposit shall be applied to delinquent bills and penalties. Service may be discontinued unless the deposit is restored and delinquencies and charges are paid.

Sec. 7-1.411. Notice of Service Discontinuance Required.

Customers desiring to discontinue service should notify the City in writing at least two days prior to vacating the premises. Unless discontinuance is so ordered, the customer may be liable for the bimonthly service charges whether or not any water is used.

Sec. 7-1.412. Multiple Services.

(a) The rates and charges for services and facilities furnished by the City shall be collected with the water rates and charges. Such charges shall be included within the same bill and collected as one item. In the event of failure to pay the whole or any part of the bill, the City may discontinue any or all service for which the bill is rendered.

(b) When water is furnished to one customer through more than one service connection at the same or different locations or premises, all services may be discontinued when a bill for any one becomes delinquent.

Sec. 7-1.413. Proration of Charges for Odd Periods.

Proration of bills for water service for periods of time less than one month will not be made. Customers will pay no less than the regular established service charge for the size and class of service even if less than one month's service is provided. Customers will pay no less than the regular bimonthly service charge for any service period of one month or longer but less than two months.

Sec. 7-1.414.[59] **Estimated Bills.**

(a) If a meter in working condition cannot be read, an estimate shall be made of the quantity of water used and a bill rendered for the estimated quantity. Should the succeeding reading indicate the estimate is materially in error, an adjustment shall be made in the succeeding bill.

(b) If a meter becomes inoperable, billing shall be based on the quantity used in a similar period, unless circumstances indicate clearly a material change in the rate of consumption, in which case the Director of Public Works shall estimate the quantity used, considering pertinent factors, and render a bill accordingly.

(c) Customer shall pay for the maximum amount of water which could flow through the connection between meter readings if the meter register is inoperable due to vandalism or if the meter is by-passed by device, provided the customer"s bill shall be reduced if the customer establishes a smaller amount of water flowed to the customer"s property.

Sec. 7-1.415. Change of Customers Without Notice.

A person taking possession of premises and using water from an active connection without having made application to the City for water service, shall be liable for the water delivered from the date of the last recorded reading. If application for water service is not made upon notification by the City, and if accumulated bills for service and the fees are not paid immediately, the service may be discontinued without further notice.

Sec. 7-1.416. Delinquent Customer at Same or New Address.

(a) A customer shall not again be furnished service at the same or another location until all delinquent bills plus the fees and charges have been paid; and a deposit sufficient to cover future services has been provided.

(b) Service may be discontinued and not resumed while the premises are in the same ownership until bills, plus the fees and deposit have been paid.

(c) An employee possessing an authorized order for the disconnection of service which is delinquent may accept the full amount of the service charges shown upon such disconnection order, plus fees specified. The entire amount due shall be paid, even if the payment has been mailed. On collection of the amounts, the service shall be left connected or reconnected as the case may be. The employee shall not make rebates or adjust charges.

Sec. 7-1.417. Check Not Honored by Bank.

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59 Amended by Ord. No. 08-669 o Oct 21, 2008.

(a) Applicants or customers who pay bills for service, fees, deposits or penalties by check are responsible for the check being honored by the Bank upon which it is drawn. If a check is refused for payment by the Bank, the writer shall redeem the check in cash at the City"s office within 24 hours and pay a redemption fee in the amount of $20.00.

(b) Service shall not be undertaken until the customer or applicant complies with the requirements of this section. If the dishonored check relates to existing service, the procedure for termination of service shall be invoked if the customer fails to redeem the dishonored check within the allotted time.

Sec. 7-1.418. Use of Water: Supplying Another Person.[60]

(a) Except as provided in this section, water shall not be supplied to property other than described in the application for service and no customer shall deliver water outside of the City without the consent of the council.

(b) A customer may be issued a permit to supply water to a holder of a public works contract or private contractor. Such permit shall be denied to a person indebted to the City or who has failed to comply with the rules and regulations of the City.

(c) Service of water shall not be made through a single meter to two or more parcels of property separately owned. A temporary exception may be made to this rule if approved by the Director of Public Works, if there is no main contiguous to the property from which separate service may be had, and if the customer for whom the meter was installed guarantees payment for all water delivered. Such service shall be charged as though separate meters existed for each separate use. Whenever a City main is installed from which separate service can be rendered, the Director of Public Works will notify parties concerned, and the common service will be subject to being discontinued after the time limit in the notices.

Sec. 7-1.419. Use of Water During Fire or Shortage.[61]

(a) During the times of threatened or actual water shortage, the council shall apportion the available water supply among customers in the most equitable manner possible, with due regard to public health and safety.

(b) When requested by the City during a fire emergency, customers shall shut off lawn sprinklers or any steady flow of water.

Sec. 7-1.420. Unauthorized Use of Fire Hydrants.

(a) No person shall use water from a fire hydrant for any purpose other than fire suppression or the uses permitted in this section.

60 Amended by Ord. No 09-674 on March 17, 2009.
61 Amended by Ord. No 09-674 on March 17, 2009.

(b) Temporary service may be provided through a fire hydrant.

(c) Water may be used to maintain or test a fire sprinkler system. Authorization to use water through a fire service connection for the purpose of maintaining or testing a fire sprinkler system will be granted when the request contains: maximum pressure; and the estimated quantity of water to be used. The Director of Public Works may restrict or prohibit non-emergency flows detrimental to the City's system.

(d) When a fire service or a fire hydrant has been used for other than for suppression, or a single service has exceeded the allowable capacity of the by-pass meter (as determined by registration on the full flow main meter) the City may charge the sum of [*amount*] for the first offense, [*amount*] for the second offense, and [*amount*] for the third and subsequent offenses.

(e) If the Director of Public Works determines leakage has occurred, totaling less than .03 units of water per period during 3 consecutive billing periods to the customer's fire service or fire hydrants, the Director of Public Works shall notify the customer of the usage and encourage customer to fix the leak.

If the Director of Public Works determines leakage has occurred, totaling less than 15 units but more than .03 units of water per period during 3 consecutive billing periods to the customer's fire system or fire hydrant, the customer shall present satisfactory evidence the leak has been repaired, or pay [*amount*] per billing period in addition to the regular charge described herein.

If the Director of Public Works determines leakage has occurred, totaling more than 15 units of water per period during three consecutive billing periods to the customer's fire service or fire hydrant, the customer shall present satisfactory evidence the leakage has been fixed, or remove the detector check valve and purchase a water meter of the appropriate size. If the customer chooses to purchase a water meter, the customer shall pay fees and charges normally associated with the purchase of the meter.

(f) If repeated unauthorized use of a fire service or hydrant occurs, the Director of Public Works shall notify the fire department and the occupant of the properties served by the fire service or fire hydrant that within 10 days the fire service or fire hydrant shall be disconnected until charges for each violation have been paid and assurances, have been given that no further unauthorized use will occur.

Sec. 7-1.421. Operation of District Facilities Restricted.

No one except an employee or representative of the City shall operate service cocks or valves, main cocks, gates or valves of the City's system, or interfere with meters or their connections, water mains or other parts of the City's water system.

Sec. 7-1.422. Damage to Property.

(a) The City is not liable for damage by water running from opened or faulty fixtures, or from opened or damaged pipes on the customer side of the meter.

(b) The customer shall be liable for damage to the City facilities from any act or omission of the customer or the customer's family, tenants, agents, employees, contractors, licensees, or permittees.

Sec. 7-1.423. Fraud.

Service may be discontinued to protect the City for fraud.

Sec. 7-1.424. Relief Valve Required.

When pressure regulating valves or other protective devices are connected to a water heater, a suitable pressure relief valve shall be installed and maintained by the customer in accordance with the Uniform Plumbing Code to protect the customer's plumbing system.

Sec. 7-1.425. Isolation of Certain Service Connections Required.

(a) There shall be no connection between a private fire protection service and another water distribution system on the premises.

(b) There shall be no connection between an irrigation service and another water system on the premises.

Sec. 7-1.426. Meter Required.

Water furnished by the City must pass through a meter. No by-pass or connection around a meter between the customer's plumbing and the City's main shall be made or maintained.

Sec. 7-1.427. Cross Connections.

(a) A cross-connection is unprotected connection between any part of the City's potable water supply system and a source or system which potentially contains water or a substance not approved for human consumption.

(b) The requirements of Uniform Plumbing Code and Section 7583 through 7622 of Title 17 of the California Administrative Code, are incorporated in this Code by reference.

(c) Water service may be refused or discontinued to premises where a cross-connection exists in violation of these requirements.

(d) Whenever back flow protection is necessary on a water supply line entering a customer's premises, or when more than one Domestic or Irrigation Service Connection

supplies water to a single premises, water supply lines from the City's mains entering such premises, buildings or structures shall be protected by an approved back flow device, regardless of the use of the additional water supply lines.

(e) Private fire protection services are excluded from the requirements of this section.

Sec. 7-1.428. Service Connection Shut-off Valves.[62]

(a) City shut-off valves are installed for the use of the City and will usually be found immediately adjacent to the street side of the meter.

(b) The customer may provide a valve on the customer's side of each meter. This valve is for the customer's use, and may be operated at the customer's convenience.

Sec. 7-1.429. Ownership of Service Connections.

Service connections and water meters installed or accepted for use by the City are the property of the City. The expense of maintenance, repairs, and replacement of such devices due to normal wear and tear shall be borne by the City.

Sec. 7-1.430. Customer Plumbing Appliances Subject to Approval.

Water service may be refused or discontinued to premises where apparatus or appliances unreasonably endanger City facilities.

Sec. 7-1.431. Conservation.

(a) Customers shall conserve water supplied by the City by the prevention and elimination of waste or leakage.

(b) New plumbing fixtures installed within the City service area must conform to the following requirements:

(1) Toilets shall use less than 1.6 gallons per flush.
(2) Showerheads shall flow at less than 2.5 gallons per minute.
(3) Non-residential lavatory faucets shall be metering or self-closing.
(4) Urinals shall use not more than 1.5 gallons per flush.

(c) Fixtures must be approved by the State Department of Housing and Community Development, and toilets, urinals and showerheads must have a certification of volume by a reputable independent testing organization.

(1) Where requirements of this subsection would cause hardship or if suitable fixtures are not available, hot water recirculating systems or point of use hot water heaters may be substituted as water conserving measures for up to two toilet installations per single family dwelling.

(2) In commercial uses, developers may install fixtures using up to 3.5

62 Amended by Ord. No. 07-657 on Dec 18, 2007.

gallons per flush when rest room facilities must meet County handicapped use requirements or when vandalism of tank style toilets is likely.

(d) Water conserving fixture installations shall be subject to compliance inspection, prior to issuance of final occupancy permits, by one of the agencies responsible for issuing building permits. Inspection reports shall be supplied by the inspector to the City.

(e) For the benefit of the public, and to further the cause of water conservation in landscaping, one home in each model home display must be landscaped with water efficient plant material and irrigated with appropriate water-conserving irrigation systems.

(1) The landscaping for the model shall be designed to be drought tolerant. The use of irrigation intensive plantings shall be discouraged.

(2) Turf areas shall be no more than 30% of the area landscaped.

(3) The model home display shall draw attention to the specific landscape materials and irrigation techniques utilized.

Sec. 7-1.432. Recycled Water.

To conserve the City's potable water supply, recycled water shall be used as follows:

(a) Where recycled water is available and appropriate, the use of potable water for irrigation purposes shall be considered a waste of potable water. On written notice from the Director of Public Works, recycled water is available from a recycled water main contiguous to a customer's property and acceptable to the Department of Health Services and the Regional Water Quality Control Board. The customer shall have 60 days to commence the use of recycled water. Thereafter, potable water delivered to the property for irrigation shall be charged at a rate of 150% of the potable water rate.

(b) Potable water shall not be used for construction activities such as compaction and dust control when the cost of recycled water, added to the cost of recycled water conveyance facilities, is less than, or equal to, the cost of an equivalent amount of potable water priced at 150 percent of regular potable water rates, plus the cost of necessary potable water conveyance facilities.

Sec. 7-1.433.63 **Irrigation Practices.**

(a) The City shall promote water efficient irrigation practices by compliance with the Water Conservation in Landscaping Act for (1) developer installed projects having a landscape area over 2,500 square feet; (2) homeowner installed landscape area over 5,000 square feet; or (3) City installed landscape, regardless of area.

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63 Amended by Ord. No. 09-677 on June 16, 2009.

(b) Each applicant for a building permit and each applicant for approval of a site plan shall submit a landscape irrigation plan which incorporates as many of the recommendations contained in the California Model Landscape Irrigation Ordinance as feasible.

(c) The City may adopt temporary water conservation measures stricter than the landscaping plan if necessary to meet water shortage emergencies.

CHAPTER 2. SANITATION SERVICE

ARTICLE 1. GENERAL

Sec. 7-2.101. Purpose.

This chapter establishes the terms and conditions of sewer service and pretreatment regulations to prevent the introduction of pollutants into the treatment facilities which interfere with the operation of the facilities or contaminate the sewage sludge; pass through the treatment works into receiving waters, the atmosphere; and improve the feasibility of recycling and reclaiming waste waters and sludge resulting from waste water treatment.

Sec. 7-2.102. Scope.

These regulations shall apply to the collection, treatment and disposal of wastes delivered through collector sewers, into the trunk sewers of the City; to the tapping of the connection to the trunk sewers to the issuance of permits and the collection of fees; to the imposition and collection of fees to pay the cost of checking plans, inspecting construction and providing "as-built" plans of the facilities; and to penalties for violation of these provisions.

Sec. 7-2.103. Definitions.[64]

The definitions in this Article shall govern the construction of these regulations unless otherwise apparent from the context:

(a) "Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 38 U.S.C. Sections 1251 *et seq*.

(b) "Administrative Authority" is the individual or agency authorized by law to administer and enforce the plumbing code or a sanitary sewer and industrial waste ordinance.

(c) "Administrator" or "Regional Administrator" means the appropriate Environmental Protection Agency Regional Administrator.

(d) "Applicant" is a person requesting sanitation service from the City.

(e) "Biochemical Oxygen Demand" or "B.O.D." is the demand of the waste discharge as determined by standard methods.

(f) "Class 1 Discharger" or "Class 1" is a discharger discharging sewage from a residential structure, or discharger discharging waste equivalent in strength to a residential discharge.

(g) "Class 2 Discharger" or "Class 2" is a nonresidential discharger discharging sewage containing not more than 235 mg/1 B.O.D and 282 mg/1 S.S. on an average

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64 Amended by Ord. No. 07-658 on Dec 18, 2007.

daily basis. Light industrial users and commercial users, such as schools and offices, are presumed to be Class 2 Discharges. Dischargers in this class must demonstrate the discharge does not exceed the foregoing limits.

(h) “Class 3 Discharger” or “Class 3” is a discharger who discharges sewage containing more than 235 mg/1 B.O.D and 282 mg/1 S.S. but less than 635 mg/1 B.O.D and 415 mg/1 S.S. on an average daily basis. Moderate industrial users and commercial users such as shopping centers and gas stations are presumed to be Class 3 Dischargers. Dischargers in this class must demonstrate the discharge does not exceed the foregoing limits.

(i) “Class 4 Discharger” or “Class 4” is a discharger discharging sewage containing more than 635 mg/1 B.O.D and 415 mg/1 S.S. but less than 1000 mg/1 B.O.D and 700 mg/1 S.S. on an average daily basis. Moderately heavy industrial users and commercial users such as restaurants, markets and mortuaries are presumed to be Class 4 Dischargers. Dischargers in this class must demonstrate the discharge does not exceed the foregoing limits.

(j) “Class 5 Discharger” or “Class 5” is a discharger discharging sewage continuing more than 1000 mg/1 B.O.D and 700 mg/1 S.S. on an average daily basis. Industrial users are in this category.

(k) “Collector Sewer” or “branch sewer” means a public sewer or system of public sewers which receives sewage from a relatively small area and discharges into a trunk sewer.

(l) “Customer” means a person receiving sanitation service from the City.

(m) “Domestic Sewage” means the water borne wastes derived from the ordinary living or commercial process of such character as to permit satisfactory disposal without special treatment.

(n) “Equivalent Residential Unit” or “ERU” or “sewage unit” refers to a residential unit of any size, or 18 plumbing fixture units, as defined in the Uniform Plumbing Code, discharging into the sewer.

(o) “Indirect discharge” means the discharge or introduction of non-domestic pollutants from source regulated under Section 307(b) or (c) of the Act, into the City's treatment facilities.

(p) “Industrial Waste” means waste substances, liquid or solid, except domestic sewage but including radioactive wastes and explosives, noxious, toxic, or corrosive gases or liquids when present in the sewage system. Class 2, 3, 4 and 5 dischargers are presumed to deposit industrial wastes.

(q) “Industrial Waste Connection” is the connection between an industrial waste source and a trunk or collector sewer and includes a manhole, or other acceptable testing means, on the lateral so the City or administrative authority can sample the discharge to the trunk sewer or collector sewer.

(r) “Interference” means inhibition or disruption of the City's sewer system,

treatment process or operations contributing to a violation of a requirement of the City's National Pollution Discharge Elimination System (NPDES) permit. The term includes prevention of sewage sludge use or disposal by the City's facilities in accordance with Section 405 of the Act, or criteria guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of the Solid Waste Disposal Act) applicable to the method of disposal or use employed by the City's treatment facilities.

(s) “Lateral Sewer” is a sewer discharging into a branch or other sewer and which has no other common sewer tributary to it.

(t) “Proposed Discharge Line” is a theoretical line beginning at the center of the “Frontage” (9-2.108(o)) and running perpendicular to the right-of-way to the planned alignment of a sewer collector or trunk, thence along the planned alignment of the sewer collector or trunk to the nearest planned point of connection on an existing sewer collector or trunk owned by the City.

(u) “New source” means any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) categorical Pretreatment Standard applicable to such source, if such Standard is thereafter promulgated within 120 days of the proposal in the Federal Register. Where the Standard is promulgated later than 120 days after the proposal, New Source means any source, the construction of which is commenced after the date of promulgation of the Standard.

(v) “Publicly Owned Treatment Works” or “POTW” means a treatment works defined by Section 212 of the Act, owned by a state or municipality. This definition includes sewers conveying waste to a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the municipality as defined in Section 502(4) of the Act, having jurisdiction over the indirect discharges and the discharges from such treatment works.

(w) “Sanitation Service” means the collection and treatment of sewage and the disposal of effluent and sludge by the City.

(x) “Suspended Solids” or “S.S.” refers to the results of a standard Total Non-filterable Residue Dried at 103-105 C test as described in Standard Methods.

(y) “Trunk Sewer” means a public sewer, owned and maintained by the City, to which one or more collector sewers are tributary.

(z) “Sewer Connection” means the connection between a lateral and collector or trunk.

ARTICLE 2. COMMENCEMENT OF SERVICE

Sec. 7-2.200. Mandatory Sewer Connections.[65]

(a) Improved property whose proposed discharge line would not be longer than 100 feet shall deposit sewage into the main through a lawful sewer connection. The sewer connection for property improved as of September 1, 2002, shall be made before September 1, 2003. The sewer connection for property improved before the future extension of the sewer main shall connect to the main within one year of the installation of the sewer main. Plan check fees are waived for new, improved property sewer connections.

(b) Unimproved lots whose proposed discharge line would not be longer than 200 feet shall deposit sewage in the main through a lawful sewer connection. The sewer connection shall be shown on a site or plot plan and approved by the City prior to the issuance of a permit to construct improvements on the lot.

(c) Notwithstanding the foregoing, the Public Works Director may authorize a delay in the connection of property to the sewer main if the Director finds the delay will not jeopardize public health or the environment and the property owner enters into an agreement with the City to make the connection when requested by the Director. The Agreement shall include a promise by the property owner to vote for the formation of a financing district and an assessment or special tax to pay for the connection.

Sec. 7-2.201. Application.

(a) An applicant for sanitation service or for a change in the amount or type of such service shall make request on forms provided by the City, and pay required fees prior to obtaining a permit from the administrative authority.

(b) Applicants for sanitation service shall provide the following information on forms provided:

(1) location of property from which sewage will flow;
(2) owner of property;
(3) strength of sewage to be discharged;
(4) duration of discharge;
(5) quantity of discharge;
(6) type of user (residential, commercial or industrial);
(7) nature of business if commercial or industrial; and
(8) plumbing plans of the proposed facility, commercial or industrial.

Sec. 7-2.202. Certification and Re-certification of Class.

(a) The Director of Public Works shall prepare a list showing the expected discharge classification for various types of uses. The Director of Public Works shall review applications for sanitation service and determine which class of discharge applies to the applicant.

(b) A non-residential discharger or applicant who contends the Director of Public Works' determination of Class does not accurately reflect the quantity or quality of water reaching the sewer may request the Director of Public Works to review the determination by presenting evidence to support such contention. The Director of Public Works may change the classification assigned to the discharger if the discharger can show that the sewage differs significantly and substantially from the sewage for the Class.

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65 Amended by Ord. 07-658 on 12/18/07.

Sec. 7-2.203. Fees: General.

Applicants for sanitation service shall pay the fees set forth in this Article as a condition for obtaining sanitation service.

Sec. 7-2.204. Connection to Existing Facility.[66]

(a) An applicant for service to property fronting on but not connected to an existing collector or trunk sewer shall pay: (1) a pro rata share of the cost of the trunk sewer, if a main extension refund agreement exists with respect to such trunk sewer;
(2) a connection fee; (3) miscellaneous fees, if any; and (4) make the deposits, as set forth below.

(b) Applicant shall pay for the design and construction of a sewer lateral along the proposed discharge line and the extension of the sewer collector or trunk with appurtenances from the existing approved point of connection to the far end of the entire frontage of the lot. The design shall be in accordance with standards approved by the City.

(c) An application to add sewage units to an existing lateral sewer connected to the trunk sewer directly or through a collector sewer shall pay: (1) a connection fee, (2) the miscellaneous fees, if any, and (3) make the deposits set forth below.

Sec. 7-2.205. Connection to New Sewer.[67]

(a) An applicant for service to property not fronting on an existing collector or trunk sewer shall pay: (1) connection fees; (2) miscellaneous fees, if any; and (3) make the deposits set forth below.

(b) Applicant shall pay for the design and construction of a sewer lateral along the proposed discharge line and the extension of the sewer collector or trunk with appurtenances from the existing approved point of connection to the far end of the entire frontage of the lot. The design shall be approved by the Public Works Director. Private disposal systems shall be permanently deactivated in accordance with the Uniform Plumbing Code when the property is connected to the community system.

(c) If the applicant pays for the cost of a trunk sewer extension to serve the applicant's property, the applicant may enter into a sewer extension refund agreement.

Sec. 7-2.206. Sewage Connection Fees.

The City Council shall establish sewage connection fees by resolution.

Sec. 7-2.207. Sewage Connection Fees: Changes in Amounts.

(a) When the number of sewage units connected to a particular lateral permanently increases, the property owner shall pay an additional sewage connection fee based upon the number of ERUs added to the system.

On discovery by the City of an unauthorized sewer connection, the property owner shall pay a connection fee at the rate existing as of the date of the connection. Unless the property owner presents clear and convincing evidence as to the date of the unauthorized connection, it shall be presumed the connection was made as of the date of discovery.

(b) If the number of sewage units applicable to the temporary facilities is more than the number of sewage units applicable to the permanent facilities, no additional sewage connection fees shall be

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66 Amended by Ord. No. 07-658 on 12/18/07.
67 Amended by Ord. No. 07-658 on 12/18/07.

refunded to the property owner at the rate existent as of the date of connection to the temporary facilities.

(c) When the right to service is transferred from temporary to permanent facilities and the number of sewage units applicable to the temporary facilities is less than the number of sewage units to be provided to the permanent facility, the property owner shall pay an additional sewage connection fee(s) based upon the number of additional sewage units at the rate existent as of the date of the transfer.

(d) Connection fees may be changed at any time in accordance with these regulations and state law. An applicant shall pay the connection fees existent when service commences regardless of when the connection fees are deposited or paid. “Service commences” for a new or additional ERU when the applicant's property can be connected to the trunk or collector sewer and monthly sewage service charges are paid.

Sec. 7-2.208. Transfer of Right: Conditions.

A property owner who has the right to receive sanitation service for temporary facilities may transfer that right to permanent facilities located on another parcel of land, if the following conditions are met:

(a) The property owner pays applicable fees and charges for service at the original location.

(b) The property owner pays expenses incurred by the City in providing service to the new site including but not limited to additional materials, inspection or coring.

(c) The property owner demonstrates service to the original location has been permanently discontinued, sealed and capped.

(d) Applicable rates, fees and charges are paid.

Sec. 7-2.209. Miscellaneous Fees.

(a) An applicant shall pay the following miscellaneous fees:

(1) Where a collector sewer is constructed pursuant to a so-called “private contract” or pursuant to other ordinances and regulations, the applicant shall pay a fee to cover the cost of reviewing the plans and specifications for the sewer improvements.

(2) Sewer connection installation and inspection charges shall be paid whenever a connection to a collector or trunk sewer is required.

(3) Whenever industrial waste must be tested prior to discharge, the proposed discharger shall pay the City's testing costs.

(b) The anticipated amount of the miscellaneous fees described above shall be deposited prior to commencement of work by the City. Refund of any excess deposit shall be made upon completion of the work.

Sec 7-2.210. Deposits.[68]

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68 Amended by Ord. 07-658 on 12/18/07.

(a) An applicant not making a cash deposit for connection fees shall enter into a deposit agreement. The deposit agreement shall require the applicant to pay connection fees at a future date.

(b) The form of the deposit agreement shall be approved by the Council. The deposit agreement shall be recorded and constitute a lien against the property for which service is sought.

(c) Whenever a deposit is required to cover the cost of a service to be performed, the Director of Public Works shall establish the amount of deposit by estimating the cost of providing the materials, equipment or services. The deposit shall be tendered to the City before work is undertaken. The amount of deposit may be increased if the original estimate is inadequate. If the applicant fails to increase the amount of
deposit when requested in writing, work on the project shall cease. At the conclusion of the project, the Director of Public Works shall refund amounts deposited in excess of costs incurred.

(d) If the applicant abandons the construction of the improvements, or the recording of a subdivision for which installation and connection charges were paid, installation and connection charges shall be refunded, with interest, to the applicant upon the applicant's written request. If the facilities necessary to serve the applicant's property have been installed or expenses incurred, the refund shall be reduced by the amount of such expenditure.

ARTICLE 3. CONDITIONS OF SERVICE

Sec. 7-2.301. System Expansion.

(a) The applicant shall provide for the construction of facilities necessary to connect the applicant's sewage disposal system to the trunk sewer. This Article describes the possible methods of financing such expanded facilities.

(b) The applicant shall insure the new facilities are constructed and connected to the trunk sewer in accordance with City requirements. This Article also describers the City's design and construction standards.

Sec. 7-2.302. Financing System Expansion.69

(a) If an applicant is required to construct a trunk sewer and the trunk sewer is a part of an improvement plan, the City shall pay for the cost of design and construction if bond funds are available and the Council determines it is in the best interest of the improvement plan to construct the facilities at the time of the application.

(b) If an applicant is required to construct a trunk sewer without the use of bond funds and the trunk sewer will service more than one parcel of land, the City may enter into a main extension refund agreement with the applicant whereby the applicant shall bear the entire cost of the design and construction of the improvements and the City shall collect a pro rata share of the cost of such facilities from other property fronting the trunk sewer and remit the

69 Amended by Ord. No. 07-658 on 12/18/07.

same to the original applicant. The form of the main extension refund agreement shall be approved by the Council.

(c) If the applicant is required to construct a trunk sewer without the use of improvement City bond funds and if the trunk sewer will serve more than one parcel of land, the City may allow the formation of an assessment district in lieu of entering into a main extension refund agreement.

(d) Nothing herein contained shall require the City to allow improvement plan or assessment district bond funds to construct a trunk sewer or enter into a main extension refund agreement.

(e) If an applicant is required to construct a collector sewer to obtain service, the City shall not pay for the cost of design and construction of such improvements. Construction will be the responsibility of the applicant.

Sec. 7-2-303. Construction Standards: General.

Pipelines and appurtenances constructed to convey industrial waste or domestic sewage into the City's trunk sewers shall not be connected to the City's trunk sewers unless the pipelines and appurtenances are constructed in accordance with City and administrative authority standards.

Sec. 7-2.304. Construction Standards: Lateral Connections.

(a) Laterals shall be installed as shown on the City's standard specifications. No laterals shall be attached to another lateral nor shall laterals be extended to collect other sewage discharges without prior approval of the City and the administrative authority. A person making such unauthorized lateral extension or additions shall be subject to immediate disconnection and liability for expenses and charges.

(b) A gas trap shall be installed in each lateral connection attached to a trunk sewer between the sewer and vents installed on the property. The trap shall be maintained at the expense of the owner of the lateral.

(c) Connections shall be made only at points on trunk sewers approved by the Director of Public Works. The applicant shall make the excavation for the lateral in accordance with the City's standard specifications, and notify the City at least forty-eight hours in advance of the commencement of the excavation. The City shall also be notified of the completion of the lateral attachment to the connection so inspection may occur prior to backfill of the trench for the lateral sewer.

Sec. 7-2.305. Construction Standards: Collector Connections.

(a) Collector sewers shall be connected to City trunk sewers at locations and in the manner specified by the Director of Public Works.

(b) Plans and specifications of collector sewers and connections to trunk sewers shall be prepared by a registered Civil Engineer and submitted to the City for approval prior to construction. If the collector sewer system and the connection conform with the requirements of the City, the Director of Public Works shall approve the Engineer's design for construction. Two sets of approved plans of the collector sewer system and the connection shall be submitted to the City prior to construction. Additionally, one complete set of plans corrected for as-built conditions shall be submitted to the City prior to acceptance of the connection by the City. The connection shall remain plugged until acceptance. Chimneys may be plugged at the upper end rather than at the connection.

(c) The City shall inspect the work of making connection. At least forty-eight hours notice prior to commencement of such work must be given to the City. The City must be notified of the completion of such work so inspection may be made prior to acceptance by the City.

(d) The collector sewer, up to the point where it joins the connection at the trunk sewer, shall be dedicated to the appropriate governmental agency. No additional collector sewers shall be connected to collector sewer connection or collector sewer system without prior approval of the City.

(e) The collector sewer connection, including required manholes, shall be dedicated to the City.

Sec. 7-2.306. Construction Standards: Industrial Waste Connections.

(a) Industrial waste connections shall be made on trunk sewers or collector sewers only at locations and in the manner specified by the Director of Public Works or Administrative Authority.

(b) Plans and specifications shall be prepared, submitted, reviewed and certified for industrial waste connections in the same manner as collector connections.

(c) Industrial waste systems and laterals must be separated from domestic systems and laterals. This may be accomplished at a manhole or other appropriate inspection facility with a common lateral discharging to the industrial waste connection.

ARTICLE 4. CONTINUATION OF SERVICE

Sec. 7-2.401. General.

Sanitation service shall be provided by the City as long as the customer pays the rates, fees and charges set forth herein and otherwise complies with the provisions of this Chapter.

Sec. 7-2.402. Sewer Service Charges: Residential Service (Class 1).

The City Council shall establish residential sewer service charges by resolution.

Sec. 7-2.403. Sewer Service Charges: Non-Residential Service.

The City Council shall establish non-residential sewer service charges by resolution.

Sec. 7-2.404. Sewer Service Charges: Public School.

The City Council shall establish public school sewer service charges by resolution.

Sec. 7-2.405. Sewer Service Charges: Billing: Proration.

Bills for sewer service for periods of time less than two months shall be prorated on the basis of a 60 day bi-monthly billing period.

Sec. 7-2.406. Previously Unauthorized Connections.

The property owner shall pay to the City sewer service charges accruing from the date of connection to the date of discovery and thereafter. For an unauthorized connection, the date of connection shall be the date water service commenced unless the property owner provides clear and convincing evidence to the contrary. The amount of accrued charge shall be based on the sewer service rates existing as of the date of discovery.

Sec. 7-2.407. Prohibitions.

(a) No connection shall be made nor permitted to the trunk sewers which admits wastes not complying to the discharge and waste requirements of this Article.

(b) No person shall knowingly discharge or deposit or allow discharge into sewers of solids or fluids creating nuisances, or which are detrimental to the functioning of sewer or to the treatment and disposal facilities and processes of the City.

(c) The following wastes are prohibited:

(1) Uncontaminated cooling water.

(2) Rainwater, storm water, groundwater, street drainage, subsurface drainage, yard drainage, including evaporative type air cooler discharge water.

Sec. 7-2.408. Permits: General.

(a) The following wastes may be discharged with a permit:

(1) Brines, including brines produced in the regeneration of water softeners.

(2) Swimming pool waste water discharges between twelve midnight to six a.m.

(3) Cesspool or septic tank pump trucks from within the boundaries of improvement Cities.

(4) Industrial wastes.

(b) Each industrial waste discharge will be considered individually, giving due consideration to its effect upon the trunk sewers and the treatment and disposal facilities and processes of the City. In addition to limitations on industrial wastes imposed by the administering authority, the following general limitations shall apply to industrial wastes:

(1) Material which will settle out in the sewers, such as sand or metal filings, shall not be discharged to the sewers. Waste waters containing such materials must be passed through sand traps or other suitable structures before discharge to the sewer.

(2) Oils and greases shall not be discharged to the sewer system in concentrations greater than 100 mg/L.

(3) Unreasonable or unnecessarily large amounts of suspended solids shall not be discharged into the sewer.

(4) Pollutants, including oxygen demanding pollutants (BOD, etc.) shall not be discharged into the sewer at flow rates or concentrations causing interference with the Water Reclamation Facility or enhance the formation of excessive sulfides in the collection system.

(5) Wastes of strong odors, such as mercaptans, shall not be discharged into the sewer.

(6) Dissolved sulfides in wastes discharged into the sewer shall not exceed a concentration of 0.1 pH.

(7) Acids shall not be discharged into the sewer unless neutralized to a pH value of 6 or above. Highly alkaline wastes will usually be accepted, except where they may cause incrustation of sewers. Nitric acid requires special consideration. The Director of Public Works shall be consulted prior to making such discharges.

(8) Pollutants which result in the presence of toxic gases, vapors or fumes in quantities that could endanger worker health and safety in the collection system.

(9) Contaminated cooling water blow down, or bleed, from cooling towers or other evaporative coolers and when cooling is done by using only heat exchange, without using evaporative cooling, shall not be discharged to the sewer.

(10) Industries shall segregate sewage and industrial wastes from roof and yard run-off. Roof and yard run-off shall not be discharged to the sewer.

(11) The temperatures of discharges shall not exceed 140 degrees Fahrenheit (60 degrees Celsius). Where the quantity of discharge represents a significant portion of the flow in a particular sewer, it may be necessary to lower the temperature further.

(12) Chemical solutions containing nitric acid or salts thereof in concentrations above 5% by weight, and volumes in excess of 300 gallons shall not be

discharged into the sewer. Industries desiring to dispose of such wastes may consult the City as to permissible disposal methods.

(13) Wastes containing boron, fluorides, chlorides and sodium or potassium or other dissolved solids which will cause the effluent of the City's treatment facilities to exceed the requirements of the Regional Water Quality Control Board shall not be discharged into the City's sewers.

(14) Pollutants that could create a fire or explosion hazard in the sewers or treatment facility shall not be discharged. This includes, but is not limited to, discharges with a closed cup flash point of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods specified in 40 CFR261.21.

Sec. 7-2.409. Other Limits.

The following pollutants limits to protect against pass-through and interference. No one shall discharge or cause to be discharged any waste containing in excess of the following instantaneous maximum allowable discharge limits:

0.05 mg/1	arsenic	0.50 mg/1	zinc
0.005 mg/1	beryllium	0.02 mg/1	selenium
0.02 mg/1	cadmium	100 mg/1	oil and grease
0.07 mg/1	chromium	140 deg. F	temperature
0.30 mg/1	copper	1.5 mg/1	boron
0.02 mg/1	cyanide	1.2 mg/1	fluoride
0.20 mg/1	lead	325 mg/1	sulfate
0.002 mg/1	mercury	175 mg/1	chloride
0.50 mg/1	nickel	1000 mg/1	TDS
0.08 mg/1	silver	0.1 mg/1	sulfide

The discharge concentration of a pollutant not listed shall not exceed the Maximum Contaminant Level (MCL) for the pollutant established by the California Department of Health Services for drinking water.

Sec. 7-2.410. Pretreatment Standards.

(a) On promulgation of the Categorical Pre-treatment Standards for a particular industry sub-category, the Federal Standard shall immediately supersede the limitations imposed under this Article. The Federal Standard is more stringent than the limitations imposed under this Article for sources in that sub-category. The Director of Public Works shall notify Users of the applicable requirements under the General Pretreatment Regulations, Solid Waste Disposal Act, and the Act.

(b) If additional pretreatment or operation and maintenance is required to meet Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment shall be used. The completion date shall not be later than the compliance date established for the applicable Pretreatment Standard.

(c) The following conditions shall apply to the schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and so forth.

(2) No increment referred to in Paragraph 1 shall exceed nine (9) months.

(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director of Public Works including, as a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

Sec. 7-2.411. <u>Reporting Requirements for Permittee</u>.

(a) Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of waste water into POTW, any user subject to pretreatment Standards and Requirements shall submit to the Director of Public Works a report indicating the nature and concentration of pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and minimum daily flow for those process units in the user facility limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional operation and maintenance or Pretreatment is necessary to bring the user into compliance. This statement shall be signed by an authorized representative of the user, and certified to by a qualified professional.

(b) Any user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Manager of Water Reclamation Operations during the month of June and December, unless required more frequently in the Pretreatment Standard or by the Director of Public Works, the report indicating the nature and concentration of pollutants in the effluent limited by such Pretreatment Standards. This report shall include a report of daily flows which during the reported period exceeded the average daily flow reported in the paragraph above. At the discretion of the Director of Public Works and in consideration of such factors as local high or low flow rates, holidays, budget cycles and so forth, the Director of Public Works may agree

to alter the monitoring which the above reports are to be submitted.

(c) The Director of Public Works may impose mass limitations on users using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent by the users. These reports shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration, or production and, where requested by the Director of Public Works, mass of pollutants limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standards. Analysis shall be performed in accordance with the procedures established by the Administrator pursuant to Section 304(g) of Act and contained in 40 CFR, Part 136 amendments thereto or with any other test procedures approved by the Administrator. Samplings shall be performed in accordance with the techniques approved by the Administrator.

Sec. 7-2.412. Public Notification of Violations.

The City shall annually publish a list of users not in compliance with Pretreatment Requirements or Standards at least once during the previous twelve (12) months. The notification shall also summarize enforcement action taken against the user during the same period.

Sec. 7-2.413. More Stringent Limitations.

(a) The City may establish more stringent limitations or requirements on discharges if necessary to comply with the objectives as set forth in this Article.

(b) State requirements and limitations on discharges apply if more stringent than Categorical Standards or this Article.

CHAPTER 3. RECYCLED WATER

ARTICLE 1. GENERAL

Sec. 7-3.101. Purpose.

The City wishes to conserve potable water by collecting, treating and recycling sewage and wastewater and beneficially reusing the resultant recycled water.

Where service is desired for landscape irrigation, agricultural irrigation, industrial processed water, or a recreational impoundment, the City shall provide the applicant, owner, or customer with recycled water in lieu of potable water whenever possible. Determinations on the specific uses to be allowed shall be in accordance with the standards of treatment and water quality requirements set forth in the California Code of Regulations to protect the public health.

Sec. 7-3.102. Scope.

These provisions govern the commencement of recycled water service, the conditions of such service and the regulations to be followed for service to continue.

ARTICLE 2. DEFINITIONS

Sec. 7-3.201. General.

The terms set forth in this Article are defined for the purposes of this chapter:

(a) "Air-Gap Separation" is a physical break between a supply pipe and a receiving vessel at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, and in no case less than one inch.

(b) "Applicant" is any person, firm, corporation, association, or agency who desires, or is required to obtain recycled water service.

(c) "Approved Reduced Pressure Principle Backflow Prevention Device" is a device containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure relief valve located between the check valves, designed to maintain a reduced pressure between the check valves. The unit shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly.

(d) "Automatic System" is a system of automatic controllers, valves, and associated equipment required for the programming of effective water application rates when using recycled water.

(e) "Auxiliary Water Supply" is a water supply available to the premises other than the City's potable water and recycled water system.

(f) “Cross Connection” is an unprotected connection between part of a water system used to supply water for drinking purposes and a source containing recycled water or other auxiliary water supply not approved for human consumption.

(g) “Customer” shall mean a person, firm, corporation, association, or agency who receives recycled water service from the City.

(h) “Design Area” is the specific land area to be irrigated through on-site landscape sprinkler irrigation systems.

(i) “Off-site Facilities” are facilities under the control of the City, including recycled water pipelines and appurtenances to the point of connection with the customer's facilities. For recycled water service, the off-site facilities are upstream of the City's meter and the meter box.

(j) “On-site Facilities” are facilities under the control of the customer including but not limited to residential or commercial landscape irrigation systems, and agricultural irrigation systems. For recycled water service, the on-site facilities are downstream of the City's meter.

(k) “On-site Recycled Water Supervisor” shall mean a qualified person designated by a recycled water applicant and approved by the City knowledgeable in the construction and operation of irrigation systems and the application of the guidelines, criteria, standards, and rules and regulations governing the proper use of recycled water.

(l) “Potable Water” is water furnished by the City for human consumption.

(m) “Recycled Water” is water suitable for a direct beneficial use or a controlled use as a result of tertiary treatment of wastewater in accordance with Title 22 of the California Code of Regulations that otherwise would not occur.

(n) “Service Connection” is the piping and appurtenances to conduct water from a water main to the property designated in the application for water service.

(o) “Service” shall mean the delivery of recycled water.

(p) “Unit” is 100 cubic feet of water.

ARTICLE 3. COMMENCEMENT OF SERVICE

Sec. 7-3.301. General.

No person shall connect to the City's recycled water system without a permit from the City.

Sec. 7-3.302. Application Procedure.

(a) Persons desiring or required to obtain recycled water service shall make application for a permit by providing information to evaluate the request including, but not limited to:

(1) Applicant's and on-site recycled water Supervisor's name;
(2) Identity of property to be served;
(3) Owner of property to be served;
(4) Design area;
(5) On-site irrigation piping plan map;
(6) Anticipated use and application rate.

The application shall be in writing, signed by the applicant, owner, or customer, if they are not one and the same.

(b) The applicant must agree to comply with the requirements of Federal, State, and local statutes, ordinances, regulations, and other requirements. The City may require specific prior approval by the Federal, State, or local agency having jurisdiction over the operation of the facilities.

(c) The General Manager shall review and investigate the application. The General Manager may prescribe construction requirements, the manner of connection, the financial requirements and the use of the service, including the availability of adequate on-site recycled water facilities to insure initial and future continued compliance with the City's regulations and other requirements.

(d) If the application is for a commercial account in the name of a corporation or partnership, the applicant shall provide a personal guarantee from an owner or principal of the applying entity, regardless of the form of organization, as follows:

> "I hereby certify I am a principal/officer of the organization listed on the attached application. I accept full responsibility for all fees and charges related to water and sewer service for the organization.
>
> [*Name and Title*]"

Sec. 7-3.303. Permit.

(a) The General Manager shall issue a recycled water permit when the application for recycled water service is approved. The permit shall entitle the applicant to receive recycled water service upon the terms and conditions stated herein.

(b) The permit shall include the following:

(1) Name and address of applicant;
(2) A drawing of the proposed system showing the location and size of all valves, pipes, outlets, and appurtenances;
(3) A statement no changes in the proposed system will be undertaken without application and approval of an amended permit; and

(4) A statement recognizing potential penalties for violation of City rules and regulations.

Sec. 7-3.304. Mandatory Service.

When recycled water service can be feasibly provided to a property for particular uses, the General Manager shall require the use of recycled water in lieu of potable water. “Feasible” means recycled water is available for delivery to the property in compliance with federal, state and local laws, ordinances and regulations and such water can be delivered at a cost to the user which does not exceed the cost of potable water service.

Sec. 7-3.305. Fees: General.

Applicants for recycled water service shall pay for the construction of facilities necessary to deliver recycled water to the applicant's property and to distribute recycled water on the applicant's property. However, the City may reimburse the applicant for a portion of the cost of such facilities as set forth in this Article.

Sec. 7-3.306. Financial Participation by City.

(a) The City encourages the use of recycled water by establishing rates for the delivery of recycled water that are less than rates for potable water. The City may contribute to the cost of constructing the facilities needed to deliver recycled water.

(b) The City may reimburse a developer for costs incurred to install a recycled water system to a maximum of 50 percent of Conservation Fees paid by the Developer after first deducting City costs incurred for the recycled water system.

ARTICLE 4. CONDITIONS OF SERVICE

Sec. 7-3.401. General.

Service will be provided to property contiguous to existing recycled water distribution lines. Service will be provided to property not contiguous to existing distribution lines if the distribution line is extended to the applicant's property.

Sec. 7-3.402. Permitted Uses.

(a) Recycled water may be used to landscape irrigate, industrial process water, and recreational impoundment. Each use must be considered on a case-by-case basis. The City may determine whether it is necessary or desirable to furnish recycled water for the specific use. Determination shall be in accordance with the standards of treatment and water quality requirements set forth in the California Code of Regulations. Prior to

approving such uses, the City may set forth specific conditions or require specific prior approval from the appropriate regulatory agencies.

(b) Recycled water may be used for residential irrigation by individual homeowners provided:

(1) The design and construction of the private irrigation systems is approved by the City; and

(2) The homeowner obtains a permit to receive the water and uses it only for irrigation purposes.

(c) Recycled water may be used for common area landscape irrigation if such use is controlled by the City, or a person other than the customer, through a surveillance program of areas under irrigation, and provided further:

(1) The design and construction of the irrigation system is approved by the City; and

(2) The owner and operator of the system obtains a permit to receive such water and use it only for irrigation purposes.

Sec. 7-3.403. Other Limitations.

The City shall not be liable for any damage by recycled water or otherwise resulting from defective plumbing, broken or faulty services, or recycled water mains. Applicants for recycled water service shall be required to accept such conditions of pressure and service as are provided by the distribution system at the location of the proposed service connection and to hold the City harmless from damage arising from low pressure or high pressure conditions or interruptions of service.

Sec. 7-3.404. Size, Location, and Installation of Service Line.

(a) The City may determine the size of the service lines, service connections, and meters and may determine the kind and size of backflow protection devices for potable water service. The service lines shall be installed to a curb or property line of the customer's property, abutting upon a public street, highway, alley, easement, lane or road (other than a freeway) in which is installed recycled water mains of the City.

(b) A service connection shall not be used to supply adjoining property of a different owner. When property is subdivided, the connection shall serve the lot it directly or first enters. Additional mains or recycled water service lines will be required for remaining subdivided areas. Recycled water used on a premises where a meter is installed must pass through the meter. Customers are responsible and charged for recycled water passing through the meters.

(c) Every recycled water service line installed by the City shall be equipped with a curb stop or wheel valve on the inlet side of the meter. Such valve or curb stop shall be used exclusively by the City to control the supply through the service line. If the curb stop or wheel valve is damaged by the customer's use requiring replacement, replacement shall be at the customer's expense.

Sec. 7-3.405. Relocation of Recycled Water Service Line.

Should a service line installed at the request of the applicant, owner, or customer be of the wrong size or installed at a wrong location, the cost of relocation shall be paid by the applicant, owner, or customer. Services provided prior to final street improvements shall be temporary and the costs for repairs or changes required to be performed by the City paid by the applicant, owner, or customer.

Sec. 7-3.406. Scheduling Recycled Water.

The City may control and schedule the use of recycled water if scheduling is necessary to maintain acceptable working pressure and provide reasonable safeguards to public health.

Sec. 7-3.407. Emergency Connections to Recycled Water System.

If an emergency exists and recycled water is not available, the General Manager may approve a temporary connection to the potable water system. Before such temporary connection is made, the property without recycled water shall be isolated by an approved backflow prevention device, or devices, and shall be installed on the potable water line or lines. This emergency connection shall be removed before connection is re-established to the remainder of the recycled water system.

Sec. 7-3.408. System Extensions: General.

Recycled water facilities shall be designed and constructed according to the requirements, conditions, and standards as adopted and revised by the Board. The recycled water system shall be separate and independent from the potable water system.

Sec. 7-3.409. On-Site Facilities.

(a) On-site recycled water facility shall be provided by the applicant, owner, or customer. The applicant shall retain title to on-site facilities.

(b) Plans and specifications and record drawings for on-site facility shall be prepared and submitted to the City for approval before commencing construction.

(c) Irrigation schedules must be prepared and approved prior to commencement of service to any on-site system. Record drawings shall be provided and approved and the installed system shall be tested under active conditions to ensure operation is in accordance with these regulations.

(d) Where recycled water is not available for use when the area is ready for construction, and the City determines recycled water will be supplied in the future, on-site facilities shall be designed to accommodate future recycled water service. The City's off-site recycled water facilities will be connected when available. In the interim, potable domestic water will be supplied to the on-site facilities through a temporary connection. A backflow preventer will be required on the temporary connection as long as the on-site

facilities are using potable water. The backflow preventer shall be downstream of the meter and a part of the on-site facilities. The City will remove the backflow preventer at the owner's expense, and make the connection to the on-site facilities when recycled water becomes available.

(e) The City shall provide recycled water to the point of connection of the off-site facilities to on-site facility on transfer to the City of title to facilities.

Sec 7-3.410. Off-Site Facilities.

(a) Off-site recycled water facilities required to serve the applicant's property shall be provided by the applicant at the applicant's expense, unless the City determines there is a City benefit to construct the facilities.

(b) The City may require the construction of off-site facilities including reservoirs, pumping facilities, and treatment capacity, larger than the size required to serve the property described in the application. In such cases, the City will pay the difference between the cost of the facilities applicant requires and the cost of the facilities the City requires.

(c) If the off-site facilities front property not owned by the applicant, the City may enter into a agreement with the applicant to refund a portion of the cost of the off-site facilities when other property receives service. The terms of the refund agreement shall be determined by the City. The period for reimbursement will depend on the amount advanced by the applicant, the probability of receipt of payment, and of the anticipated course of development of the particular portion of the City where the facilities are constructed.

Sec. 7-3.411. Conversions of Existing Facilities.

If an existing water system is to be converted to a recycled water facility, the facilities to be converted shall be investigated in detail. No existing potable water facilities shall be connected to or incorporated into the recycled water system without City approval.

ARTICLE 5. CONTINUATION OF SERVICE

Sec. 7-3.501. General.

A recycled water customer shall be entitled to continue to receive recycled water service by rates established by the City Council by resolution.

ARTICLE 6. USAGE

Sec. 7-3.601. Facilities Operations: Off-Site Recycled Water Facilities.

Operation and surveillance of off-site facilities shall be by the City. No person except authorized employees of the City shall enter upon, inspect, operate, adjust, change, alter, move, or relocate any portion of the off-site facilities. Such action may also be in violation of Federal, State, and local statutes, ordinances, regulations, and other requirements.

Sec. 7-3.602. Facilities Operations: On-Site Facilities.

(a) The operation and maintenance of on-site facilities are the responsibility of the customer.

(b) The operation and maintenance of on-site facilities shall be by an □on-site Recycled Water Supervisor□ designated by the customer and approved by the City. The City may require an □on-site Recycled Water Supervisor□ obtain instruction in the use of recycled water provided by the City.

(c) The General Manager shall monitor and inspect the on-site facilities, and for these purposes may enter on the customer's premises during reasonable hours. Where necessary, keys or combinations shall be issued to provide such access.

(d) The customer shall have the following responsibilities in relation to operation of on-site facilities:

(1) To ensure personnel are trained and familiarized with the use of recycled water;

(2) To furnish personnel with maintenance instructions, irrigation schedules, and record drawings to ensure proper operation in accordance with the on-site facilities design and these regulations;

(3) To submit to the City one set of record drawings on Mylar;

(4) To notify the City of proposed changes, modifications, or additions to the on-site facilities. Changes shall be approved by the City and shall be designed and constructed according to the requirements, conditions, and standards set forth in the City's □Guidelines of Recycled Water Facilities□ conditions, and standards, changes must be submitted to the City for plan check and approval prior to construction. The construction shall be inspected by the City, and revised record drawings and controller charts shall be approved by the City.

(5) To ensure the on-site facilities continue to comply with these regulations;

(6) To operate and control the system to prevent direct human consumption of recycled water and to control and limit runoff. The customer is responsible for subsequent uses. Operation and control measures shall include the following:

(i) On-site facilities shall be operated to prevent or minimize discharge into areas not under control of the customer. Part circle sprinklers shall be used

adjacent to sidewalks, roadways, and property lines to confine the discharge from sprinklers to the design area.

(ii) The operation shall be during the periods of minimal use of the service area. Consideration shall be given to allow a maximum dry-out time before the design area will be used by the public.

(iii) Recycled water shall be applied at a rate that does not exceed the infiltration rate of the soil. Where varying soil types are present, the design and operation of the on-site facilities shall be compatible with the lowest infiltration rate present.

(iv) To prevent runoff and ponding, automatic systems shall be used and programmed to prevent or minimize the ponding and runoff of recycled water. The sprinkler system shall not be allowed to operate for a time longer than the landscape's water requirement. If runoff occurs before the landscape's water requirements are met, the automatic controls shall be reprogrammed to lessen watering cycles to meet the requirements. This method of operation is intended to control and limit runoff.

(v) To report an unauthorized discharge of recycled water.

(7) To comply with Federal, State and local statutes, ordinances, regulations, contracts, these Rules and regulations, and requirements prescribed by the General Manager and the Board.

Sec. 7-3.603. Water Conservation.

It is the desire of City to effect conservation of water resources whenever possible, such measures being consistent with legal responsibilities to seek to wisely utilize the water resources of the State of California and the City.

No irrigation of new or existing parks, median strips, landscaped public areas or landscaped areas, lawns, or gardens surrounding single family homes, condominiums, townhouses, apartments, and industrial parks shall occur in such a way as to waste water. The rate and extent of application of water shall be controlled by the consumer so as to minimize runoff from the irrigated areas.

Sec. 7-3.604. Meter Testing.

(a) If recycled water meter fails to register during any period, or is known to register inaccurately, the customer shall be charged with an average daily consumption at the same season shown by the reading of the meter when in use and registering accurately. A customer may demand the meter through which water is being furnished be

examined and tested by the City for the purpose of ascertaining whether or not it is correctly registering the amount of recycled water being delivered. Such demand shall be in writing and shall be accompanied by a deposit equal to the potable bi-monthly service fee for sized meter.

(b) Upon receipt of such demand and deposit, the City will have the meter examined and tested, and if upon such test the meter shall be found to register over two

percent (2%) more water than actually passed through it, the meter shall be properly adjusted or another meter substituted therefor, the deposit shall be returned, and the recycled water bill for the current month will be adjusted proportionately. If the meter should be found to register not more than two percent (2%) more water than actually passes through it, the deposit shall be retained by the City to offset the expense of making the test.

Sec. 7-3.605. Cross Connection Prevention: General.

These provisions protect the potable water supply against actual or potential cross-connection by isolating the premises where contamination or pollution may occur because of some undiscovered or unauthorized cross-connection, and to prevent cross-connections in accordance with the California Code or Regulations. These provisions are in addition to the controls and requirements of other regulatory agencies. These regulations are not intended to provide protection of users from the hazards of cross-connections within their own premises.

Backflow prevention devices, on the potable water service to the premises shall be provided by the customer. Such devices shall be owned and maintained by the City, and located on the premises, but shall not be on the City's portion of the system.

Sec. 7-3.606. Cross Connection Prevention: Where Protection is Required.

(a) On-site facilities are a separate and controlled non-potable system. Under normal conditions, protective devices will be required on the City's potable water service. Under no circumstances will the City tolerate an actual or potential cross-connection between the City's potable water supply and the Customer's on-site non-potable water facilities.

(b) The City will require a backflow prevention device on its potable water supply:

(1) When recycled water is used on individually owned and controlled; and

(2) When the recycled water system has additional pressure.

Sec. 7-3.607. Cross Connection Prevention: Type of Protection: Recycled.

The type of protection device shall be determined by the City. A backflow protective device shall be required on the potable pipeline and shall consist of a reduced pressure principle backflow device.

Sec. 7-3.608. Inspection of Protective Devices.

The City shall inspect backflow prevention devices at least annually. Inspection and testing shall be performed by a tester certified by the local health department. The devices shall be repaired, overhauled, or replaced at the expense of the customer when found to be defective. Records of tests, repairs, and overhauls shall be maintained and made available to the local health department.

Sec. 7-3.609. Marking Safe and Unsafe Water Lines.

Where the premises contain dual or multiple water systems and piping, the exposed portions for recycled water pipelines shall be painted, banded, or marked at sufficient intervals. Outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes.

Sec. 7-3.610. On-Site Recycled Water Supervisor.

(a) The City will notify the local and State Health Departments, and the Regional Water Quality Control Board of the identity of the person responsible for the on-site facilities. Where necessary, a water supervisor shall be designated. This water supervisor shall be responsible for the installation and the use of pipelines and equipment and for the prevention of cross-connections.

(b) In the event of contamination or pollution of the drinking water system due to a cross-connection on the premises, the local health officer and the City shall be promptly advised by the person responsible for the water system so appropriate measures may be taken to deal with the contamination or pollution.

CHAPTER 4. STREETS AND PUBLIC RIGHTS OF WAY

ARTICLE 1. GENERAL

Sec. 7-4.101. Scope.

This chapter sets for the terms for use of streets and public rights of way.

ARTICLE 2. COMMUNITY ANTENNA TELEVISION SYSTEMS

Sec. 7-4.201. Definitions.

The following words and phrases are defined for the purposes of this article:

(a) "Community antenna television system" or "CATV" means a system of antennae, coaxial cables, wires, wave guides, or other conductors, equipment, or facilities designed, constructed, or used for the purpose of providing television or FM radio service by cable or through its facilities as contemplated in this article. CATV does not mean or include the transmission of any special program or event for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television."

(b) "Franchise" means authorization granted pursuant to this article in terms of a franchise, privilege, permit, license, or otherwise to construct, operate, and maintain a CATV system.

(c) "Grantee" means the person, firm or corporation to whom or to which a franchise is granted pursuant to this article and the lawful successor, transferee, or assignee of such person, firm, or corporation.

(d) "Gross annual receipts" means compensation and other consideration in any form and contributing grants or subsidies received directly or indirectly by a grantee from subscribers or users in payment for television or FM radio signals. "Gross annual receipts" does not include taxes on the service furnished by a grantee imposed directly on user or subscriber by a city, state, or other governmental unit and collected by a grantee for such governmental unit.

(e) "Property of the grantee" shall mean property owned, installed, or used by a grantee in the conduct of CATV business in the City.

(f) "Subscriber" means a person or entity receiving CATV service from a grantee.

Sec. 7-4.202. Franchises.

A non-exclusive franchise to construct, operate, and maintain a CATV system within the City may be granted by the Council to a person, firm, or corporation.

This Chapter does not require the granting of a franchise when, in the opinion of the Council, it is in the public interest to restrict the number of franchises.

Sec. 7-4.203. Franchises: Applications: Granting.

Applications for community antenna television system franchises shall be in writing, filed with the City Clerk, and contain the following information:

(a) The name and address of the applicant; if the applicant is a partnership, the application shall state the name and address of each partner; if the applicant is a corporation, the application shall state the names and addresses of its directors, main offices, major stockholders and associates, and the names and addresses of parent and subsidiary companies;

(b) A statement and description of the CATV system to be constructed, installed, maintained, or operated by the applicant; the proposed location of such system and its various components; the manner in which the applicant proposes to construct, install, maintain, and operate such system; and, particularly, the extent and manner in which existing or future poles or other facilities of other public utilities will be used for such system;

(c) A description, in detail, of the public streets, public places, and proposed public streets within which the applicant proposes or seeks authority to construct, install or maintain any CATV equipment or facilities; a detailed description of the equipment or facilities proposed to be constructed, installed, or maintained therein; and the proposed specific location thereof;

(d) A map specifically showing and delineating the proposed service area or areas within which the applicant proposes to provide CATV services and for which a franchise is requested;

(e) A statement or schedule in a form approved by the „city Clerk of the proposed rates and charges to subscribers for installations and services, and a copy of the proposed service agreement between the grantee and its subscribers shall accompany the application. For unusual circumstances, such as underground cable required, or more than 150 feet of distance from the cable to the connection of service to subscribers, an additional installation charge over that normally charged for installation as specified in the applicant‟s proposal may be charged, with easements to be supplied by subscribers. For remote, relatively inaccessible subscribers within the City, service may be made available on the basis of the costs of materials, labor, and easements if required by the grantee;

(f) A copy of any contract, if existing, between the applicant and any public utility providing for the use of facilities of such public utility, such as poles, lines, or conduits;

(g) A statement setting forth all agreements and understandings, with respect to the proposal franchise or the proposed CATV operation. If a franchise is granted to a person, firm, or corporation posing as the agent or representative of another, and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever;

(h) A financial statement prepared by a certified public accountant, or person otherwise satisfactory to the Council, showing the applicant"s financial status and his financial ability to complete the construction and installation of the proposed CATV system; and

(i) Other information the Council deems reasonably necessary to determine whether the requested franchise should be granted.

Sec. 7-4.204. Acceptance.

(a) The Council may refuse to grant the requested franchise, or, by ordinance, may grant a franchise. The council"s decision is final. The application submitted shall constitute and form a part of the franchise as granted.

(b) A franchise shall become effective when an ordinance granting the franchise becomes effective and the things required in this Chapter are completed.

(c) Within twenty (20) days after the effective date of the ordinance awarding a franchise, or within such extended period of time as the Council may authorize, the grantee shall file with the City Clerk written acceptance of the franchise, and the bond, the insurance policies, and agreement to be bound by this Chapter and the franchise. Such acceptance and agreement shall be acknowledged by the grantee before a notary public and shall be in form and content satisfactory to the City Attorney.

Sec. 7-4.205. Franchises: Terms.

(a) A franchise granted pursuant to this article shall include the following condition:

> "The CATV system herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by the California City Municipal Code and for no other purpose."

The foregoing statement does not limit the authority of the City to include other reasonable conditions, limitations, or restrictions necessary to impose in connection with such franchise pursuant to the authority conferred by this article.

(b) A franchise granted shall be for a term not longer than twenty (20) years

following the date of acceptance or the renewal thereof.

Sec. 7-4.206. Payment.

(a) The shall annually pay to the City 2% of the gross annual receipts of the grantee. In any year, or portion thereof, following the first full year of service and during which payments under this section amount to less than $120.00 per year, the grantee shall pay the City $120.00.

(b) By February 1 of each year, the grantee shall file a financial statements prepared by a certified public accountant, or person otherwise satisfactory to the Council, showing in detail the gross annual receipts of the grantee during the preceding calendar year, or portion thereof. By February 16th of each year, the grantee shall pay the franchise fee for the period covered by such statements.

(c) In the event of any holding-over after the expiration or other termination of the franchise without the consent of the City, the grantee shall pay to the City reasonable compensation and damages of not less than 100 percent of the grantee"s total gross profits during such period.

Sec. 7-4-207. Uses Permitted.

(a) The franchise granted shall authorize and permit the grantee to engage in the business of operating and providing a CATV system in the City and, for that purpose, to construct, repair, replace, operate and maintain, in, over, under, across, and along public streets such poles, wires, and other property necessary and appurtenant to the CATV system.

(b) The franchise granted shall not permit special programs or events for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television." No grantee shall install, maintain, or operate on television sets a coin box or other device or means for the collection of money for individual programs.

(c) The grantee may charge subscribers for installations or connections to the CATV system and a fixed monthly charge as filed and approved as provided in this chapter. No increase in the rates and charges to subscribers, as set forth in the schedule filed and approved with the grantee"s application, may be made without the prior approval of the Council expressed by resolution.

Sec. 7-4-208. Limitations.

(a) Franchises shall be non-exclusive.

(b) No privilege or exemption shall be granted or conferred by the franchise

except as specifically prescribed in this chapter.

(c) Privileges claimed by the grantee in a street or public property shall be subordinate to prior lawful occupancy of the streets or public property.

(d) The franchise shall be a privilege to be held in personal trust by the original grantee. The franchise cannot be sold, transferred, leased, assigned, or disposed of without the prior consent of the Council and then only under such conditions as may be prescribed. Such transfer or assignment shall be made only by an instrument in writing, a duly executed copy of which shall be filed in the office of the City Clerk within 30 days after any such transfer or assignment. The consent of the council may not be arbitrarily refused. However, the proposed assignee shall show financial responsibility and shall agree to comply with this chapter. No such consent shall be required for a transfer in trust, mortgage, or other hypothecation as a whole to secure an indebtedness.

(e) Time shall be of the essence of the franchise. The grantee shall not be relieved of the obligation to comply promptly or by failure of the City to enforce prompt compliance.

(f) The grantee shall have no recourse against the City for loss, cost, expense, or damage arising out of this chapter, or the franchise issued, or because of the enforcement of this chapter.

(g) The grantee shall be subject to the requirements of City laws, rules, regulations, and specifications heretofore or hereafter enacted.

(h) The grantee shall obtain pole space from the City, utility companies, or from others maintaining poles in streets.

(j) The franchise granted shall be in lieu of rights owned, possessed, controlled, or exercisable by the grantee. The acceptance of the franchise granted shall operate, as between the grantee and the City, an abandonment of rights, privileges, powers, immunities, and authorities within the City to the effect that, as between the grantee and the City, construction, operation, and maintenance by grantee of a CATV system in the City shall be, and shall be construed in all instances and respects to be, under and pursuant to such franchise and not under or pursuant to any other right.

Sec. 7-4-209. Renewal.

The franchise shall be renewable at the application of the grantee, in the same manner and upon the same terms and conditions as required for obtaining the original franchise, except those which are by their terms expressly inapplicable.

Sec. 7-4-210. Termination.

The franchise granted may be terminated prior to expiration by the Council if the Council finds, after 30 days" notice of proposed termination and a public hearing, that:

(a) The grantee has failed to comply with this chapter or has violated any term or condition of the franchise ; or

(b) This chapter has become invalid or unenforceable and such provision constitutes a consideration material to the grant of the franchise; or

(c) The City acquired the CATV system property of the grantee.

Sec. 7-4.211. Rights Reserved to the City.

(a) This chapter shall not impair or affect the right of the City to acquire the property of the grantee, by purchase or eminent domain, at a fair and just value, which shall not include an amount for the franchise itself or for the rights or privileges granted. This chapter shall not be construed to contract away, modify or abridge, for a term or in perpetuity, the City"s right of eminent domain.

(b) Power by the City is bound and shall comply with any action or requirements of the City in its exercise of governmental rights or powers heretofore or hereafter enacted or established.

(c) The City may amend this chapter so as to require additional or greater standards of construction, operation, maintenance, or otherwise on the part of the grantee.

(d) The City Manager may adjust, settle, or compromise any controversy or charge arising from the operations of the grantee on behalf of the City, the grantee, or subscriber, in the best interests of the public. The grantee or the public may appeal to the Council for hearing and determination. The Council may accept, reject, or modify the decision of the City Manager. The Council may adjust, settle, or compromise any controversy or cancel any charge arising from the operations of any grantee or from this chapter.

Sec. 7-4-212. Commencement of Work.

(a) Within 60 days after the acceptance of the franchise, the grantee shall proceed with due diligence to obtain necessary permits and authorizations required in the conduct of business, including, but not limited to, utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses, and

authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems or associated microwave transmission facilities.

(b) The grantee shall commence the construction and installation of the CATV system within 90 days after obtaining necessary permits, licenses, and authorization.

(c) Within 90 days after the commencement of the construction and installation of the system, the grantee shall proceed to render service to subscribers. The completion of the construction and installation shall be pursued with reasonable diligence so service to all areas designated on the map accompanying the application for a franchise shall be provided within one year from the date service was first provided.

(d) Failure on the part of the grantee to commence and pursue diligently each of the requirements of this section and to complete each of the matters set forth in this chapter shall be grounds for the termination of such franchise under and pursuant to the provisions of Section 7-1.11 of this chapter; provided, however, the council in its discretion may extend the time for the commencement and completion of the construction and installation for additional periods in the event the grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

Sec. 7-4-213. Properties of Grantees: Location.

(a) Poles, wires, or other properties of the grantee shall be constructed or installed only at locations and in such manner as shall be approved by the City Engineer.

(b) The grantee shall not install or erect facilities or apparatus on public property within privately-owned areas which have not yet become a public street, but is designated or delineated as a proposed public street on a tentative subdivision map approved by the City, except those installed or erected upon public utility facilities now existing, without obtaining the prior written approval of the City Engineer.

(c) In those areas and portions of the Cit where the transmission or distribution facilities of both the public utility providing telephone service and the utility providing electric service are underground or hereafter may be placed underground, the grantee shall construct, operate, and maintain transmission and distribution facilities underground. For the purposes of this subsection, “underground” shall include a partial underground system, e.g., streamlining. Amplifiers in the grantee‟s transmission and distribution lines may be in appropriate housings upon the surface of the ground as approved by the City Engineer.

Sec. 7-4.214. Properties of Grantees: Removal and Abandonment.

(a) if a part of the CATV system is discontinued for a continuous period of 12 months, or if such system or property has been installed in any street or public place

without complying with the requirements of the franchise, or if the franchise has been terminated or the grantee, upon 10 days" notice, shall promptly remove from the streets or public places such property and poles of such system other than any which the City Engineer may permit to be abandoned in place. If the grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City Engineer.

(b) Property of the grantee remaining in place 30 days after the termination shall be considered permanently abandoned. The City Engineer may extend the time for removal not to exceed an additional 30 days.

(c) The property of the grantee to be abandoned in place shall be abandoned in such manner as the City Engineer shall prescribe. Upon the permanent abandonment of the property of the grantee in place, the property shall become that of the City, and the grantee shall submit to the City Engineer an instrument in writing, to be approved by the City Attorney, transferring to the Cit the ownership of such property.

Sec. 7-4-215. Properties and Records of Grantees: Inspections.

(a) The City may inspect the grantee"s records showing the gross receipts from which the franchise payments are computed. The City may audit and re-compute amounts paid under this chapter. Acceptance of payment shall not be construed as a release or as an accord and satisfaction of claims the City may have for further or additional sums payable or for the performance of other obligations.

(b) Grantee shall permit the duly authorized representative of the Cit to examine property of the grantee situated within or without the City, and to examine and transcribe maps and other records of the grantee or under its control which deal with the operations, or property of the grantee with respect to its franchise. If any such maps or records are not kept in the City, or upon reasonable require are not made available in the City, and if the Council shall determine examination is necessary or appropriate, travel and maintenance expenses necessarily incurred in making such examination shall be paid by the grantee.

(c) The grantee shall prepare and furnish to the City Engineer, at the times and in the form prescribed by the City Engineer. Such reports with respect to operations, or property as reasonably necessary or appropriate to the performance of the rights, or duties or the City or its officers in connection with the franchise.

(d) The grantee shall file with the City Engineer, by the last day in March of each year, a current map or set of maps drawn to scale showing all CATV system equipment installed and in place in streets and other public places of the City.

Sec. 7-4-216. Changes Required by Public Improvements.

(a) The grantee shall relocate property of the grantee when required by the City Engineer by reason of public safety, street vacation, of construction of structures

or improvements by public agencies. The grantee may abandon property in place as provided in this chapter.

(b) Upon the failure of the grantee to commence, pursue, or complete work required by law, or this chapter in any street or other public place within the time prescribed and to the satisfaction of the City Engineer. The City Engineer may cause such work to be done, and the grantee shall pay to the City the cost within 30 days after the receipt of such itemized report.

Sec. 7-4-217. Bond.

(a) Concurrently with the filing of an acceptance of award of a franchise , grantee shall file and thereafter maintain in full force and effect for the term of such franchise , a corporate surety bond, in a company and in a form approved by the City Attorney, in the amount of $1,500, renewable annually, and conditioned upon the faithful performance of the grantee and upon the further condition that if the grantee shall fail to comply with this chapter, or franchise, there shall be recoverable jointly and severally from the principal and surety of such bond damages or loss suffered by the City as a result thereof, including the full amount of compensation, indemnification, or cost of removal or abandonment of property of the grantee which may be in default, plus a reasonable allowance for attorney"s fees and costs. The bond shall provide that 30 days" prior written notice of intention not to renew, cancellation, or material change be given to the City.

(b) The bond accepted by the City or damages recovered by the City thereunder shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under the franchise or for damages, to the full amount of the bond or otherwise.

Sec. 7-4-218. Insurance.

(a) Concurrently with the filing of an acceptance of award of the franchise , the grantee shall furnish and maintain in full force and effect during the term of the franchise , a liability insurance policy in the amount of $500,000.00 issued by a company approved by the City Clerk and in a form satisfactory to the City Attorney. The policy shall indemnify and save harmless the City and its officers and employees from claims, demands, actins, suits, and proceedings by others, including, but not limited to, liability for damages by reason of, or arising out of, failure by the grantee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the grantee"s CATV system and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney fees, arising out of the exercise or enjoyment of its franchise, irrespective of the amount of the comprehensive liability insurance policy required by this section.

(b) Concurrently with the filing of an acceptance of award of a franchise, grantee shall furnish to the City and file with the City Clerk, and maintain in full force and effect , a general comprehensive liability insurance policy in protection of the City

and its officers, boards, commissions, agents, and employees, in a company approved by the City Clerk and in a form satisfactory to the City Attorney, protecting the City and all persons against liability for loss or damages for personal injury, death, and property damage occasioned by the operations of the grantee under such franchise, with minimum liability limits of $100,000.00 for the personal injury or death of any one person, $300,000.00 for the personal injury or death of two or more persons in any one occurrence, and $50,000.00 for damages to property resulting from any one occurrence.

(c) The policies required by this section shall name the City and its officers, boards, commissions, agents, and employees as additional insureds and shall contain a provision that a written notice of cancellation or reduction in the coverage of such policies shall be delivered to the City Clerk 10 days in advance of the effective date of such cancellation or reduction. If such insurance is provided by a policy which also covers the grantee or any other entity or person other than those named in this subsection, such policy shall contain the standard cross-liability endorsement.

Sec. 7-4-219. Standards.

(a) The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the CATV industry, so subscribers shall receive the highest quality service possible. In determining the satisfactory extent of such standards, the following, among others, shall be considered:

(1) The system shall be installed using all band equipment capable of passing the entire VHF ad FM spectrum, and it shall have the further capability of converting UHF for distribution to subscribers on the VHF band.

(2) The system shall be capable of passing standard color TV signals without the introduction of material degradation on color fidelity and intelligence.

(3) The system and equipment shall be designed and rated for 24-hour per day continuous operation.

(4) The system shall provide a nominal signal level of 2,000 microvolts at the input terminals of each TV receiver.

(5) The system signal-to-noise ratio shall not be less than 40 decibels.

(6) The hum modulation of the picture signal shall be less than 5%.

(7) The system shall use components having a VSWR of 1.4 or less.

(b) The grantee shall maintain an office within the City limits or at a location which subscribers may call without incurring added message or toll charges so that CATV maintenance service shall be available promptly to subscribers.

(c) No person, firm, or corporation in the existing service area of the grantee shall be arbitrarily refused service. The grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or monthly service charge.

(d) When any portion of the CATV system is to be installed on public utility poles and facilities, certain copies of the agreements for such joint use of poles and

facilities shall be filed with the City Clerk.

ARTICLE 3. ENCROACHMENTS

Sec. 7-4.301. Encroachment Permits: Required.

No person shall grade, excavate, fill, cover, disturb, change or encroach upon a public street, public right-of-way or public property or place obstructions on the surface of a public street, public right-of-way or public property without first obtaining an encroachment permit in accordance with this article.

Sec. 7-4.302. Encroachment Permits: Applications.

A person desiring to obtain an encroachment permit shall file a written application with the City Engineer describing the location, nature and extent of the proposed work, the purpose of the work, the applicant‟s authority to perform such work and other information that is required to evaluate the application.

Sec. 7-4.303. Encroachment Permits: Conditions.

(a) If the applicant is lawfully entitled to do the work at the place and in the manner proposed, the work is necessary and will be properly performed. The City Engineer shall grant an encroachment permit for . The permit shall require the permittee install and maintain permanent mark(s) at the point of installation identifying such installation.

(b) The City Engineer may issue an encroachment permit for a driveway pursuant to this subsection if the driveway is constructed in accordance with City standards.

(c) For other uses, the City Engineer shall determine whether the work is necessary, will be properly performed, and whether an encroachment permit should be granted. Then the City Engineer shall prepare a report and make written recommendations to the Planning Commission to grant the permit. If the City Engineer believes the permit should not be granted, the application shall be denied and the applicant shall be informed the decision may be appealed to the Planning Commission.

(d) The Planning Commission shall review the application and report and recommendation of the City Engineer and the evidence of the applicant. If the Planning Commission determines the permit should be granted, it shall present its recommendations to the Council for action. If the Commission decides a permit should not be granted, the Commission shall inform the applicant and advise the applicant the Commission‟s decision may be appealed to the Council.

(e) The Council shall consider the report and recommendations of the City Engineer and the Planning Commission and evidence presented by the applicant and render its decision on the application which shall be final.

Sec. 7-4.304. Exceptions: Repairs in Unimproved Streets.

A person maintaining gas pipes or water mains under a franchise or lawful authority may excavate in unimproved streets to repair such pipes without first obtaining a permit, but as soon as possible thereafter a written statement shall be filed with the City Engineer containing the same information as required for an application for a permit.

Sec. 7-4.305. Encroachment Permits: Fees.

Each applicant for an encroachment permit and each permittee shall pay a fee in an amount from time-to-time established by resolution.

ARTICLE 4. UNDERGROUND UTILITY DISTRICTS

Sec. 7-4.401. Definitions.

The following terms are defined for the purposes of this article:

(a) "Commission" means the Public Utilities Commission of the State.

(b) "District" or "Underground Utility District" means that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant this article.

(c) "Poles, overhead wires, and associated overhead structures" means poles, towers, supports, wires, conductors, guys, stubs, platforms, crosssarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments, and appurtenances located aboveground within a District and used or useful in supplying electric, communication, or similar or associated services.

(d) "Utility" means persons or entities supplying electric, communication, or similar or associated services by means of electrical materials or devices.

Sec. 7-4.402. Designation of Underground Utility Districts.

(a) Following a public hearing, the Council may find the public necessity, health, safety, or welfare requires removal and underground installation within a designated area. The City Clerk shall notify affected property owners, as shown on the last equalized assessment roll, and affected utilities concerned by mail of the time and place of a council hearing for such purpose at least 10 days prior to the date. Each such hearing shall be open to the public and may be continued. All persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.

(b) The Council shall declare such designated area an Underground Utility

District and order such removal and underground installation. The resolution shall include a description of the area comprising such District and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners shall be ready to receive underground services. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of the labor, materials, and equipment necessary for removal and the installation of underground facilities.

(c) Within 10 days after the effective date of a resolution adopted pursuant to this section, the City Clerk shall notify affected utilities and persons owning real property within the Underground Utility District of the adoption of the resolution. The City Clerk shall further notify such affected property owners of the necessity that, if they, or a person occupying such property, desire to continue to receive electric, communication, or similar or associated services, they, or such occupant, shall provide the necessary facility changes on their premises so as to receive such services from the lines of the supplying utilities at a new location. Such notice shall be made by mailing a copy of the resolution with a copy of this article to owners as are shown on the last equalized assessment roll and to the affected utilities.

Sec. 7-4.403. Enforcement.

It shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ, or operate poles, overhead wires, and associated overhead structures in an Underground Utility District after the date when such overhead facilities are required by resolution to be removed.

Sec. 7-4.404. Exceptions.

(a) Overhead wires and associated structures may be maintained and operated within an Underground Utility District in the following circumstances: for not to exceed 10 days, with the authority of the Superintendent of Public Works to provide emergency services;

(b) For a reasonable time necessary to remove such facilities after underground facilities have been installed;

(c) Municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;

(d) Poles or electroliers used exclusively for street lighting;

(e) Overhead wires (exclusive of supporting structures) crossing a portion of an Underground Utility District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, where such wires originate in an area from which poles, overhead wires, and associated overhead structures are not prohibited;

(f) Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;

(g) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

(h) Antennae, associated equipment, and supporting structures used by a utility for furnishing communication services;

(i) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts; and

(j) Temporary poles, overhead wires, and associated overhead structures used or to be used in conjunction with construction projects.

Sec. 7-4.405. Responsibility of Utility Companies.

If underground construction is necessary to provide utility services within an Underground Utility District, the supplying utility shall furnish the portion of the conduits, conductors, and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the Commission.

Sec. 7-4.406. Responsibility of Property Owners.

(a) Every person owning, operating, leasing, occupying, or renting a building or structure within an Underground Utility District shall construct and provide the portion of the service connection on property between the facilities and the termination facility on or within such building or structure being served.

(b) If such work is not accomplished within the time provided for in the resolution, the City Engineer shall give notice in writing to the person in possession of such premises, and the owner as shown on the last equalized assessment roll, to provide the required underground facilities within 10 days after the notice. The notice may be given by personal service or mail. The notice shall specify what work is required and shall state if such work is not completed within 30 days after the receipt of such notice, the City Engineer will provide such required underground facilities, and the cost will be assessed against the property benefited, and become a lien upon such property.

(c) Upon the expiration of the 30-day period, the City Engineer shall forthwith proceed to do the work. If the premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall order the disconnection and removal of overhead service wires and associated facilities supplying the utility service to such property. Upon the completion of the work by the City

Engineer, the City Engineer shall file a written report with the Council setting forth the fact the required underground facilities have been provided, the cost, and a legal description of the property.

(d) The Council shall fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, not less than 10 days' receipt of the report. The City Clerk shall give a notice in writing to the person in possession of such premises, and to the owner of the time and place the Council will pass upon such report and hear protests against such assessment. The notice shall also set forth the amount of the proposed assessment. At the time set for the hearing, the Council shall consider the report and protests, and affirm, modify, or reject the assessment.

(e) If an assessment is not paid within 5 days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment, the City Engineer shall turn over to the Assessor and Tax Collector a notice of lien on each of such properties, the Assessor and Tax Collector shall add the amount of such assessment to the next regular bill for taxes levied against the premises upon which such assessment was not paid. Such assessment shall be due and payable at the same time the property taxes are due and payable and, if not paid when due and payable, shall bear interest at the rate of 6% per year.

Sec. 7-4.407. Responsibility of the City.

The City shall remove City-owned equipment from poles required in ample time to enable the owner or user of such poles to remove the poles within the time specified in the resolution.

ARTICLE 5. UTILITY POLES

Sec. 7-4.501. Permitted.

Telegraph, telephone, and electric power corporations and persons granted the right to construct lines of telegraph, telephone, and electric power wires along, upon, or across City streets may erect poles or posts for supporting the insulators, wires, and other necessary fixtures of such lines in such a manner and at such points as do not inconvenience the public in the ordinary use of such streets.

Sec. 7-4.502. Height.

Power wires along the City streets shall be suspended on posts or poles not less than 25 feet in height, and such wires across such streets shall be suspended at least 25 feet above such streets.

Sec. 7-4.503. Interferences with Building Moving.

(a) No person engaged in moving buildings or structures from one part of the City to another and no person, except persons operating and controlling the same, shall cut or otherwise interfere with any telegraph, telephone, or other electric wires or the poles, crossarms, insulators, guides. Anchor wires, or anchor posts. Whenever a person wishes to move a building or structure from one place in the City to another over a street above which telegraph, telephone, or electric power wires are suspended, at an insufficient height above the street to allow the passage of such building or structure along or upon such street, and it shall be necessary to remove the poles upon or from which such wires are suspended, or , to remove or cut any line wires, guy or anchor wires, or anchor posts to allow the passage of such building or structure along or across such street, the person moving the building or structure shall give reasonable notice to the corporation, person, or managing agent controlling and operating such wires, poles, or posts of the desire to have such wires cut or such poles or posts removed so as to permit the passage of such building or structure along or across such street.

(b) The person moving the building or structure shall deposit with the corporation, person, or managing agent such sum as the corporation, person, or managing agent shall estimate to be necessary to cover the expenses and damages incident to the cutting of such wires or removal of such poles or posts and restoring such wires, poles, and posts to their former condition after the passage of such building or structure. The person, corporation or managing agent controlling and operating wires shall be entitled to payment from the person moving the building or structure of the expenses and damages incident to the cutting of such wires and removing such poles and posts and restoring to former condition after the passage of such building or structure over or across such street. If such expenses and damages are greater than the deposit, the person moving such building or structure shall pay to the person, corporation, or managing agent controlling and operating such wires, the additional expenses and damages. If such expenses and damages are less than the deposit, the person, corporation, or managing agent controlling and operating the wires shall return to the person moving such building or structure, the balance of the deposit remaining after paying the expenses and damages.

(c) After making the request and deposit, the corporation, person, or managing agent controlling and operating the wires shall fix and designate a reasonable time when such wires will be cut or such poles or posts will be removed to allow the passage of the building structure.

(d) At the time so fixed and designated, the building or structure shall be moved along or across the street expeditiously so as to occasion the least delay and inconvenience in the use of such wires.

Sec. 7-4.504. <u>Relocation</u>.

(a) The person, firm, or corporation placing or maintaining a pole, pole line, pipe, pipeline, railroad track, or other structure or fixture upon any City street, whether under a franchise or otherwise, shall move the structure or fixture at its own cost and expense to such different location in the street as is specified in a written demand by

the City Engineer when necessary to ensure the safety of the traveling public or to permit the improvement of the street. No such change of location shall be required for a temporary purpose.

(b) The City Engineer shall specify in a written demand to the person placing or maintaining the pole, pole line, pipe, pipeline, railroad track, or other structure or fixture a reasonable time within which the work of relocation shall be commenced, and such person shall commence such relocation within the time specified in the demand and diligently prosecute the relocation to completion.

(c) If the person fails to remove a structure required by this section to be removed within the time specified, such structure shall constitute an encroachment on the street and a public nuisance. The City Engineer shall file an action in any court of competent jurisdiction in the name of the City to abate such encroachment as a nuisance.

ARTICLE 6. NEWSRACKS [70]

Sec. 7-4.601. Purpose.

This article establishes a comprehensive set of regulations applicable to newsracks in the public right-of-way and to ensure the preservation of the public health, safety and welfare while enhancing community aesthetics.

Sec. 7-4.602. Definitions.

For purposes of this article, the following words shall have the following meanings:

(a) “Newsrack” - Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, distribution or sale of newspapers, periodicals, or magazines, whether currently installed, used, or maintained or installed, used, or maintained hereafter.

(b) “Parkway” - The area between the sidewalk and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto.

(c) “Person” - Any individual, company, corporation, association, business or other legal entity.

(d) “Right-of-Way” - Land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for and dedicated to the public for street, highway, alley, pedestrian walkway, sidewalk, roadway, parkway, bicycle path or

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70 Added 7-4.601 through 7-4.608 by Ord. 05-634 on 11/15/05.

other purposes.

(e) “Roadway” - The portion of a public street improved, designed, or ordinarily used for vehicular travel.

Sec. 7-4.603. Regulations for Newsracks Located on Public Property.

The following regulations shall apply to any newsrack located on public property:

(a) No person shall install, use, or maintain any newsrack which rests upon or projects over any part of any roadway.

(b) No person shall install, use, or maintain any newsrack if such newsrack exceeds 48 inches in height, 30 inches in width, or 24 inches in depth or weighs in excess of 125 pounds when empty.

(c) No person shall install, use, or maintain any newsrack contrary to any of the following regulations:

(1) Within five feet of any marked crosswalk;

(2) Within five feet of any street or alley curb return without a marked crosswalk;

(3) Within five feet of any driveway or curb cut;

(4) Within an area 5 feet forward of a driveway, curb cut, or curb return (“forward of a driveway, curb cut, or curb return” shall mean parallel to and in the same direction as the traffic on the side of the roadway in which such driveway, curb cut, or curb return is located) and extending 75 feet to the rear of a driveway, curb cut, or curb return (“to the rear of a driveway, curb cut, or curb return” shall mean parallel to and against the direction of the traffic on the side of the roadway in which such driveway, curb cut, or curb return is located) except if the newsrack is located at the back of a sidewalk and every portion of the newsrack is at least five feet, six inches away from the curb face.

(5) Within fifteen feet of any fire hydrant or fire department connection;

(6) Within five feet of any fire call box, police call box or other emergency facility;

(7) Within five (5) feet of any sign marking a designated bus stop, such area described as follows: extending from the curb face or edge of pavement to a distance eight feet perpendicularly away from the roadway and beginning three feet forward of such sign (“forward of such sign” shall mean parallel to and in the same direction as the traffic on the side of the roadway in which such sign is located) and extending 30 feet to the rear of such sign (“to the rear of such sign” shall mean parallel to and against the direction as the traffic on the side of the roadway in which such sign is located).

(8) Within five feet from the edge of a curb face or, if no curb exists, the edge of pavement where parking is permitted; or, within one foot from the edge of a curb face or, if no curb face exists, the edge of pavement where parking is prohibited;

(9) Within five feet of any bicycle rack;

(10) Within five feet of any manhole or catch basin access;

(11) Within five feet of any lift station;

(12) Within five feet of any utility or signal pull box or utility meter;

(13) Within five feet of a traffic signal control cabinet, signal standard or signal pole;

(14) Within five feet of any pole, post or other device on which a traffic sign is attached or mounted;

(15) Within five feet of a pedestrian access ramp;

(16) Within five feet of any utility pole;

(17) Within five feet of any building, wall or fence;

(18) At any location where the installation of the newsrack reduces the width of the pedestrian walkway to less than five feet.

(d) No person shall install, use, or maintain any newsrack which endangers the safety of persons or property, or when the installation site is used for public utility purposes, public transportation purposes or other government use, or when such newsrack interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or egress from any residence, place of business, or any legally parked or stopped vehicle, or when the newsrack interferes with the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near the installation site, or when such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning.

(e) No person shall chain, bolt or otherwise attach a newsrack to any privately owned property or to any permanently fixed, privately owned object unless the consent of the owner of such property or object is obtained in writing.

(f) Each newsrack installed on a sidewalk shall be located on a turn-out constructed in accordance with standards adopted by the city, but in no event shall any newsrack be located on a sidewalk such that the width of the sidewalk for pedestrian travel is less than five feet.

(g) Each newsrack shall be installed on a pedestal securely anchored to the sidewalk or a concrete pad through the use of bolts and sleeves.

(h) Each newsrack shall be constructed, installed, and maintained in a safe and secure condition and in accordance with standards adopted by the city.

(i) Except for the insertion of removable stock located on or inside the newsrack used for the purpose of promoting newspaper, a newsrack shall not be used for advertising or publicity purposes other than to refer to the name of the newspaper, periodical, or magazine contained in the newsrack.

(j) Each newsrack shall be maintained in a clean, neat, and attractive condition and in good repair at all times.

(k) Except as noted in this subsection, each newsrack and pedestal shall be painted white or black.

(l) This subsection regulating colors shall apply to all newsracks and pedestals 18 months after the effective date of this article, any newsrack or pedestal installed after the effective date of this article, and any newsrack that is removed and repaired after the effective date of this article.

Sec. 7-4.604. Application for Permit.

For any newsrack on public property in place prior to December 16, 2005, the owner of such newsrack shall obtain a newsrack permit from the Planning Director within 30 days after the effective date of this section. Such permit shall be issued by the Planning Director or designee if the newsrack complies with the city standards. The owner of newsracks shall obtain a newsrack permit from the Planning Director before the installation of such newsracks. Such permit shall be issued by the Planning Director if the newsracks comply with the City standards.

Sec. 7-4.605. Indemnity; Insurance.

(a) At the time of issuance of the newsrack permit, the permittee shall also execute a form, approved by the city attorney, agreeing to hold the city, its officers, employees and agents, free and harmless from any claim, demand or judgment in favor of any person, arising out of the installation, use, maintenance or location of any newsrack.

(b) At the time of issuance of the newsrack permit, the permittee shall submit to the city clerk a certificate of insurance confirming that a liability insurance policy in minimum amounts normally required by the city for encroachment permits has been issued naming the city as an additional insured. The certificate of insurance shall contain a provision which binds the insurance company to notify in writing the finance director or designee 30 days prior to cancellation of the liability insurance policy. If such liability insurance policy is canceled at any time, the city may remove the permittee's newsracks in accordance with the provisions of this article.

Sec. 7-4.606. Identification Decal.

Together with the issuance of a newsrack permit, the Planning Director or designee shall issue an identification decal to the permittee. The permittee shall affix the decal to the newsrack. If the decal should be removed or defaced, the permittee shall notify the Planning Director or designee and another decal will be issued which the permittee shall affix to the newsrack.

Sec. 7-4.607. Newsrack Removal.

(a) Any newsrack installed, used or maintained in violation of the provisions of these sections may be removed and stored by the Planning Director or designee ten working days after mailing notice to the address given in the permittee's application for a newsrack permit that such newsrack will be removed. The notice shall give the

permittee the opportunity to cure the violation or to be heard at an informal conference with the Planning Director. The permittee shall be notified if the newsrack is removed and stored.

(b) The Planning Director may summarily remove any newsrack which poses a danger to pedestrians or vehicles, creates a health or safety hazard for pedestrians or vehicles, or otherwise unreasonably interferes with the safe use of public streets or sidewalks. The permittee shall be notified if the newsrack is removed. The notice shall give the permittee the opportunity to be heard at an informal conference with the Planning Director.

(c) The notice of removal or intended removal shall include a form for requesting an informal conference with the Planning Director as to the reasons for the removal or intended removal of the newsrack. If the permittee wishes to contest the removal or intended removal of a newsrack, the permittee shall, within ten working days of the mailing of the notice return to the city such request for an informal conference with the Planning Director as to the reasons for such removal or intended removal of the newsrack. Following such conference, a written decision shall be mailed to the permittee.

(d) The permittee shall claim the newsrack and pay the expenses of removal and storage if, within 30 days following a notice of removal of a newsrack, or, if a conference was requested and the removal was upheld, within 30 days following the mailing of the decision, The newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to law if the permittee fails to claim the newsrack and pay the expenses of removal and possession.

Sec. 7-4.608. Fees.

To the extent permitted by law, the city council shall establish a fee by resolution to recover the cost of processing applications and monitoring permit compliance.

CHAPTER 5. PARK AND RECREATIONAL AREAS

Sec. 7-5.101. Park Defined.

For the purposes of this chapter, "park" means a public park, roadside rest area, playground, or other recreational facility area, together with any parking lot, reservoir, pier, swimming pool, course, court field, bridle path, trail, or other recreational facility or structure owned, managed, or controlled by the City.

Sec. 7-5.102.[71] Acts Restricted: Permits Required.

Except as specifically authorized by written permit issued by the Council, no person shall do any of the following acts in a park:

(a) Cause, permit, or allow an animal to be present except:

(1) Equine animals being led or ridden under reasonable control upon bridle paths or equestrian trails;

(2) Dogs specially trained and used by blind persons to aid and guide them in their movements; and

(3) Dogs on a leash, provided, dogs are not permitted in Central Park even if on a leash.

(4) At locations specifically designated for dogs in accordance with the following rules and regulations:

- Hours of use are Sunrise to Sunset.
- Dogs must be under the control of a handler.
- Handlers must have dogs on a leash while entering and exiting the dog park and outside the fenced dog park.
- Dogs must wear a collar, carry ID tags, be properly licensed, inoculated from Rabies, Distemper & Bordetella, and be in healthy condition.
- Handlers shall deposit the animal's waste in designated receptacles.
- Female dogs in heat are strictly prohibited; vicious dogs and dogs under four (4) months are prohibited.
- Children under eight (8) years old must be accompanied by a parent or guardian.
- Owners are legally responsible for their dogs at all times and injuries caused by them.
- Individuals are asked to be considerate of other people and animals while in the Dog Park and to respect the grounds and surroundings.
- PROHIBITED: smoking, consuming alcoholic beverages, food, glass containers.
- Owners must repair any damage done by their pets.
- Owners must provide their own water bowl for their pets.
- Dogs must not be left unattended or out of sight.
- No animals other than dogs are permitted in the off-leash area.
- No climbing or jumping the fence is permitted.
- Users of this facility do so at their own risk.

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71 Amended by Ord. No. 11-696 on January 17, 2011.

- No more than two (2) dogs per handler are allowed inside the Dog Park.
- If you need assistance with an animal, contact Animal Control at 760/373-1115.

(b) Play any musical instrument outside areas set aside for such purpose;

(c) Play or use a sound-amplifying system outside areas set aside for such purpose regular and customary use of portable radios, television receivers, record players, or tape recorders played or operated so as not to disturb other persons;

(d) Make unusually loud or raucous noise;

(e) Use any area set aside for a specific purpose for a purpose contrary to, or inconsistent with, the specific purpose;

(f) Throw, discard, or deposit debris, bottles, or litter except in receptacles;

(g) Use, throw, or release arrows or crossbows except in designated archery areas;

(h) Take, seize, or hunt non-domesticated birds or animals;

(i) Remove or disturb vegetation or soil;

(j) Fire, discharge, shoot, explode, or operate a gun, explosive, sling or slingshot, or substance designed to be used in a gun, or ignite fireworks except at a place and time and in the manner specifically designated for such activity;

(k) Except for the mini-park at the mobile home park, enter or remain between the hours of 10:00 p.m. and 6:00 a.m.;

(l) At the mini-park at the mobile home park, enter or remain between the hours of dusk and 6:00 o'clock a.m.;

(m) Bathe or wade in the waters of the park, fountain, pond or lake;

(n) Enter any municipal swimming pool dressing room when an employee of the Department of Parks and Recreation is not in attendance;

(o) Roller skate, board skate, or ride or drive a bicycle, scooter, or similar vehicle on the decks surrounding swimming pools or on tennis courts;

(p) Operate a boat, raft, or surfboard on a pond, lake, or water, except boats provided or rented through the Department of Parks and Recreation and those for which the Department of Parks and Recreation has issued a permit to operate;

(q) Drive or ride any cycle or vehicle except on roads or drives provided for such purposes, and in no event in excess of 15 mph;

(r) Make or kindle a fire except in a stove, masonry or concrete hearth, or fire circle

provided for such purpose, or in a portable stove or hearth of a type approved by the Department of Parks and Recreation and in areas specifically posted for such use; or

(s) Lay, string, or join any wires, ropes, or chains across any path, trail, or area where the public may be expected to contact or be injured by such wires, ropes, or chains.

Sec. 7-5.103. Meetings and Assemblages: Permits Required.

(a) No person or association shall use a park to conduct a carnival, exhibition, tent or open air theatre, public dance, or other business or activity without first securing a written permit from the City. The Council shall select suitable sites within parks in the City to be used primarily, but not exclusively, for meeting places by noncommercial societies, groups, and organizations for the purpose of holding or conducting meetings, lectures, and assemblies. The City Manager may issue permits to allow the overnight use of Central Park to groups of fifty (50) or less, provided the use does not include amplified music or commercial vendors.

(b) No person or group shall hold, conduct, or address any assembly, meeting, or gathering of persons, or make or deliver a speech, lecture, or discourse, or take part in public debate in such selected sites, or other sites without a permit from the Director of Parks and Recreation.

(c) Except where a permit has been granted for the same place and the same time, a permit may be granted when the applicant states the time and place when the activities are to take place; the approximate number of persons expected to attend; the type of sound-amplifying equipment, if any, to be used; and the name of the society, group, or organization using the site. The applicant shall comply with requirements reasonably necessary for the protection of persons and property. The Department of Parks and Recreation shall allocate portions of the designated site when two (2) or more groups have an interest in the use of the site at the same time.

(d) Assemblages, meetings, gatherings, speeches, and related activities shall be conducted only between the hours of 8:00 a.m. and one hour after the official time of sunset.

Sec. 7-5.104. Vending Within City Parks.

(a) No person shall sell or offer to sell any goods, wares, foods or merchandise in or upon any park without first having obtained a park vending permit from the City.

(b) A person who desires to obtain a park vending permit shall make application on forms provided by the City Clerk. The City Manager shall grant, deny or conditionally approve the application. The City Manager's decision shall be reported to the applicant and the Council within 15 days of the date of the application. The applicant may appeal the City Manager's decision to the Council in writing within 15 days of the City Manager's report.

Sec. 7-5.105. Municipal Golf Courses

No person shall use the Tierra del Sol Golf Course or the Par 3 Municipal golf Course except in compliance with rules and regulation for use established by the golf course manager, including payment of applicable and posted fees.

Sec. 7-5.106. Camping: Permits Required: Fees.

No person shall camp or lodge in any City park except in places designated as such by the City and after the payment of a camping permit fee. The camping permit shall be issued by the Department of Parks and Recreation.

Sec. 7-5.107. Signs.

No person shall erect or post a billboard sign, placard, or advertisement in a park except in connection with a license or concession granted by the City.

Sec. 7-5.108. Tennis Courts.

No person shall use tennis courts except in compliance with rules conspicuously posted on a bulletin board adjacent to the tennis court.

Section 7-5.109. Central Park Lake.

(a) Fishing is only permitted in Central Park Lake between the hours of 6:00 a.m. and 10:00 p.m.

(b) Fishing is not permitted in Central Park Lake for five days prior to a City sponsored fishing tournament. The City Manager shall provide at least two weeks‟ prior posted notice of closure.

(c) For so long as the City stocks the Central Park Lake with fish from private hatcheries, not more than 5 bass, 5 trout or 10 fish of any species shall be taken each day from the Central Park Lake.

(d) No person shall engage in aquaplaning, water skiing, or any derivation of such activity upon the waters of Central Park Lake. (Ord. 99-574, Sec. 2, 1/18/00.)

Sec. 7-5.110. Traffic in Parks.

(a) Foot traffic, cycles, and vehicles shall follow the posted patterns of traffic. The Department of Parks and Recreation, under the direction of the Council shall establish and maintain boulevard stops at appropriate points, places, or intersections in parks. Such boulevard stops shall be posted with appropriate signs.

(b) Vehicles shall be parked in designated parking spaces at city parks.

(c) Violation of this Section is violation of Vehicle Code Section 21113.

Sec. 7-5.111. Picking Flowers.

No person shall pick any flower growing in a park except with the authorization of the person in charge of the park. (Sec. 4016, C.C.M.C.)

Sec. 7-5.112. Control of Children.

Except for participation in supervised activities under the direction of the Department of Parks and Recreation, no parent, guardian, or other person having the custody of a child under the age of eight (8) years shall cause, permit, or allow such child to enter or visit any parking having a lake, pond, stream, or swimming pool within its boundaries unless such child is accompanied by a person not less than sixteen (16) years of age. (Sec. 4016, C.C.M.C.)

Sec. 7-5.113. Use of Rest Rooms.

No male person over the age of eight (8) years shall enter or use any rest room designated for women. No female person shall enter or use any rest room designated for men. (Sec. 4016, C.C.M.C.)

Sec. 7-5.114. Smoking at Baseball Diamond.

Except in designated areas, no person shall smoke tobacco products on or near athletic fields located in city parks when the fields are being used by minors for organized athletic contests.

Sec. 7-5.115. Enforcement.

Violation of this chapter is an infraction.

CHAPTER 6. MUNICIPAL AIRPORT

ARTICLE 1. GENERAL

Sec. 7-6.101. Title.

This chapter shall be known as the Municipal Airport Regulations of the City.

Sec. 7-6.102. Purpose and Scope.

This chapter is enacted to adopt regulations governing the aeronautical activities and governing the use of facilities at the California City Municipal Airport.

This chapter shall not abridge or amend federal or state laws, rules or regulations affecting airport operations. These regulations supplement state and federal laws, rules and regulations.

ARTICLE 2. DEFINITIONS

Sec. 7-6.201. Definitions.

The following terms are defined for the purposes of this Chapter:

(a) "Aircraft" means a device that is used, or intended to be used, for flight in the air. This term includes airplanes, helicopters, gliders, ultra-light aircraft, and lighter-than-air devices such as blimps or balloons, but does not include hang gliders.

(b) "Airport" means the California City Municipal Airport, the buildings and facilities of the California City Municipal Airport, all land owned by the City contiguous to the airport which is used for airport purposes.

(c) “Airport Manager” means the City Manager or his designee.

(d) "Air traffic" means aircraft operating in the air or on the airport surface exclusive of loading ramps or parking areas.

(e) "Balloon" means a lighter-than-air aircraft which is not engine driven.

(f) "Commercial Operator" means any person who, for compensation or hire, engages in the carriage of persons property or mail in air commerce, or engages in other business activities such as flight instruction, aerial photography, fire fighting, agricultural aviation activities, or traffic surveillance, restaurant operations, aircraft maintenance, parachute related activities, fuel sales, sight seeing tours and charter services.

(g) "Commercial use" means the use of the airport for revenue producing commercial activities.

(h) "Fixed Based Operator" or "FBO" means any person who rents, leases, or owns facilities at the airport who by virtue of his specific type of aviation or aviation activity, requires the occupancy of a site with contiguous aircraft apron and direct access to the aircraft operation area, and who engages in the business activity of providing aviation sales or services including, but not limited to any of the following:

(1) Selling or servicing new or used aircraft or component parts of aircraft;
(2) Aircraft maintenance and repairs;
(3) Sale or repair of avionics;
(4) Aviation training, including ground or flight instructions;
(5) Aerial photography;
(6) Air ambulance services;
(7) Aircraft agriculture operations such as crop dusting, spraying or the application of seed, fertilizers, pesticides; and
(8) Aircraft rental, charter or leasing.

(i) "Glider" means a heavier-than-air aircraft that is supported in flight by the dynamic reaction of the air against its lifting surfaces, and whose free flight does not depend principally on an engine.

(j) "Helicopter" means a rotor driven aircraft that, for its horizontal motion, depends primarily upon its engine driven rotors.

(k) "Traffic pattern" means the traffic flow that is prescribed for aircraft landing at or taking off from the airport.

(l) "Ultralight vehicle" means an aeronautical vehicle operated for sport or recreation purposes which does not require FAA registration, an airworthiness certification, nor pilot certification. They are primarily single occupant vehicles, although some two-place vehicles are authorized for training purposes. Operation of an ultralight vehicle in certain airspace requires authorization from ATC.

ARTICLE 3. USE OF FACILITIES

Sec. 7-6.301. General.

Persons storing or basin aircraft at the airport or using airport property shall comply with this chapter.

Sec. 7-6.302. Aircraft Storage.

(a) Aircraft shall be stored or parked at places designated by the airport manager. Storage or parking shall be at the sole risk of the owner or operator of the aircraft and without any responsibility by the city, its officers, agents or employees for loss or damage to the aircraft. The owner or operator of the aircraft shall be responsible for tying down and securing the aircraft and for any liability arising from or caused by the aircraft or the owner or operator"s activities.

(b) The airport manager shall designate transient parking areas and aircraft not based at the airport shall be parked in the transient parking area. Transient aircraft parked overnight shall be registered with the airport manager.

(c) The airport manager shall designate a location for the storage or aircraft other than transient aircraft. Such aircraft shall be parked only in the area designated by the airport manager. Except as provided hereinabove for transient aircraft, no person shall store or base aircraft at the airport without a license or permit from the airport manager or a lease with the City for the use of the airport facilities.

Sec. 7-6.303. Commercial Activity.

No person shall use the airport for revenue producing commercial activities without a permit from the airport manager. A fixed based operator or commercial operator who has leased airport facilities from the City need not obtain a separate permit.

Sec. 7-6.304. Compliance with Regulations and Indemnification.

A person who stores an aircraft at the airport who obtains a lease, license, permit or other entitlement to use the airport shall comply with airport regulations, pay fees and charges promptly, and save and hold the City, its officers and agents and employees free and harmless from costs, liability or damages arising out of any act or omission to act including a negligent act or omission to act resulting from the activities of such person when using the airport facilities.

ARTICLE 4. OPERATIONS

Sec. 7-6.401. General.

(a) The airport shall be open for public use at all hours of the day and night subject to any restrictions imposed by the airport manager due to the condition of the landing area, the presentation of special events, construction and repair activities, or similar causes. The airport is attended from 8:00 o'clock a.m. to 12:00 noon and from 1:00 p.m. to 5:00 o'clock p.m. daily, and services may be obtained at other times by contacting the airport manager.

(b) Pilots are responsible for becoming acquainted with airport regulations and conducting all air operations in accordance with the rules promulgated by the FAA. Fixed based operators shall familiarize customers and employees with airport regulations.

(c) No aircraft shall be left unattended on the airport unless properly secured or within a hangar.

(d) Aircraft shall be repaired only in designated for such purpose by the

airport manager.

(e) Witnesses and participants in aircraft accidents shall make a full report to the airport manager as soon after the accident as is possible. The reports shall identify the witnesses" names and addresses. The owner or pilot of the aircraft damaged in an accident shall promptly remove the aircraft as directed by the airport manager. Where the owner or pilot is unable to arrange for the removal of a disabled aircraft, the airport manager may move or arrange for the removal of the aircraft when released by the FAA or National Transportation Safety Board. No liability shall be incurred by the airport manager or others for damages aggravated by or resulting from the removal.

(f) No aircraft shall be operated to cause unnecessary noise as determined by applicable, federal, state or local laws and regulations.

(g) No person shall enter a restricted area posted or closed to the public except as authorized by the airport manager or unless such person is a law enforcement officer or fire fighter engaged in the performance of duties.

(h) No person shall permit an animal owned, possessed or harbored by the person to enter the airport unless the animal is leashed or restricted in such a manner as to be under control, or is in a shipping container, or is otherwise under physical constraint, nor shall the person permit such animal, except a “seeing-eye dog,” to enter an airport building.

(i) No person shall enter upon any runway or taxiway of the airport without the express consent of the airport manager except in an aircraft, or as allowed in these regulations.

Sec. 7-6.402. Starting Engine.

No person shall start an aircraft engine unless a competent operator is at the controls; the aircraft is equipped with adequate brakes fully applied or the wheels are securely blocked with blocks or chocks that can be removed safely; and the aircraft is in a position that the propeller slipstream or jet blast will not cause damage to or interfere with the operation of other aircraft vehicles, mobile equipment, hangar, shops or other buildings or cause injury to passengers, spectators or other persons.

Sec. 7-6.403. Taxiing.

No person shall taxi an aircraft into, out of, or within a hangar or other building on or adjacent to the airport, nor shall any person move an aircraft under its own power on the airport unless that person is in full control of such aircraft and is assured there is no danger of collision with other aircraft, vehicles, equipment, building, or other obstacles. Aircraft shall be taxied at a safe speed on designated taxi areas not to exceed 15 miles per hour.

Sec. 7-6.404. Takeoffs and Landings.

Aircraft operators shall use the approved traffic pattern for the airport as from time to time established and posted by the airport manager.

Sec. 7-6.405. Fueling and Defueling.

(a) No aircraft shall be fueled or defueled while the aircraft engine is running except in accordance with the Uniform Fire Code and procedures contained in the Airport Procedures Manual.

(b) No aircraft shall be fueled or defueled in a hanger or other enclosed space.

(c) No smoking shall be permitted within 50 feet of the aircraft or fuel truck while the aircraft is being fueled or defueled.

(d) During fuel handling, no passenger shall be permitted in or on the aircraft unless a cabin attendant is stationed at or near the cabin door.

(e) Hoses, funnels and appurtenances used in fueling or defueling activities shall be equipped properly with a grounding device to prevent possible static ignition or volatile liquids. Such grounding devices shall be used during all fueling and defueling activities.

(f) No person shall operate a radio transmitter or receiver nor switch electrical appliances on or off in an aircraft during fuel handling.

(g) Every person engaged in aircraft fuel handling shall exercise due care to prevent the overflow or spillage of fuel.

(h) During fuel handling, no person shall use a material or device likely to cause a static spark within 50 feet of the aircraft or fuel truck.

(i) Where there has been a fuel spill or leak, no person shall start the engine or an aircraft in close proximity until the spill or leak has been disposed of. The airport manager shall be notified of fuel spills or leaks.

(j) Fuel hoses and draining or defueling equipment shall be maintained in a safe, sound and non-leaking condition.

(k) No person shall deliver aviation fuel or lubricants to, or dispense fuel from, at, or upon the airport without express written permission from the airport manager. No fuel shall be stored anywhere on the airport except in underground tanks or such other tanks as may be approved by the airport manager.

Sec. 7-6.406. Fire Hazards.

(a) No person shall light or smoke any cigarette, cigar, pipe, or similar object in the following airport areas:

(1) Within a hangar or fuel handling or storage area;

(2) Within or upon an aircraft parking area or ramp;

(3) Inside an aircraft, whether or not such aircraft is parked or stored, or within 50 feet thereof; or

(4) Within 50 feet of a no smoking sign.

(b) No person shall use flammable liquids, solvents, or substances to clean an aircraft engine part or accessory within a hangar or building, except buildings specifically designated for such purpose and approved in writing by the airport manager. Approval shall be granted when the airport manager inspects and approves the ventilation system, fireproofing and fire extinguishing equipment available during such operations.

(c) No person shall light or use an open flame in a hangar or other building on the airport without the prior written consent of the airport manager.

(d) No person shall operate an electric or gas welding or cutting equipment at the airport without the prior written approval of the airport manager and California City Fire Chief.

(e) No person shall clean or degrease an aircraft or part except at or in a maintenance station properly equipped for such purposes or in a space designated or authorized for such purposes by the airport manager.

(f) No person shall store or stock material substance, or permit such activities in or upon the airport in such a manner, or of such a nature, as to constitute a fire hazard.

(g) No person shall keep, store or discard flammable liquid, gas, signal flare or other flammable material in a hangar, shop, building, room enclosure, or other place on the airport except in areas designated by the airport manager for such purposes.

(h) Hangar, shops, or other airport areas shall provide suitable metal receptacles with hinged lids for the storage of oily waste rags and other similar rubbish. Such materials and weeds shall be removed by the lessee at frequent intervals.

(i) Every lessee shall maintain the leased area clean and reasonably free of oil, grease, waste or other flammable material and weeds. The lessee shall provide and maintain in proper working order at least a 5# ABC class, readily accessible fire extinguisher in hangars.

(j) Hangar entrances shall be kept sufficiently clear at all times to permit ready access to buildings for the purpose of combating fires.

(k) Dopings shall be performed at recognized and approved maintenance stations.

(l) No person shall place, deposit, or dump any garbage, cans, bottles, papers, ashes, sewage, carcass of any dead animal, offal, trash, rubbish, debris or other refuse in any location the airport except in containers plainly marked for such purposes.

Sec. 7-6.407. Motor Vehicle Operations.

(a) No person shall travel on a portion of the airport except upon the roads, walks or other places provided for the particular class of traffic, nor shall any person occupy the roads or walks in such a manner as to hinder or obstruct their proper use.

(b) Motor vehicle traffic shall yield the right of way to aircraft.

(c) An accident involving a motor vehicle shall be promptly reported by the driver to the airport manager.

(d) No person shall operate a motor vehicle on the airport in excess of 10 miles per hour except emergency vehicles responding to an emergency.

(e) Vehicles shall not be parked or left unattended on the airport other than in the manner and at the location indicated by posted traffic signs and markings. Vehicles parked other than as specified herein may be moved by airport personnel and a towing charge will be levied prior to releasing the vehicle from impound. Liability for damage sustained by vehicles during such movement will not be assumed by the City or its officers, agents, or employees.

(f) Motor vehicles, other than airport maintenance, emergency vehicles or field service vehicles, shall not be driven or parked on or across runways, aircraft operating areas, ramp areas, or aprons without the express approval of the airport manager. Airport tenants who have agreed to abide by these rules and regulations need not obtain the airport manager's express approval for such activities.

(g) No person may operate a motor vehicle or aircraft in or on any portion of the airport while under the influence of alcohol or drug.

Sec. 7-6.408. Miscellaneous.

(a) No person shall take or use any aircraft, aircraft parts, instruments, or tools pertaining thereto, owned, controlled, or operated by another person, while such aircraft, parts, instruments or tools are stored or otherwise left on the airport or hangars, buildings or facilities without the written consent of the owner or operator, except upon satisfactory evidence of the right to do so duly presented to the airport manager or ordered by a court of competent jurisdiction.

(b) No person shall operate an aircraft or vehicle on, at or in the vicinity of the airport in willful or wanton disregard of the safety of persons or property.

(c) No person shall engage in the sale of any goods, wares, merchandise or services at or upon the airport without a permit from the airport manager.

(d) The airport manager shall close the airport or suspend operations related to land, takeoff or taxiing of aircraft when such operations or their continuance would be hazardous. Such closures shall be effective only during such time as there is placed at each end of each runway so closed a letter "X" the arms of which are at least 20 feet long and 2 feet wide and so colored as to contrast with the background or other surface. The airport manager shall immediately notify the Flight Service Station and issue a Notice to Airmen advising of the closure. No aircraft shall be operated on or at the airport or on a runway when the airport or runway has been closed to traffic by the airport manager or legal authority.

Sec. 7-6.409. Enforcement.

(a) The provisions of this chapter shall be enforced by the Airport Manager.

(b) The Airport Manager is authorized to issue citations to persons violating this chapter. Violation of this chapter is an infraction.

CHAPTER 7. CITY OWNED AND OPERATED BUILDINGS AND VEHICLES

Sec. 7-7.101. Municipal Facilities: General.

(a) No person shall use City property for commercial activity without a permit from the City.

(b) If two persons or groups of persons both desire to use a City facility for the purposes for which it was designed, the first applicant shall be granted the right to use the facilities.

(c) No person shall use any structure or grounds acquired, improved, operated or maintained with monies in a manner inconsistent with a grant by which the City acquired the property.

Sec. 7-7.102. City Hall.

(a) No person shall enter *private* areas of City Hall except on City business and with the permission of an authorized City employee. As used herein, *private* areas are portions of City Hall, other than the entrance lobby and council chambers, where City business in conducted.

(b) No person shall use the lobby or council chambers of City Hall to campaign for or against any candidate or measure. Nothing contained herein shall limit the right of any person to address the City Council during council meetings.

(c) No person shall use parking areas adjacent to City Hall for other than parking a vehicle while conducting City business within City Hall or within adjacent government buildings or for ingress to or egress from the parking area.

(d) Violation of this Section is an infraction.

Sec. 7-7.103. Use of Tobacco in City Owned and Operated Buildings & Vehicles.

(a) The possession of lighted smoking materials in any form, including but not limited to the possession of lighted cigarettes, cigars, pipes or other tobacco products, is prohibited in all City owned and operated vehicles and buildings.

(b) The possession of smokeless tobacco in any form, including but not limited to the possession of chewing tobacco, is prohibited in City owned and operated vehicles and buildings.

(c) Violation of this Section is an infraction.

Sec. 7-7.104. Sale, Use or Possession of Fireworks Prohibited.

(a) No person shall sell, use or possess with intent to use fireworks, including “safe and sane fireworks” on City property, other than streets, except in connection with a City sponsored event.

(b) Violation of this Section is a misdemeanor.

CHAPTER 8. PUBLIC TREES [72]

Sec. 7-8.101. Scope.

This chapter describes how the City may plant and maintain trees in public places.

Sec. 7-8.102. Tree Planting Standards.

The spacing of street trees will be in accordance with recommendations of the Civic Beautification Commission.

Sec. 7-8.103. Tree Care.

The City shall plant, prune, maintain and remove trees, plants, and shrubs within the lines of streets, alleys, avenues, squares, parkways and public grounds, as necessary, to ensure public safety or preserve or enhance the symmetry and aesthetics of public grounds. The City may remove or cause to be removed trees or parts thereof which are in an unsafe condition or which by reason of its nature are injurious to sewers, electric, power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect, or pest.

Sec. 7-8.104. Tree Pruning.

The City shall maintain the City's urban forest on an average 4 1/2-year trimming cycle based on species, the recommendations of a certified arborist, and the International Society of Arboricultural Tree Pruning Standards. The City shall maintain and prune any public tree with limbs or branches so that branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection so there shall be a clear space of fourteen (14) feet above the surface of the street or sidewalk.

Sec. 7-8.105. Tree Topping.

It shall be unlawful as a normal practice for any person, firm or city department to top a public tree on public property in such a way as to cut limbs to stubs larger than three (3) inches in diameter within a tree‟s crown so as to remove the normal canopy and disfigure the tree.

Sec. 7-8.106. Damaging Trees.

No person shall post or affix to any tree or shrub, tree stake or guard, in any street in the City, any bill, poster, placard, picture, announcement, notice, advertisement or sign, or cut, paint, print or mark any of the same upon such tree or shrub, tree stake or guard, or affix or attach in any manner any other thing whatsoever, including any guy wire or rope, to any such tree or shrub, tree stake, or guard, except for the purpose of

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72 Added by Ord. No. 07-648 on May 15, 2007.

protecting it or other purpose authorized by this Code. Tree stakes or guards may be placed around trees, shrubs or plants by property owners, provided the same are merely placed near a tree, shrub, or plant, for the purpose of protecting or training such trees, shrubs or plants.

Sec. 7-8.107. Dumping Harmful Substances on Trees.

No person shall dump, pour or spill any oil, salt, salt water or other deleterious matter upon any tree or tree space in any street, or maintain upon any sidewalk within ten (10) feet of any such tree or tree space on any street, any receptacle from which oil or salt water leaks or drips, or pour oil or salt water onto any parking or concrete gutter, so as to injure any tree on any street.

Sec. 7-8.108. Building Materials Near Trees and Shrubs.

No person shall pile building material, or other material, about any tree, plant or shrub in a street in any manner that will in any way injure such tree, plant or shrub.

TITLE 8. BUILDING REGULATIONS

CHAPTER 1. BUILDING CODE

Sec. 8-1.01. Adoption of the Uniform Building Code.

The most current edition, now or in the future published, of the Code designated as the "Uniform Building Code," adopted by the California Building Standards Commission, together with its Appendices is adopted to protect the public health and safety, requiring permits, and regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, use, height, and maintenance of structures and certain equipment. This Code shall be known as the Building Code of the City.

Three copies of the Code shall be on file in the office of the City Clerk for public record and inspection.

Sec. 8-1.02. Building Permits: Inspections: Fees.

Fees and charges for the issuance of building permits, related inspections, and services shall be as established by the City Council by resolution.

Sec. 8-1.03. Earthquake Protection Standards.

Except where the Building Code prescribes more stringent standards, Chapter 2 of Part 3 of Division 13 of the Health and Safety Code of the State is referred to and incorporated in this chapter as the minimum earthquake protection standards within the City.

Sec. 8-1.04. Liability.

The provisions of the Building Code shall not be construed as imposing on the City or its officers or employees liability for damages resulting from defective work. The City, its officers or employees shall not be held to assume liability by reason of the inspections authorized by the Building Code.

Sec. 8-1.05. Violations: Penalties.

(a) No person shall erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy, or maintain a building or structure in the City or cause the same to be done, contrary to or in violation of the Building Code.

(b) Any person violating this chapter or the Building Code is guilty of a misdemeanor and, upon conviction, shall be punished as set forth in Chapter 2 of Title 1 of this Code.

(c) This article may be enforced by administrative fine or by injunction.

Sec. 8-1.06. Amendments: Uniform Building Code.

The Council may approve amendments to the Uniform Building Code to reflect local conditions. When such amendments are adopted, they shall be included in this chapter.

Sec. 8-1.07. Prerequisites to Issuance of Building Permit.

(a) A building permit shall not be issued unless:

(1) Workers" compensation insurance is provided for those who will work on the project;

(2) Arrangements have been made to provide water service to the property;

(3) Arrangements have been made to provide for sewage disposal; and

(4) School impact fees have been paid.

(b) An applicant shall satisfy the requirements of this section by:

(1) Providing a certificate of insurance showing workers" compensation coverage or filing an affidavit that the project will be undertaken by the owner of the property as the builder;

(2) Obtaining a certificate from the water department and sanitation department showing that arrangements have been made for water service and sewage disposal; and

(3) Paying the building official the impact fees established by the Mojave Unified School District.

Sec. 8-1.08. Street Dedication and Improvement.

(a) A person applying for a building permit shall dedicate and improve an easement to the City for public road purposes if such dedication is necessary for access to the affected property. The easement shall be improved with curb, gutter, sidewalk, grading and paving in accordance with the City"s standards for street construction. The easement shall extend across the frontage of the property and shall be in accordance with the standards for street right-of-way as set forth in the Circulation Element of the City"s General Plan.

(b) When the vicinity of the applicant"s property is without existing improved streets, the Planning Director may defer the dedication or improvement of the applicant"s easement. If the Planning Director defers the dedication or improvement, the applicant shall provide an offer of dedication for future public street purposes and surety bond to guarantee the improvements. The offer and surety bond will remain in effect and binding on the applicant and successors in interest until the City Council accepts the offer and requests the improvements or by resolution, determines the dedication and improvements are no longer necessary for public use.

CHAPTER 2. ELECTRICAL CODE

Sec. 8-2.01. Adoption of the National Electrical Code.

The most current edition, now or in the future published, of that certain code designated as the "National Electrical Code,"-adopted by the California Building Standards Commission, together with its Appendices, is adopted to protect the public health and safety, requiring a permit, and regulating the installation, arrangement, alteration, and repair of electrical wiring, connections, fixtures, and appliances.

Three copies of the Code shall be on file in the office of the City Clerk for public record and inspection.

Sec. 8-2.02. Authorized Representative.

The Building Official or duly authorized representative shall be responsible for the enforcement of the Electrical Code.

Sec. 8-2.03. Public Nuisances.

A building within the City wired below the standards set forth in the Electrical Code is a public nuisance.

Sec. 8-2.04. Violations: Penalties.

(a) Any person violating this chapter or the Electrical Code is guilty of a misdemeanor and, upon conviction, shall be punished as set forth in Chapter 2 of Title 1 of this Code.

(b) This article may be enforced by administrative fine or by injunction.

Sec. 8-2.05. Electrical Inspections: Fees.

The fees for electrical permits and inspections shall be established by the City Council by resolution.

CHAPTER 3. FIRE ZONES

Sec. 8-3.01. Fire Zones Map.

The City shall be zoned into fire zones in accordance with the Fire Zone Map on file in the office of the City Engineer.

Sec. 8-3.02. Compliance.

No building shall be erected in the City contrary to the various fire zones.

CHAPTER 4. PLUMBING CODE

Sec. 8-4.01. Adoption of Uniform Plumbing Code.

(a) The most current edition, now or in the future published, of that certain code designated as the "Uniform Plumbing Code,"-adopted by the California Building Standards Commission, together with its Appendices, is adopted to protect the public health and safety, requiring a permit, and regulating the installation or alteration of plumbing, gas, water, and drainage systems, defining certain terms, and establishing minimum regulations for the operation or repair of plumbing, gas, water and drainage systems, and inspections in the City.

Three copies of the Code shall be on file in the office of the City Clerk for public record and inspection.

(b) Notwithstanding the foregoing, the Uniform Plumbing Code shall be modified as follows:

(1) Appendix I, "Private Sewage Disposal Systems," is modified by adding the following paragraphs:

"The area of the lot for the purpose of calculating the required 100% expansion area may include one-half of the street frontage area adjacent to any side thereof.

"In certain areas of the City which have poor soils or other problems relative to private sewage disposal systems, the sewage disposal system shall be installed and inspected before the building foundation inspection is made. In the case of a lot which will not accommodate the 100% expansion area for leaching purposes, lying within a legal subdivision of land existing prior to the effective date of this ordinance, the Directors of Public Works may approve a lesser area for leaching purposes."

(2) Appendix I, Table IV, "Design Criteria of Five Typical Soils," is modified by adding a note to read:

"Note: Design criteria and Table I-IV for type 4 and type 5 soils applies to new legal subdivisions of land created after the effective date of this ordinance. For legal subdivision of land existing prior to October 1, 1985, the following criteria may be used:

Required Sq. Ft. of Leaching Area Per 100 Gallons	Maximum Absorption Capacity Gallons Per Sq. Fr. Of Leaching Area for 24-hr Period
For soil 60	1.66
5 soil 90	1.11 "

(3) All Potable water pipelines and valves installed in exterior walls or ceilings shall be protected by minimum R-11 insulation; all other exterior potable pipelines and valves shall be protected by minimum R-2 foam or fiberglass insulation in addition to R-11 wall or ceiling insulation.

(4) Section 101.4.1.3 Existing Construction of the Uniform Plumbing Code shall be modified to include the following sentence at the end of the section:

"The Administrative Authority has determined that a drainage system not connected to a public sewer is a nuisance and menace to the public health and

must be connected to a public sewer within 90 days of notice given by the Administrative Authority when a public sewer exists in front of or adjacent to the structure served by the drainage system."

Sec. 8-4.02. Permits: Granting: Validity.

The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of the provisions of the Plumbing Code. No permit presuming to give authority to violate or cancel the Plumbing Code shall be valid, except insofar as the work or use which such permit authorizes is lawful.

The issuance of a permit upon plans and specifications shall not prevent the Building Official from thereafter requiring the correcting of errors, plans and specifications, or from preventing construction operations in violation of the Plumbing Code, or from revoking a certificate of approval issued in error.

Sec. 8-4.03. Permits: Expiration.

Every permit issued by the Building Official pursuant to the Plumbing Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within sixty days after the date of such permit or if the work authorized by such permit is suspended or abandoned for a period of 120 days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained.

Sec. 8-4.04. Rules and Regulations Authorized.

(a) Subject to the approval of the Council, the Building Official may make rules and regulations not in conflict with the Plumbing Code to facilitate the enforcement and administration of the Plumbing Code.

(b) Fees for plumbing permits and inspections shall be established by the Council by resolution.

Sec. 8-4.05. Liability.

The provisions of said Plumbing Code shall not be construed as imposing upon the City or its officers or employees any liability from damages resulting from defective plumbing work; nor shall the City or any of its officers or employees be held to assume any such liability by reason of the inspections authorized and provided for by said Plumbing Code.

Sec. 8-4.06. Violations: Penalties.

(a) Any person violating this chapter or the Plumbing Code shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as set forth in Chapter 2 of Title 1 of this Code.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 5. SWIMMING POOLS, PONDS, CANALS, AND DITCHES

Sec. 8-5.01. Pools and Ponds: Fences and Walls.

Every person who owns or possesses a premises where there is a swimming pool, fish pond, wading pool, or other outside body of water created by artificial means, having a water depth of eighteen inches (18") or more, shall maintain a fence, wall, or other adequate structure to make such body of water inaccessible to small children. Such fence, wall, or other structure shall be not less than five feet (5') in height with no openings large enough to admit a child, except through doors or gates as set forth in this chapter.

Sec. 8-5.02. Canals and Ditches: Fences and Walls.

A person owning, possessing, maintaining, or controlling an open canal or ditch containing water which is of a depth of eighteen inches (18") or more shall surround such canal or ditch with a fence, wall, or other adequate structure to make such canal or ditch inaccessible to small children. Such fence, wall, or other structure shall be not less than five feet (5') in height with no openings large enough to admit a child, except through doors or gates as set forth in this chapter.

Sec. 8-5.03. Doors and Gates.

The doors and gates required by this chapter shall completely fill any opening in a fence, wall, or other structure and shall be equipped with a self-closing and self-latching device on the inside capable of keeping such gate or door locked. The locking device shall be located not less than four feet (4') above grade or be inaccessible from the outside to small children.

Sec. 8-5.04. Construction Standards.

The following construction standards shall apply to fences or walls created in compliance with this chapter:

(a) "Wood" – Redwood or pressure-treated posts shall be not less than three inches (3") by three inches (3"), shall be set not more than ten feet (10') apart and shall be embedded at least eighteen inches (18") in the ground. Vertical boards at least one-half inch (½ ") thick shall be fastened securely to not less than two (2) horizontal rails at least one and three-quarter inches (1¾ ") by three inches (3") in dimension.

(b) "Wire" – Wire shall be galvanized mesh, minimum eleven (11) gauge, with galvanized pipe poles at least one and one-fourth (1 ¼ ") inch diameter spaced not more than ten feet (10') apart. Poles shall be set not less than twelve inches (12") in concrete in post holes six inches (6") in diameter and eighteen inches (18") deep.

(c) "Masonry" – Masonry or stone walls shall have concrete footings at least twelve inches (12") wide and six inches (6") thick, with the bottom not less than twelve inches (12") below the ground surface. Any wall reinforcing steel shall be embedded in the footing.

Sec. 8-5.05. Supervision: Covers.

A competent person shall keep the pool, canal, or ditch under observation or a cover or other protective device approved by the Building Official may be used to make such water inaccessible to small children in lieu of maintaining a fence, wall, or other enclosing structure.

Sec. 8-5.06. Modifications.

The Building Official may allow slight modifications from this chapter for good cause shown in individual cases with respect to the height of a fence, wall, or other enclosing structure or the nature or position of a latch or other locking device. The Building Official may permit other protective devices or structures to be used if the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the fence, wall, or enclosing structure and the gate, door, latch, or other locking devices required by this chapter.

Sec. 8-5.07. Compliance: Exceptions.

Compliance with the provisions of this chapter shall not be required when the Council determines strict compliance with this chapter will not materially benefit or safeguard the public and the work to be done will result in undue hardship to the owners, occupants, or persons in possession or control of property..

Sec. 8-5.08. Exemptions.

Public agencies and public recreational facilities are not regulated by this chapter.

Sec. 8-5.09. Enforcement.

(a) The Building Official shall enforce this chapter.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 6. UNSAFE BUILDINGS

Sec. 8-6.01. Public Nuisances: Declaration.

Any building or structure, or portion thereof, including buildings or structures in the process of erection found to be dangerous to persons or property, or unsafe for the purpose for which constructed, due to damages caused by fire, the elements, sabotage, explosions, or other means constitutes a public nuisance and is subject to abatement.

Sec. 8-6.02. Public Nuisances: Inspections: Condemnation.

Except in cases of emergency for the immediate preservation of life and property, before any action is taken to abate any public nuisance, as set forth in this chapter, such building or structure shall be inspected by the Building Official and approval shall be given for such abatement. If the Building Official determines such building or structure constitutes a public nuisance, the building or structure shall be forthwith condemned and shall not be occupied or used until it is made safe and its use is authorized by the Building Official.

Sec. 8-6.03. Violations.

(a) The use or occupancy of a building in violation of the provisions of this chapter shall constitute a misdemeanor.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 7. MOBILE HOMES

Sec. 8-7.01. Purpose and Scope.

This chapter is enacted to implement Part 2 of Division 13 (commencing with Section 18000) of the Health and Safety Code. The City is the enforcement agency pursuant to the Health and Safety Code.

Sec. 8-7.02. Adoption of Department of Housing and Community Development Regulations.

The regulations of the Department of Housing and Community Development promulgated pursuant to Part 2 of Division 13 (commencing with Section 18000) of the Health and Safety Code regulate the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal, demolition, conversion, and occupancy of mobile homes. Three copies of these regulations are on file in the office of the City Clerk for public record and inspection.

Sec. 8-7.03. Permits: Required.

A permit shall be obtained from the City each time a mobile home is to be located or installed on any site within the City for the purpose of human habitation or occupancy as a dwelling.

Sec. 8-7.04. Permits: Applications.

The contractor engaged to install the mobile home shall obtain the permit, except when the owner of the mobile home proposes to perform the installation, the owner shall obtain the permit. When a contractor applies for a permit to install a mobile home, the Contractor shall display a valid contractor"s license.

Sec. 8-7.05. Compliance with Regulations.

The person who installs the mobile home shall complete the installation of the mobile home in accordance with this chapter and within thirty days.

Sec. 8-7.06. Inspections.

The Building Official shall inspect the installation of mobile homes to determine compliance with the regulations promulgated by the Department of Housing and Community Development. Necessary interior inspection shall be limited to the electrical, water, and gas systems.

Sec. 8-7.07. Inspections: Extensions of Time.

The contractor shall be allowed a reasonable amount of time to complete the installation after the defects in the mobile home have been corrected if the inspection of the mobile home installation reveals the mobile home cannot be approved for occupancy due to defective materials, systems, or equipment of the mobile home.

Sec. 8-7.08. Inspections: Notification of Defects.

(a) The Building Official shall immediately notify the contractor and the Department of Housing and Community Development when a mobile home cannot be approved for occupancy due to defects of the mobile home.

(b) The Building Official shall notify the Registrar of Contractors of the fact and the name of the contractor if the contractor fails to perform the corrections within the time permitted.

Sec. 8-7.09. Inspections: Occupancy.

The owner may occupy the mobile home if the mobile home fails the installation inspection because of conditions which do not endanger the health and safety of the occupant.

Sec. 8-7.10. Inspections: Fees.

The person installing the mobile home shall pay to the City at the time the permit application is made, an inspection fee in an amount established by the Council by resolution.

CHAPTER 8. SIGN CODE

Sec. 8-8.01. Adoption of the Uniform Sign Code.

The most recent edition of the Code designated as the "Uniform Sign Code," adopted by the California Building Standards Commission, together with its Appendices, is adopted to regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, use, height, and maintenance of signs.

Three copies of the Code are on file in the office of the City Clerk for public record and inspection.

Sec. 8-8.02. Sign Permits: Fees.

The fees for the issuance of sign permits shall be established by the Council by resolution.

Sec. 8-8.03. Liability.

The Sign Code shall not be construed as imposing on the City or its officers or employees liability from damages resulting from defective work; nor shall the City or its officers or employees be held to assume liability by reason of the inspections authorized by the Sign Code.

Sec. 8-8.04. Violations: Penalties.

(a) It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, remove, demolish, convert, use, or maintain any sign, or cause the same to be done, contrary to or in violation of the Sign Code.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 9. MECHANICAL CODE

Sec. 8-9.01. Adoption of Uniform Mechanical Code.

The most current edition, now or hereafter published, of that certain code designated as the “Uniform Mechanical Code,” adopted by the California Building Standards Commission, together with its Appendices, is adopted toregulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, use, height, and maintenance of all structures.

Three copies of the Code are on file in the office of the City Clerk for public record and inspection.

Sec. 8-9.02. Violations: Penalties.

(a) Any person violating this chapter or the Mechanical Code shall be deemed guilty of a misdemeanor and upon conviction shall be punished as set forth in Chapter 2 of Title 1 of this Code.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 10. HOUSING CODE

Sec. 8-10.01. Adoption of the Uniform Housing Code.

The current edition, now or hereinafter adopted, of that certain code entitled, “Uniform Housing Code,” adopted by the California Building Standards Commission, together with its Appendices, is adopted to regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, use, height, and maintenance of all structures and equipment. -

Three copies of the Code are on file in the office of the City Clerk for public record and inspection.

Sec. 8-10.02. Violations: Penalties.

(a) Any person violating this chapter or the Housing Code shall be deemed guilty of a misdemeanor and upon conviction, shall be punished as set forth in Chapter 2 of Title 1 of this Code.

(b) This article may be enforced by administrative fine or by injunction.

CHAPTER 11. FLOOD DAMAGE PREVENTION

Sec. 8-11.01. Purpose and Scope.[73]

(a) This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. This chapter promotes the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide [i.e. Mudflow] or flood related erosion areas. These regulations are designed to:

(1) protect human life and health;

(2) minimize expenditure of public money for costly flood control projects;

(3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) minimize prolonged business interruptions;

(5) minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

(6) help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

(7) ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(b) To accomplish its purposes, this chapter includes regulations to:

(1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(4) control filling, grading, dredging, and other development which may increase flood damage; and

(5) prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Sec. 8-11.02. Application.[74]

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of California City, California (Kern County), dated September 19, 1984", with accompanying FIRMs and Flood Boundary and Floodway Maps (FBFMs), dated September 19, 1984, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the council by the floodplain administrator. The study, FIRMs and FBSMs are on file at City Hall, 21000 Hacienda Boulevard, California City, California.

73 Amended by Ord. No. 08-666 on Aug 19, 2008.

74 Amended by Ord. No. 08-666 on Aug 19, 2008.

Sec. 8-11.03. Definitions.[75]

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"**Accessory structure**" means a structure that is either:

(1) Solely for the parking of no more than 2 cars; or

(2) A small, low cost shed for limited storage, less than 150 square feet and $1,500 in value.

"**Accessory use**" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"**Alluvial fan**" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"**Apex**" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"**Appeal**" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.

"**Area of shallow flooding**" or "**sheet flow area**" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of special flood hazard**" – see "special flood hazard area."

"**Base flood**" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.

"**Base flood elevation**" (BFE) means the elevation shown on the FIRM for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

"**Basement**" means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

"**Building**" – see "**structure**."

"**Development**" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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75 Amended by Ord. No. 08-666 on Aug 19, 2008.

"**Encroachment**" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"**Existing manufactured home park or subdivision**" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before December 18, 1981.

"**Expansion to an existing manufactured home park or subdivision**" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"**Flood, flooding, or flood water**" means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

(2) The condition resulting from flood-related erosion.

"**Flood Boundary and Floodway Map (FBFM)**" means the official map on which the federal emergency management agency or federal insurance administration has delineated both the areas of special flood hazards and the floodway.

"**Flood Insurance Rate Map (FIRM)**" means the official map on which the federal emergency management agency or federal insurance administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"**Flood Insurance Study**" means the official report provided by the Federal Insurance Administration that includes flood profiles, FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.

"**Floodplain or Flood-Prone Area**" means any land area susceptible to being inundated by water from any source – see "**flooding**."

"**Floodplain Administrator**" is the community official designated by title to administer and enforce the floodplain management regulations.

"**Floodplain Management**" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"**Floodplain Management Regulations**" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"**Floodproofing**" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities**,** structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA technical bulletins TB 1-93, TB 3-93, and TB 7-93.

"**Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"**Floodway Fringe**" is that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"**Fraud and Victimization**" as related to this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"**Functionally dependent use**" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"**Governing body**" is the local governing unit, i.e., county or municipality, empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"**Hardship**" as related to this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"**Highest adjacent grade**" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"**Historic structure**" means any structure that is:

(1) Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

(2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior or directly by the secretary of the interior in states without approved programs.

"**Levee**" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"**Levee system**" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"**Lowest floor**" means the lowest floor of the lowest enclosed area, including basement.

An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building"s lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

(1) The flood openings standard in this chapter;
(2) The anchoring standards in this chapter;
(3) The construction materials and methods standards in this chapter; and
(4) The standards for utilities in this chapter.

"**Manufactured home**" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"**Manufactured home park or subdivision**" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"**Market value**" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

(1) The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.

(2) The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence.

(3) Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

"**Mean sea level**" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's FIRM are referenced.

"**New construction**," for floodplain management purposes, means structures for which the "start of construction" commenced on or after December 18, 1981, and includes any subsequent improvements to such structures.

"**New manufactured home park or subdivision**" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 18, 1981.

"**Obstruction**" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"**One-hundred-year flood**" or "100-year flood" - see "**base flood**."

"**Program deficiency**" means a defect in a community"s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"**Public safety and nuisance**" as related to this chapter, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"**Recreational vehicle**" means a vehicle which is:

(1) Built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towable by a light-duty truck; and
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"**Regulatory floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"**Remedy a violation**" means to bring the structure or other development into compliance with state or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement

provisions of the chapter or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

"**Riverine**" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"**Special Flood Hazard Area (SFHA)**" or "**zone**" means an area in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

"**Start of construction**" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"**Structure**" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"**Substantial damage**" means:

(1) Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred; or

(2) Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. This is also known as "repetitive loss."

"**Substantial improvement**" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure.

"**Variance**" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"**Violation**" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"**Water surface elevation**" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"**Watercourse**" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Sec. 8-11.04. Compliance.[76]

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the council from taking such lawful action as is necessary to prevent or remedy any violation.

Sec. 8-11.05. Development Permits.[77]

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in this chapter. Application for a development permit shall be made on forms furnished by the City. The applicant shall provide the following minimum information:

(a) Plans in duplicate, drawn to scale, showing:

(1) Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

(2) Proposed locations of water supply, sanitary sewer, and other utilities;

(3) Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

(4) Location of the regulatory floodway when applicable;

(5) Base flood elevation information as specified in this chapter;

(6) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

(7) Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed, as required in this chapter and detailed in FEMA technical bulletin TB 3-93.

(b) Certification from a registered civil engineer or architect that the nonresidential flood-proofed building meets the flood-proofing criteria in this chapter.

(c) For a crawl-space foundation, location and total net area of foundation openings as required in this chapter and detailed in FEMA technical bulletins 1-93 and 7-93.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(e) All appropriate certifications listed in this chapter.

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76 Amended by Ord. No. 08-666 on Aug 19, 2008.

77 Amended by Ord. No. 08-666 on Aug 19, 2008.

8-11.06. Duties and Responsibilities of the Floodplain Administrator.[78]

The public works director is the floodplain administrator. The floodplain administrator shall:

(a) Permit Review. Review all development permits to determine:

(1) Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;

(2) All other required state and federal permits have been obtained;

(3) The site is reasonably safe from flooding;

(4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City; and

(5) All Letters of Map Revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

(b) Development of Substantial Improvement and Substantial Damage Procedures.

(1) Using FEMA publication FEMA 213, "answers to questions about substantially damaged buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "market value."

(2) Assure procedures are coordinated with other departments/divisions and implemented by community staff.

(c) Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with this chapter, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, to administer terms and conditions as set forth in this chapter.

Note: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

(d) Notification of Other Agencies.

(1) Alteration or relocation of a watercourse:

(a) Notify adjacent communities and the California department of water resources prior to alteration or relocation;

(b) Submit evidence of such notification to the federal emergency management agency; and

(c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(2) Base flood elevation changes due to physical alterations:

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78 Amended by Ord. No. 08-666 on Aug 19, 2008.

(a) Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

(b) All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on CLOMRs. Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

(c) Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

(3) Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

(e) Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

(1) Certification required by this chapter (lowest floor elevations);

(2) Certification required by this chapter (elevation or flood-proofing of nonresidential structures);

(3) Certification required by this chapter (wet flood-proofing standard);

(4) Certification of elevation required by this chapter (subdivisions and other proposed development standards);

(5) Certification required by this chapter (floodway encroachments); and

(6) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the federal emergency management agency.

(f) Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(1) Remedial action.

Take action to remedy violations of this chapter as specified in this chapter.

(2) Biennial report.

Complete and submit biennial report to FEMA.

(3) Planning.

Assure community‟s general plan is consistent with floodplain management objectives herein.

(4) Non-conversion of enclosed areas below the lowest floor.

To ensure that the areas below the BFE shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the floodplain administrator shall:

(a) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;

(b) Enter into a "non-conversion agreement for construction within flood hazard areas" or equivalent with the City. The agreement shall be recorded with the Kern County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and

(c) Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

Sec. 8-11.07. Flood Data.

The Building Official shall obtain and maintain for public inspection and make available as needed for Flood Insurance Policy:

(a) The certified elevation of the lowest floor of any proposed residential structure;

(b) The flood-proofing certification for non-residential construction;

(c) The elevation of proposed structures and pads for all final subdivision plans; and

(d) The anchoring certification required for manufactured homes.

Sec. 8-11.08. Alteration of Watercourses.

The Building Official shall notify all adjacent communities and the California Department of Water Resources prior to approving any permit which would allow any alteration or relocation of a watercourse. Evidence of such notification shall be submitted to the Federal Emergency Management Agency. The Building Official shall also require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.

Sec. 8-11.09. Standards of Construction.[79]

In all areas of special flood hazards, the following standards are required:

(a) Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) Construction materials and methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

(1) With flood resistant materials**,** and utility equipment resistant to flood damage for areas below the base flood elevation;

(2) Using methods and practices that minimize flood damage;

(3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(4) Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

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79 Amended by Ord. 08-666 on Aug 19, 2008.

(c) Elevation and floodproofing.

(1) Residential construction.

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

(a) In AE, AH, A1-30 zones, elevated to or above the base flood elevation.

(b) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the firm, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

(c) In an A zone, without BFEs specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under this chapter.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

(2) Nonresidential construction.

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with this chapter or:

(a) Be flood-proofed, together with attendant utility and sanitary facilities, below the elevation recommended under this chapter, so that the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered civil engineer or architect that the standards set forth in this chapter are satisfied. Such certification shall be provided to the floodplain administrator.

(3) Flood openings.

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

(a) For non-engineered openings:

(1) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all openings shall be no higher than one foot above grade;

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and

(4) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter.

(b) Be certified by a registered civil engineer or architect.

(4) Manufactured homes.

(5) Garages and low cost accessory structures.

(a) Attached garages.

(1) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. Areas of the garage below the BFE must be constructed with flood resistant materials.

(2) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA technical bulletin TB-6.

(b) Detached garages and accessory structures.

(1) "Accessory structures" used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in this chapter, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

(a) Use of the accessory structure must be limited to parking or limited storage;

(b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;

(c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

(d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

(e) The accessory structure must comply with floodplain encroachment provisions in this chapter; and

(f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with the provisions set forth in this chapter.

(2) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in this chapter.

(6) Crawlspace construction.

This sub-section applies to buildings with crawl spaces up to 2 feet below grade. Below-grade crawl space construction in accordance with the requirements listed below will not be considered basements.

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawl space construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer;

(b) The crawl space is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-93;

(c) Crawl space construction is not permitted in v zones. Open pile or column foundations that withstand storm surge and wave forces are required in v zones;

(d) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and

(e) Any building utility systems within the crawl space must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.

(f) Requirements for all below-grade crawl space construction, in addition to the above requirements, to include the following:

(1) The interior grade of a crawl space below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (lag), shown as d in figure 3 of technical bulletin 11-01;

(2) The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall must not exceed 4 feet (shown as l in figure 3 of technical bulletin 11-01) at any point;

(3) There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event, not to exceed 72 hours; and

(4) The velocity of floodwaters at the site should not exceed 5 feet per second for any crawl space. For velocities in excess of 5 feet per second, other foundation types should be used.

Sec. 8-11.10. Standards for Utilities.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

(b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 8-11.11. Standards for Subdivision and Other Proposed Development.[80]

(a) All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:

(1) Identify the Special Flood Hazard Areas (SFHA) and base flood elevations (BFE).

(2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

(3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the floodplain administrator:

(a) Lowest floor elevation.
(b) Pad elevation.
(c) Lowest adjacent grade.

(b) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

(c) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(d) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

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80 Amended by Ord. No. 08-666 on Aug. 19, 2008.

Sec. 8-11.12. Standards for Manufactured Homes.[81]

(a) All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

(1) Within zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the community's flood insurance rate map that are not subject to the provisions set forth in this chapter will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is at or above the base flood elevation; or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

(c) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

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81 Amended by Ord. No. 08-666 on Aug. 19, 2008.

8-11.12A. Standards for Recreational Vehicles.[82]

All recreational vehicles placed in zones A1-30, AH, and AE will either:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Meet the permit requirements of this chapter and the elevation and anchoring requirements for manufactured homes in this chapter.

Sec. 8-11.13. Floodways.[83]

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of California City.

(b) Within an adopted regulatory floodway, the City shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(c) If the terms and conditions set forth in this chapter are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this chapter.

Sec. 8-11.14. Flood-Related Erosion-Prone Areas.

(a) The Director of Public Works shall require permits for proposed construction and other development within all flood-related erosion-prone areas.

(b) Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.

(c) If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

(d) Within E on the FIRM, a setback is required for all new development from any lake, bay or river front or other body of water to create a safety buffer consisting of natural vegetation or a contour strip. This buffer shall be designated according to the flood-related

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82 Added by Ord. No. 08-666 on Aug 19, 2008.
83 Amended by Ord. No. 08-666 on Aug 19, 2008.

erosion hazard and erosion rate in relation to the anticipated useful life of structures and depending upon the geologic, hydrologic, topographic and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wild life habitat areas and for other activities using temporary and portable structures only.

Sec. 8-11.15. Appeals.[84]

The council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

Sec. 8-11.16. Conditions of Variances.[85]

(a) The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(b) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures set forth in this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(c) Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(1) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the city council need

84 Amended by Ord. No. 08-666 on Aug. 19, 2008.

85 Amended by Ord. No. 08-666 on Aug 19, 2008.

not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of the local chapter.

(3) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and

(b) Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the floodplain administrator in the office of the Kern County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(4) The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the federal emergency management agency.

(d) In passing upon requests for variances, the council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger of life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) Safety of access to the property in time of flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(e) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional “hardship” to the applicant; and

(3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see “Public Safety and Nuisance”), cause “fraud and victimization” of the public, or conflict with existing local laws or ordinances.

(f) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of this chapter are satisfied and that the structure or other

development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(g) Upon consideration of the factors and the purposes set forth in this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

8-11.17. Miscellaneous.[86]

(a) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(b) In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(c) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the council, any officer or employee thereof, the state of California, or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(d) This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

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86 Added by Ord. No. 08-666 on Aug. 19, 2008.

TITLE 9. LAND USE AND DEVELOPMENT

CHAPTER 1. PLANNING

Sec. 9-1.101. Purpose and Scope.

This chapter covers the adoption and modification of the City"s general and specific plans. This chapter may be cited as the City"s "Planning Regulations."

The California Local Planning Law authorizes the City to enact local ordinances for planning purposes. This chapter incorporates by reference those provisions of the California Local Planning Law which are mandated by State law and adopts discretionary provisions.

Sec. 9-1.102. Definitions.

(a) The following definitions apply to this chapter:
- (1) "Planning agency" means the California City Planning Commission.
- (2) "Governing body" or "legislative body" means the City Council.
- (3) "Local agency" means the City.
- (4) "Local ordinance" means this chapter.
- (5) "Local Planning Law" refers to Division 1 of Title 7 (commencing with §65100) of the Government Code.

(b) Except as provided herein, the definitions now, or hereinafter, set forth in the Local Planning Law are incorporated by this reference.

Sec. 9-1.103. Plan: Requirement.

The Planning Commission shall prepare and the council shall adopt a comprehensive long-term general plan for the physical development of the City and of land outside its boundaries which in the planning agency"s judgment bears relation to its planning.

Sec. 9-1.104. Plan: Contents.

(a) The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards and plan proposals. The general plan shall include the following elements to the extent the element exists in the planning area:
- (1) Land use;
- (2) Circulation;
- (3) Housing;
- (4) Conservation;
- (5) Open-space;
- (6) Seismic safety;
- (7) Noise;
- (8) Scenic highway; and
- (9) Safety.

(b) The general plan may include the following elements:
- (1) Natural resources;
- (2) Parks;

(3) Recreation;
(4) Beaches;
(5) Playgrounds;
(6) Recreational community gardens;
(7) Other recreational areas;
(8) Parking facilities;
(9) Aviation and related facilities;
(10) Public transit facilities;
(11) Sanitation, drainage and utilities;
(12) Public buildings;
(13) Community design standards;
(14) Standards for elimination of substandard housing;
(15) Redevelopment;
(16) Historical preservation; and
(17) Elements which relate to physical development.

(c) The general plan and elements shall be consistent with the standards promulgated by State agencies with jurisdiction by law.

Sec. 9-1.105. Adoption.

The City approved a general plan consisting of elements adopted on the dates indicated:

(a)	Conservation:	1973
(b)	Housing:	1972
(c)	Land Use and Circulation:	1978
(d)	Noise:	1975
(e)	Open Space:	1973
(f)	Safety:	1975
(g)	Scenic Highway:	1974
(h)	Seismic safety:	1975
(i)	Water and Sewer:	1972

Sec. 9-1.106. Plan: Amendments.

(a) The Planning Commissions shall hold at least one public hearing before approving an amendment to the general plan or any element.

(b) The Council shall approve, modify or disapprove amendments approved by the Planning Commission following a public hearing. A modification not considered by the Planning Commission shall be referred to the Commission for report and recommendations.

Sec. 9-1.107. Plan: Amendments: Limitations.

(a) No mandatory element of the general plan shall be amended more frequently than three times during calendar year unless the proposed amendment is requested and necessary for a single development of residential units, at least 215% of which will be occupied by or available to persons and families of low or moderate income.

(b) An amendment to a mandatory general plan element which operates to limit the number of housing units which may be constructed on an annual basis shall be accompanied by findings required by law.

Sec. 9-1.108. Plan: Administration.

The Planning Commission shall administer the general plan and shall:

(a) Make recommendations to the Council concerning reasonable and practical means for putting into effect the general plan and its elements;

(b) Render an annual report to the Council on the status of the plan and progress in its application;

(c) Promote public interest in an understanding of the general plan; and

(d) Consult and advise public officials, agencies, and the public generally with relation to carrying out the general plan.

Sec. 9-1.109. Plan: Administration: Public Works.

(a) No real property shall be acquired or disposed of, and no public building shall be constructed if the general plan or a specific plan applies until the location, purpose and extent of such acquisition, disposition or work have been reported upon by the Planning Commission as to conformity with the general plan.

(b) No street shall be improved and no sewers or connections or other improvements shall be laid or authorized in a street for which a specific street or highway plan has been adopted until the Planning Commission has reported on the conformity with such a plan.

(c) The Planning Commission shall review five-year capital improvement programs prepared by other local agencies for conformity with the general plan.

(d) The provisions of this section shall not apply to:
(1) The disposition of the remainder of a larger parcel which was acquired and used in part for street purposes;
(2) Acquisitions, dispositions, or abandonment"s for street widening;
(3) Alignment projects, provided such dispositions for street purposes, acquisitions, dispositions or abandonment"s for street widening, or alignment projects are of a minor nature.

Sec. 9-1.110. Plan: Administration: Zoning.

Zoning regulations shall be consistent with the general plan and specific plans.

Sec. 9-1.111. Plan: Fees.

A person requesting a general plan amendment shall pay a fee in an amount from time to time established by resolution unless the Commission determines the amendment benefits property other than the applicant"s property.

CHAPTER 2. ZONING

ARTICLE 1. GENERAL

9-2.100. Short Title.

This chapter shall be known as the City"s "Zoning Regulations."

9-2.101. Purpose.

This chapter establishes zones for land within the City. This chapter also preserves, protects and promotes the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this chapter is adopted to achieve the following objectives:

(a) To provide a specific means to implement the physical development of the City in such a manner as to achieve progressively the general arrangement of land uses depicted in the General Plan;

(b) To foster a wholesome, serviceable and attractive living environment, the beneficial development of areas which exhibit conflicting patterns of use; and the stability of existing land uses which conform with objectives, policies, principles and standards of the General Plan;

(c) To prevent excessive population densities and overcrowding of land with structures;

(d) To promote a safe, effective traffic circulation system, the provision of adequate off-street parking and truck loading facilities and the appropriate location of community facilities;

(e) To protect and promote appropriately located commercial and industrial activities to preserve and strengthen the City's economic base;

(f) To protect and enhance real property values and the City's natural assets;

(g) To ensure unimpeded development of such new urban expansion that is logical, desirable and in conformance with objectives and policies of the General Plan; and

(h) To provide and protect open space in accordance with policies of the open space element of the General Plan.

9-2.102. Scope.

(a) The chapter shall consist of Zoning Map(s) designating certain districts and the regulations controlling the uses of land.

(b) No structure shall be erected or altered or used Except as provided in this Chapter.

(c) This chapter does not apply to the construction, installation, operation, and maintenance of City-owned or occupied facilities or public utility distribution and transmission lines, towers and poles and to underground facilities for private gas, water, electricity or telephone and telegraph services by a public utility under the jurisdiction of the Public Utilities Commission.

9-2.103. Interpretation and Application.

(a) The provisions of this chapter are minimum requirements unless expressly stated otherwise.

(b) The Planning Commission shall resolve ambiguities by resolution transmitted to the Council. If approved by the Council, the clarifications shall govern until modified by amendment to this chapter.

9-2.104. Districts Established.

The zoning districts established by this chapter are as follows:

RA	Residential Agricultural
R1	Single Family Residential
R2	Single Family Residential
R3	Single Family Residential
R4	Single Family Residential
R5	Single Family Residential
RM1	Multiple Family Residential
RM2	Multiple Family Residential
C1	Neighborhood Commercial
C2	Community Commercial
C3	Commercial/Office
C4	Service Commercial
C5	Regional Commercial
CMC	Community Medical Center
M1	Light Industrial
M2	Heavy Industrial
O	Open Space
G	Government

9-2.105. Zoning Map(s).

(a) The zones established by this chapter are depicted on zoning maps showing the boundaries of each zoning district. The zoning is adopted by reference

and made part of this chapter.

(b) Territory annexed to the City shall become a part of a zone upon adoption of a proper ordinance for such purpose. Interim zoning shall be temporary, and the Commission shall recommend a final zoning plan for the annexed territory within five years.

(c) The regulations applicable to abutting property shall apply when property otherwise exempt from zoning regulations loses its exemption.

9-2.106. Uncertainties in Boundaries.

(a) Where uncertainty exists as to the boundaries of a zone, the following rules shall apply:

(1) Where such boundaries are indicated as approximately following street and alley lines or lot lines, such lines shall be construed to be such boundaries.

(2) In subdivided property or where a zone boundary divides a lot, the location of such boundary, unless such location is indicated by dimensions, shall be determined by the use of the scale appearing on the zoning map.

(b) If uncertainty exists despite the foregoing, the Planning Commission shall determine the location of the boundaries.

9-2.107. Addition of Permitted Uses.

(a) The Planning Director or Planning Commission may recommend additional permitted uses to the City Council, if the Commission makes the following findings:

(1) The addition of the use to the list of permitted uses will be in accordance with the purposes of the district.

(2) The use has the same basic characteristics as the uses permitted in the district.

(3) The use reasonably can be expected to conform with the required conditions prescribed for the district.

(4) The use will not be detrimental to the public health, safety or welfare.

(5) The use will not create more vehicular traffic than the volume normally created by any of the uses permitted in the district.

(6) The use will not adversely affect the character of any district in which it is proposed to be permitted.

(7) The use will not create more odor, dirt, smoke, noise, vibration, illumination, glare, unsightliness or any other objectionable influence than the amount normally created by any of the other uses permitted in the district.

(8) The use will not create any greater hazard of fire or explosion than the hazards normally created by any of the uses permitted in the district.

(b) Additional permitted uses shall be approved by ordinance adopted in accordance with the procedures in this chapter.

9-2.108. Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows, unless apparent from context::

(a) "Accessory Building" – a building or structure subordinate to, and customarily incidental to the main building, structure or use on the same site. Except in the case of garden structures, if any accessory building is attached to the main building by a common wall or a connecting roof, such accessory building shall be deemed to be part of the main building.

(b) "Accessory Use" – A use incidental, related, appropriate and clearly subordinate to the main use of the site or building, but not altering the principal use of the site.

(c) "Alter" – Any change in the supporting or load-bearing members of a building such as bearing walls, columns, beams, girders or floor joists.

(d) "Block" – the properties abutting on one side of a street and lying between two nearest intersecting or intercepting streets and railroad rights of way, unsubdivided lands or watercourses.

(e) "Breezeway" – A roofed passageway, open on at least two sides, connecting the main structure on a site with another main structure or accessory building on the same site.

(f) "Building" – A permanently located structure, having a roof, for the housing or enclosure of persons, animals or property of any kind. Mobile homes, travel trailers and other vehicles, even though permanently immobilized, shall not be deemed to be buildings.

(g) "Building, Main" – A building within which is located the principal use permitted on the lot or site as provided by this chapter.

(h) "Building Official" – The Building Official of the City.

(i) "Building Setback Line" – The minimum distance as prescribed by this chapter between any property line and the closest point on the foundation or any supporting post or pillar of any building or structure related thereto.

(j) "Carport" – An accessory structure or portion of a main structure open on two or more sides designed for the storage of motor vehicles, without full enclosure.

(k) "Club" – An association of persons for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.

(l) “Commission” means the California City Planning Commission.

(m) “Director” means the California City Planning Director.

(n) “Family” – An individual, two or more persons who are related by blood or marriage, or a group of not more than five persons not necessarily related by blood or marriage living together in a dwelling unit.

(o) “Frontage” – The property line of a site abutting on a street, other than the side line of a corner lot.

(p) “Grade” – The average elevation of a parcel before structures are constructed.

(q) “Lot” –

(i) A single parcel of land for which a legal description is filed of record, or the boundaries of which are shown on a subdivision map, or record of survey map filed in the office of the County Recorder.

(ii) Includes a part of a single parcel of land when such part is used as though a separate lot for all of the purposes and under all of the requirements of this chapter.

(r) “Lot Area” – The total horizontal area within the lot lines of a lot.

(s) “Lot, Corner” – A lot situated at the intersection of two or more streets which have an angle of intersection of not more than one hundred thirty-five degrees (135º).

(t) “Lot Coverage” – That portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy.

(u) “Lot Depth” – The horizontal length of a straight line connecting the midpoints of the front and rear lot lines.

(v) “Lot, Double Frontage” – An interior lot having frontage on and with access on two parallel or approximately parallel streets.

(w) “Lot, Interior” – A lot other than corner lot or reverse corner lot.

(x) “Lot, Key” – The first lot to the rear of a reversed corner lot, whether or not separated by an alley.

(y) “Lot Line, Front” –

(i) In the case of an interior lot, a line separating the lot from the street.

(ii) In the case of a corner lot, the line separating the narrowest street frontage of the lot from the street.

(z) “Lot Line, Rear” – A lot line opposite and most distant from the front lot line, or, in the case of an irregular triangular or gore-shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

(aa) “Lot Line, Side” – Any lot boundary line not a front lot line or a rear lot line.

(bb) “Lot, Reversed Corner” – A corner lot, the street side of which is substantially a continuation of the front lot line of the lot upon which it rears.

(cc) “Lot Width” – The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

(dd) “Railroad Right of Way” – A strip of land for the accommodation of rail lines or branch line railroad tracks, switching equipment and signals, but not including lands on which stations, offices, storage buildings, spur tracks, sidings, section gang and other employee housing yards or other uses are located.

(ee) “Residence” – A structure containing a dwelling unit designed for occupancy by one family or more.

(ff) “Secretary” means the Secretary to the California City Planning Commission.

(gg) “Sign” – Any letter or symbol made of cloth, metal, paint, paper, wood or other material of any kind whatsoever placed for advertising, identification or other purposes on the ground or on any wall, post, fence, building, structure, vehicle or on any lace whatsoever.

(hh) “Site Coverage” means the percent of the site area covered by structures calculated by dividing the number of square feet of horizontal area covered by structures, open or enclosed, by the total horizontal area within the property lines of the site.

(ii) “Street” – A public or private way permanently dedicated or reserved as a primary means of access to abutting property.

(jj) “Street Line” – The boundary line between street rights or way and abutting property.

(kk) “Structural Alteration” – Any change in the supporting members of a building such as foundations, bearing walls, columns, beams, floor or roof joists, girders or rafters, or any change in the exterior dimensions of a building excepting those changes which may result from providing minor repairs and building maintenance.

(ll) “Structure” – Anything constructed or erected which requires a fixed location on the ground, including a building, but not including a fence or wall use as a

fence.

(mm) "Structure, Main" – A structure housing the principal use of site or functioning as the principal use.

(nn) "Temporary" – A period not to exceed twelve (12) months.

(oo) "Use" – The purpose for which a site or structure is arranged, designed, intended, constructed, moved, erected, altered, or enlarged or for which either a site or structure is or may be occupied or maintained.

(pp) "Use, Conditional" – A use listed as a conditional use in any district in this chapter.

(qq) "Use, Permitted" – A use listed as a permitted use in any district in this chapter.

(rr) "Yard" – Open and unoccupied space on a lot.

(ss) "Yard, Front" – A yard, the depth of which is the minimum required horizontal distance between the front lot line and the line parallel thereto on the lot, which yard extends across the full width of the lot.

(tt) "Yard, Rear" – A yard, the depth of which is the minimum required horizontal distance between the rear lot line and line parallel thereto on the lot, which yard extends across the full width of the lot.

(uu) "Yard, Side" – A yard, the width of which is the minimum required horizontal distance between the side lot and a line parallel thereto on the lot, not including any portion of required front yard or required rear yard.

ARTICLE 2. REQUIREMENTS FOR ALL ZONING DISTRICTS

9-2.200. Purpose.

This Article establishes regulations applying to more than one district.

9-2.201. Street Access to Dwellings.

Every main building shall face, or have frontage, upon a street or have permanent means of access to a street by way of a public or private easement or passageway other than an alley.

9-2.202.[87] Height of Flagpoles and Similar Structures.

No roof structures shall exceed the height limits set forth in this chapter. Flagpoles, chimneys, and smokestacks may extend not more than forty-five (45) feet above the grade of the property where the structure is located. Radio, television, cellular and other antennae shall

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87 Amended by Ord. No. 09-683 on 12/2/09.

not exceed fifty (50) feet above grade if attached to a main building or eighty (80) feet above grade if free standing. Flag poles, chimney smoke stacks, antenna, and similar devices shall be subject to site plan review by the Planning Director to assure the device poses no threat to public safety.

9-2.203. Storage in Yards.

No portion of required yards shall be used for permanent storage. No portion of required rear yard shall be used for permanent storage unless the rear yard is enclosed by a six foot (6') high solid fence. For the purposes of this section "permanent storage" means the presence of structure parts (other than building materials for use on the premises under a valid and subsisting building permit), machinery, vehicles (other than vehicles parked in compliance with the Vehicle Code), farm products or other goods, for a period of forty-eight (48) or more consecutive hours.

9-2.204.88 Temporary Structures to Aid Construction.

9-2.205. Yards.

(a) Each zone has yard space requirements.

(b) Required yards shall be measured as the minimum horizontal distance from the property line of the site or street line to a line parallel thereto on the site. Where a precise street plan has been adopted by the City, required front yards shall be measured from the plan line, and no structure or use to extend beyond such line. Where a site abuts on a street having only a portion of its required width dedicated or reserved for street purposes, site area and required yards shall be measured from a line representing the boundary of the additional width required for street purposes abutting the site.

(c) The following are permitted to encroach into required yards:

(1) Cornices, canopies, eaves, or other similar architectural features not providing additional floor space within the building may extend into a required front, side, or rear yard not to exceed three feet (3').

(2) Open, unenclosed, uncovered porches, platforms, or landing places which do not extend above the level of the first floor of the building may extend into any front, side, or rear yard not more than three feet (3'); provided, however, an open work railing, not more than thirty inches (30") in height, may be installed or constructed on any such porch, platform, or landing place.

(3) Fences, walls, hedges, walks, driveways and retaining walls may occupy any required yard or other open spaces, subject to the limitations prescribed in the district regulations, and except the provisions of this chapter shall not apply to a fence or wall necessary for public safety or as required by any law or regulation of the State or any agency thereof.

(4) The Commission may waive rear or side yard requirements or allow the maximum building area to be exceeded owner if the following conditions are met:

(a) The property owner proposes to construct a residential structure which crosses the lot line separating two or more contiguous parcels which the property owner owns provided that it is in conformance with the State Subdivision Map Act.

(b) Rear or side yard requirements are waived only along the lot line which is to be crossed by the residential structure;

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88 Repealed by Ord. No. 06-637 on 2/7/06.

(c) The total building area of the structure does not exceed the sum of the maximum total building areas allowed for the contiguous parcels; and

(d) The Commission finds the proposed use conforms to zoning requirements and conforms with general and specific plans.

9-2.206. Motor Home Temporary Occupancy. 89

9-2.207. Parking: General.

To prevent traffic congestion and shortage of curb spaces, off-street parking shall be provided incidental to buildings or structures and major alterations and enlargements of existing uses. Off-street parking shall be in proportion to the need created by the land use. Off-street parking shall be laid out to protect the public safety and insulate surrounding land uses from their impact.

For the purposes of tabulating the number of off-street parking spaces, the term "floor area" shall mean the gross floor area of a building and its accessory buildings on the same site measured from the outside wall. Applications for land use permits shall be accompanied by a detailed tabulation of the gross floor area and a calculation of the required number of off-street spaces.

9-2.208. Schedule of Off-Street Parking Space Requirements.

(a) The following off-street parking requirements apply to the residential districts:

(1) Two covered parking spaces shall be provided for each unit in a district for single family dwellings.

(2) Two off-street parking spaces shall be provided for each dwelling unit in a district for multiple family dwellings. The parking spaces must have access by a concrete or asphalt driveway. One parking space for each unit must be covered. Notwithstanding the foregoing:

(i) One parking space per dwelling unit is required for multi-family housing made available solely to persons fifty-five (55) years of age or older; and

(ii) An additional one-quarter (.25) parking space per dwelling unit may be required by the Commission for guest parking spaces for developments which include more than fifty percent (50%) of the units as three (3) or four (4) bedroom units.

(iii) One covered parking space for each bedroom or one parking space for each 150 square feet of sleeping area, whichever is greater, is required for boarding houses and private clubs providing sleeping accommodations.

(iv) Motels and hotels shall have one parking space for each guest room. There shall be one additional parking space for each two employees per shift regularly employed by the motel, or any independent business located within the motel structure. If the motel provides an area for the consumption of food or beverages or provides meeting or assembly halls, the following requirements must be met.

Number of Motel Rooms	Parking Requirements
3-10	One parking space for each 100 square feet of area used for the consumption of food or beverages and one parking space for each thirty-five (35) square

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89 Repealed by Ord 06-637 on 2/7/06.

	feet of meeting or assembly hall space.
11-40	One parking space for every 200 square feet of area used for the consumption of food or beverages and one parking space for each seventy (70) square feet of meeting hall or assembly hall space.
41-75	One parking space for each 300 square feet of area designated for the consumption of food or beverages and one parking space for each 150 square feet of meeting or assembly hall space.
76 or more	One parking space for each 400 square feet of area set aside for the consumption of food or beverages and one parking space for each 300 square feet of meeting or assembly hall area.

(3) One covered parking space plus one uncovered guest parking space shall be provided for each dwelling unit in a planned unit development or condominium complex.

(b) The following off-street parking requirements apply to commercial districts:

(1) Dental and medical clinics and offices including optometrists and Chiropractors: One parking space for each 200 square feet of floor area, or four (4) parking spaces for each doctor, whichever is greater.

(2) Major medical facilities and hospitals. One parking space for each 250 square feet of floor area.

(3) Sanitariums, charitable and religious Institutions providing sleeping accommodations: One parking space for each three beds.

(4) Group Care Facilities. One parking space for each three beds.

(5) For auditoriums, community centers, theaters, churches, libraries, museums, stadiums, clubs and funeral chapels: One parking space for every four permanent seats in the principal assembly area or room, or one parking space for every thirty square feet of floor area, whichever is greater.

(6) Bowling alleys: Four parking spaces for each alley, plus one parking space for each 100 feet of floor area used for restaurant and/or cocktail lounge.

(7) Billiard and/or pool parlors: Two parking spaces for each table.

(8) Skating rinks: One parking space for each employee, plus one parking space for each 100 square feet of floor area.

(9) Dance halls: One parking space for each thirty-five (35) square feet of dance floor area, plus one parking space for each five (5) fixed seats or for each thirty-five (35) square feet of seating area where there are no fixed seats.

(10) Banks, savings and loan and other financial Institutions: One parking space for each 250 square feet of floor area plus five tandem lane spaces for each outdoor teller or teller station.

(11) General retail stores, except as otherwise specified: One parking space for each 300 square feet of floor area.

(12) Offices, including all public and professional offices, except as otherwise specified: One parking space for each 250 square feet of floor area, with a minimum of four parking spaces.

(13) Other commercial service establishments, repair shops, wholesale

establishments and retail stores which handle only bulky merchandise such as furniture, household appliances, motor vehicles, farm implements and machinery: One parking space for each 500 square feet of floor area.

(14) Automobile dealerships: One parking space for each two employees during the time of maximum employment, plus one parking space for each 2,000 square feet of lot and building area used for the display or storage of automobiles.

(15) Self-service laundries and dry cleaners: One parking space for each three washing machines.

(16) Automobile repair shops: One parking space for each 400 square feet of floor area.

(17) Barber shops, beauty salons: Two parking spaces for each barber or beautician, with a minimum of four spaces.

(18) Restaurants, cafes, soda fountains and similar establishments: One parking space for each 100 square feet of floor area.

(19) Manufacturing plants and other industrial uses: One parking space for each employee during the shift of maximum employment, plus one parking space for each vehicle used in conjunction with the use.

(20) Retail food market and convenience store: One parking space for each 500 square feet of floor area.

(21) Nurseries, retail: One parking space for each 1,500 square feet of site area, plus one loading space for each acre of site area.

(22) Shopping centers (major): One parking space for each 200 square feet of floor area.

(23) Open uses, commercial and industrial uses conducted primarily outside of buildings: One parking space for each employee on the maximum shift plus additional parking spaces prescribed by the Planning Director.

(24) Transportation terminal facilities: One parking space for each two employees plus additional parking spaces prescribed by the Planning Director.

(25) Storage and warehouses: One parking space for each 1,000 square feet of floor area.

(c) The following off-street parking requirements apply to educational facilities:

(1) Kindergarten and Nursery Schools: One parking space for each employee plus one parking space for each ten children.

(2) Elementary and Junior High Schools: Two parking spaces for each classroom.

(3) High Schools: One parking space for each employee plus seven parking spaces for each classroom.

(4) Colleges; Business and Professional Schools and Colleges; Trade Schools: One parking space for each employee plus ten parking spaces for each classroom.

(d) For a use not specified in this section, the same number of off-street parking spaces shall be provided as are required for the most similar specified use.

9-2.209. Standards for Off-Street Parking Facilities.

Off-street parking shall conform with the following standards:

(a) The parking space shall be nine feet by nineteen feet (9'x19') and parking areas shall have ingress and egress to a street or alley.

(b) Entrances and exits to parking lots shall be provided at locations approved by the City Engineer.

(c) The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing.

(d) Parking areas shall not be located within a required front setback or within a street side setback of a corner lot.

(e) Open spaces shall be plainly marked by striping.

(f) In all commercial, quasi-public, industrial, and professional and administrative office districts. One (1) stall for the physically handicapped shall be provided for each fifty (50 parking spaces, or fraction thereof, and shall be located as near as practical to public entrance.

(g) Parking spaces for "compact automobile" will be permitted not less than fifteen feet (15') in length and seven and one-half feet (72') in width, exclusive of aisles and access drives and shall not exceed thirty percent (30%) of the total required parking spaces.

(h) Lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.

(i) In a commercial district where a site adjoins or is directly across the street from a residential zone, a concrete block or masonry wall not less than six feet (6') in height shall be located on the property line except in a required front yard, in which case the wall shall be three feet (3'), and suitably maintained.

(j) The plan for off-street parking facilities shall be accompanied by a detailed landscape plan for parking facilities. The Planning Director shall approve landscaping plans within a parking area and may require additional landscaping if the Planning Commission deems it necessary to improve the aesthetic character of the project.

(k) Off-street parking facilities shall be located on the same site as the use for which the spaces are required or on an adjoining site or a site separated only by an alley from the use for which the spaces are required.

9-2.210. Shared Parking.

(a) The Planning Commission Council may grant an exception to the number of spaces required when the joint users of a parking facility have divergent needs with respect to daytime versus nighttime use, or weekdays versus Saturdays or Sundays.

(b) Conditions for allowing shared parking are:

(1) The buildings and uses shall be within three hundred feet of the nearest point by walking distance within a parking facility to the building or use.

(2) The applicant shall show there is no conflict in the principal operating hours of the buildings or uses.

(3) A shared parking agreement between the principal parties and the City shall be entered into which restricts the shared parking area to parking use only.

9-2.211. Off-Street Loading Facilities Required.

(a) In commercial and manufacturing zones, and multiple residential zones, there shall be located on the site of each building or structure, off-street loading for vehicles.

Where, in the opinion of the Planning Director, a practical difficulty is involved relating to site size, existing development or access, the Planning Commission may grant an exception to any portion of the requirements necessary to achieve the intent of this section.

(b) One off-street loading berth shall be provided if the gross floor area exceeds five thousand square feet, and one additional berth shall be provided for each additional ten thousand square feet. No off-street loading berths shall be required for buildings of less than five thousand square feet of gross floor area. The loading area, aisles and access drives shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches (2"), over four inches (4") of untreated rock base. Lighting shall be deflected away from abutting residential sites to prevent annoying glare.

(c) The location of off-street loading facilities shall be approved by the Planning Director.

9-2.212. Site Plan Review.

(a) A site plan shall be approved by the Planning Director for a multi-family residential use of four (4) units or more, private club use, commercial use, church use or manufacturing use.

(b) An application for site plan review shall be filed with the Planning Director. The Planning Director shall review the proposal to determine whether it satisfies the requirements of this section. The Planning Director's decision shall be final unless appealed to the Planning Commission by any interested party prior to the issuance of any building permit for the property.

(c) The application for a site plan review shall contain the following:

(1) Name and address of the applicant;

(2) Name(s) and address(s) of the property owner(s);

(3) Assessor's parcel number(s);

(4) A plan drawn at the scale specified by the Planning Director, including the following:

(i) Topography and proposed grading;

(ii) Location of existing buildings and structures with required setbacks;

(iii) Location of proposed buildings and structures with required setbacks;

(iv) Location of all existing and proposed utilities, including water, natural gas, electrical and drainage facilities;

(v) Exterior elevations showing the height of the building, the location of doors, windows, chimneys, mechanical equipment and the types and colors of materials proposed;

(vi) Dimensions of the existing and proposed buildings or structures or other information (e.g., seating capacity) of the proposed buildings allowing the Planning Director to determine parking needs in accordance with the requirements set out in the City

Zoning Ordinance;

(vii) Layout of proposed parking lot, including location of parking spaces, internal circulation pattern, ingress and egress points and location of trash enclosures;

(viii) Dimensions of parking stalls and aisles;

(ix) Location of landscaping and irrigation system, including identification of plant materials to be used; and

(x) Location of on-site and off-site lighting.

(d) The site plan shall be approved if application shows the site will be developed in accordance with the requirements of the Municipal Code. The applicant shall improve the property shown in the application in conformance with the approved site plan.

9-2.213. Accessory Uses.

Accessory uses are permitted in each zoning district.

9-2.214. Barrier Walls and Fences. 90

(a) Where a lot in a commercial district, community medical center (CMC) district, or industrial district adjoins or is located across a street or alley from a residential district, a concrete block wall, masonry wall, stucco wall six (6) feet minimum in height shall be located on the rear or side property line common to such Districts.

(b) Storage of materials and equipment attendant to a permitted use shall be within an area screened by concrete block wall, masonry wall, stucco wall, or fence six (6) feet minimum in height as may be approved by the Planning Director.

(c) A use not conducted entirely within a completely enclosed structure on a site across a street or an alley from a Residential District shall be screened by an ornamental solid wall or screen fence not less than six (6) feet in height if found by the Planning Commission to be unsightly.

(d) Storage of materials and equipment sites is permitted only within an area surrounded and screened by a solid wall or fence or compact evergreen hedge (with solid gates where necessary), not less than six (6) feet in height.

ARTICLE 2A - TEMPORARY USES 91

Sec. 9-2.2A01. Purpose.

Some temporary uses of land are inconsistent with underlying general plan and zoning requirements, unless conditions are imposed to achieve consistency. This article describes temporary uses which may be consistent with the issuance of a conditional permit.

This Article accommodates land uses which are temporary and are not otherwise permitted or permitted as conditional uses. The character of such uses requires proper conditions to protect the owners, occupants, and users of adjacent property.

Sec. 9-2.2A02. Scope.

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90 Added by Ord. 05-625 on 5/17/05.

91 Entire New Article 2A, 9-2.2A01 through 9-2.2A10 added by Ord 06-637 on 2/7/06.

The provisions of this Article shall apply to the temporary uses enumerated herein. Any building or structure not conforming to the requirements of this Article shall be deemed a permanent use and shall be allowed only if such use is a permitted or permitted as a conditional use in the zone where the use is located. The requirements of this Chapter shall not be construed to prohibit or limit this Code and other laws. This Article does not apply if the use is otherwise permitted.

Sec. 9-2.2A03. Definitions.

The following terms are defined for the purposes of this Article.

(a) "Temporary" means a period not to exceed twelve (12) months.

(b) "Structure" means any building, shelter, sign, wall, fence, pole or other improvement with a fixed location on the ground above grade constructed or installed by man and permanently attached to the ground, but not including poles, lines, cables, pipelines, or other transmission or distribution facilities of utilities.

(c) "Vehicle" means a properly licensed automobile, truck, trailer, boat or other device in which a person or thing is or can be transported from one place to another or a bicycle.

Sec. 9-2.2A04. Temporary Uses Allowed.

(a) Uses Allowed – business. Any person may sponsor or conduct for profit or non-profit purposes the temporary uses set forth below upon the issuance of a temporary business license.

(1) Auction
(2) Christmas tree sales
(3) Farmers market
(4) Festival, show, exhibit, circus, carnival, outdoor dance, community fair, concert, or other activity of a similar nature.
(5) Fireworks stand
(6) Produce stand
(7) Motorized vehicle sales, not to exceed 48 hours in duration, by a licensed dealer
(8) Temporary construction or model home office
(9) Temporary retail sales not exceeding two hundred (200) square feet.
(10) Cargo Containers

(b) Uses Allowed – Non-business. Any person may sponsor or conduct the temporary uses set forth below upon the issuance of a temporary use permit.

(1) Garage/yard sale
(2) Temporary Car wash
(3) Occupancy of a vehicle designed for temporary occupancy, herein "motor home."

Sec. 9-2.2A05. Temporary Use Permits.

No person shall install or conduct any temporary use without a temporary use permit.

Sec. 9-2.2A06. Development Standards – General.

(a) A temporary use shall be:

(1) An accessory use to the main use of the property, or

(2) Compatible, in terms of character and intensity of use, with permitted or conditional uses allowed in such zone.

(b) The owner of the property where a temporary use is proposed shall provide a written statement authorizing the use.

(c) For all temporary uses allowed under section 9-2.2A04(a), specific areas shall be designated for ingress and egress of vehicular traffic and for patron admission, ensuring the safety of patrons, the exclusion of persons not entitled to entry, and the enforcement of State and local laws and ordinances. The adequacy of such areas shall be based upon the number of patrons reasonably expected to attend the temporary use.

(d) For all temporary uses allowed under section 9-2.2A04(a), the applicant shall provide evidence of liability insurance. Such insurance shall:

(1) Name the City as an insured;

(2) Hold the City harmless from any claim arising from personal injury or property damage resulting from the temporary use; and

(3) Provide that the insurance shall not be canceled prior to giving the City at least ten (10) days written notice of such cancellation.

(e) Off-street parking shall be provided on the lot or parcel where the temporary use is located.

(f) The duration of temporary use permits shall be as follows:

(1) Auctions; garage/yard sales: Three (3) days (not more than four (4) per year);

(2) Temporary retail sales: Ten (10) days (not more than four (4) per year on a given lot or parcel);

(3) Fireworks stand: Thirty (30) days;

(4) Christmas tree sales; motorized vehicle sales by a licensed dealer: Sixty (60) days;

(5) Produce stand; farmers market: Ninety (90) days;

(6) Temporary construction or model home office: For the duration of construction activity so long as construction is diligently pursued and the offices are located on the property under construction or development, but not to exceed 120 days. A Conditional Use Permit is required for periods exceeding 120 days; and

(7) Festival, show, exhibit, circus, carnival, outdoor dance, community fair, concert, or other enterprise of a similar nature: For the time period within which the use is operated, but not to exceed fourteen (14) days.

(g) Trash shall be removed and the site restored to its prior condition within three (3) days after the temporary use has concluded. The failure to its prior condition constitutes a nuisance.

(h) Authorized law enforcement officers, zoning enforcement officers, fire control

officers, and other governmental personnel shall be permitted free access to the temporary use to make inspections to ensure compliance with this Article.

Sec. 9-2.2A07. Standards: Specific.

(a) The temporary uses described in this section shall satisfy the requirements of this section in addition to the general requirements of the preceding section.

(b) A temporary car wash may be operated with a permit. The permit shall contain at least the following conditions:

(1) Use shall not occur within 100 feet of a residential dwelling;

(2) Use shall not occur earlier than one hour after sunrise or later than one hour before sunset;

(3) The number of permits issued by the planning director for a specific geographic area or specific time shall not constitute a public or private nuisance;

(4) Applicant shall agree to not litter or otherwise disturb property which is used;

(5) Applicant shall use property only with the written permission of the property owner(s); and

(6) The applicant shall pay application and permit fees in amounts from time-to-time established by the Council by resolution in amounts sufficient to offset the costs incurred by the City to review the application and issue and enforce the permit.

(c) A person may use a motor home to temporarily occupy property with a temporary use permit. The permit shall contain at least the following conditions:

(1) The person proposing to occupy the motor home secures a temporary occupancy permit from the Planning Director, or designee;

(2) The motor home includes a self-contained tank for holding sewage wastes and the owner of the motor home makes arrangements to dispose of wastes in a manner approved by health officials;

(3) The occupancy is limited to a period of not more than thirty (30) days, provided the Director may extend the period of occupancy for one additional thirty-day period upon the showing of good cause; and

(4) Upon termination of the occupancy, the property shall be restored to the same condition as existent prior to the commencement of occupancy.

(d) Temporary Uses to Aid Construction.

(1) One vehicle may be temporarily placed to facilitate construction or security, provided:

(i) A building permit has been issued for the property on which the temporary structure is to be located;

(ii) The temporary structure is removed, and such use terminates, upon the completion of the construction specified in the building permit. In no event shall the use permit allow such use for more than two (2) years;

(iii) The temporary structure may be used as living quarters only if the Building Official issues a permit for such use; and

(iv) The Commission may require the removal of such temporary structure upon ten (10) days' prior written notice if a residential structure is constructed within 300 yards of the construction site or if the use otherwise threatens the integrity of the zone.

(2) Cargo containers are permitted for temporary storage of construction

materials and equipment provided:

(i) If the container is to be placed on the same property which is being improved;

(ii) If the container is to be placed on property adjacent to the property being improved, only with the written consent of the adjacent property owner on whose land the contained is sited;

(iii) A building permit has been obtained for construction and the materials and equipment to be stored in the container are used for that construction; and

(iv) The container is removed before the issuance of an occupancy permit.

Sec. 9-2.2A08. Temporary Sales Offices.

A temporary sales office may be located on a lot in a residential district for a period not to exceed twelve (12) months to facilitate residential sales. The Planning Director will determine whether the sales office is ancillary to sales and whether the use is temporary. The Planning Director's decision may be appealed to the Commission.

Sec. 9-2.2A09. Temporary Signs.

(a) General.

Signs, pennants and banners for temporary displays, grand openings, or special events may be permitted for a period not to exceed thirty (30) successive days in a six-month period. Temporary signs relating to national holidays may be erected in any zone for a period of not more than sixty (60) days. No portable sign, wind-driven sign, or balloon sign shall be allowed except as provided in this section. As used herein, "Temporary Sign" means a sign intended for use during a limited period of time.

(b) Temporary Real Estate Sales Signs.

(1) Signs for model homes, in subdivisions or commercial areas, shall be for less than six (6) months.

(2) Signs advertising the sale of real property by the owner are exempt from the permit requirement but shall meet the following standards:

(i) Not more than one temporary real estate sign shall be placed on the lot, but where the lot is bounded by more than one street, one sign shall be allowed along each adjacent street. Size shall not exceed twenty-four (24) inches by thirty (30) inches;

(ii) Temporary real estate signs shall not be illuminated;

(iii) Temporary real estate signs shall be a minimum of ten (10) feet from any street right-of-way and property line;

(iv) If attached to a building, a temporary real estate sign shall not exceed above the roofline or parapet wall of that building;

(v) The sign height shall be lower than the height of the enclosed buildings or walls and the signs shall not be visible from a public street or adjoining property;

(vi) Real estate signs shall be removed within ten (10) days after close of escrow for the sale of the property; and

(vii) Any sign placed in the public "right-of-way" shall require a permit issued by the City and any location or placement shall be approved by the City Engineer. The numbers of directional signs allowed for "open house" and any similar real estate promotion shall be limited to two per quarter mile, with turn identifiers exempted from this provision. Signs shall be on display only when the advertised real estate is open for inspection.

(3) This section shall not restrict the number or size of temporary real estate signs erected out-of-doors within a courtyard or enclosed mall.

(c) Temporary subdivision signs shall meet the following standards:

(1) Off-site temporary subdivision signs:

(i) The signs shall be located at primary streets providing directions to the subdivision; and

(ii) The overall height of each sign shall not exceed eight (8) feet and thirty-two (32) square feet in total area.

(2) On-site temporary subdivision signs:

(i) The signs shall be located at the primary entrance to the subdivision or at the model homes; and

(ii) The overall height of each sign shall not exceed eight (8) feet and thirty-two (32 square feet in area.

(d) Temporary Construction Signs.

(1) Where a building is under construction, temporary signs may be erected to identify the project owner, architect, landscape architect, contractor, building, lender, and proposed use, provided however, they meet the following standards:

(i) There shall be no more than one such temporary construction sign at each end of any one project;

(ii) The sign shall not exceed thirty-two (32) square feet in area;

(iii) The sign shall not be illuminated;

(iv) The sign shall not be attached to a building;

(v) The sign shall be freestanding and stationary, not exceeding a maximum height of eight (8) feet; and

(vi) The sign shall be removed at the time of final inspection of the project.

(e) Temporary Special Event Signs.

(1) Temporary special event signs may be erected for a period not to exceed ninety (90) days and meet the following standards:

(i) The signs shall be removed within ten (10) days following the conclusion of the event or campaign;

(ii) In residential zones, each sign shall not exceed six (6) square feet in area or a height of (4) feet; and

(iii) Signs placed in a public right-of-way shall require City approval via a permit fee and a cleanup deposit. A location plan of such signs shall be submitted to the Planning Director for approval prior to the issuance of a permit.

(f) Temporary Commercial Signs.

Signs, inflatable devices, banners, flags, or pennants used to promote special sales and/or promotions shall meet the following standards:

(1) Signs shall conform to the specific size restrictions required for the sign type as defined in this ordinance. All flags, banners, and pennants shall be considered temporary and in no instance shall exceed thirty-two (32) square feet in area nor be flown or hung from a pole greater than thirty (30) feet in height without a waiver from the City;

(2) Permits for such temporary signs shall not be issued for longer than a thirty-day period and may be renewed in thirty-day increments for a total of one hundred twenty (120) days per year; and

(3) Inflatable devices shall not attain a height of more than one hundred (100) feet. These devices must be taken down every evening. Inflatable devices made from metallic or electrically conductive material are prohibited.

(g) Temporary Garage Sale Signs.

(1) Signs are permitted to announce garage sales.

(2) Garage sale signs may be installed within rights of way adjacent to City streets, but not within medians of City streets, if the following requirements are met:

(i) A refundable cleaning deposit in the amount of $50.00 for the first ten signs, and $100.00 for signs in excess of ten if posted within the City.

(ii) Signs are removed within two days after the sale to which they relate or if the signs are not removed, the City shall remove the signs and deduct the actual costs of removal from the deposit set forth above.

(iii) A sign larger than thirty-two square feet in area shall not be erected unless a building permit is secured from the City.

(iv) The signs shall not be erected more than five days prior to the sale.

(v) The bottom edge of the signs shall be no less than 48" nor more than 60" from the ground.

Sec. 9-2.2A10. Temporary Use Permit Approval Process.

(a) This section sets forth procedures for considering and approving a temporary use permit.

(b) The Planning Director, or designee, shall issue or revoke temporary use permits.

(c) Any person may apply for a temporary use permit.

(d) A complete application shall be submitted to the Planning Director in a form established by the Planning Director with any fee established by the City's schedule of fees.

(1) The application shall include at least the following information:

(i) The name, address and telephone number of the applicant and the applicant's agent, if any;

(ii) The name and address of the applicant and the name and address of every person or company the applicant represents;

(iii) The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer;

(iv) The requested temporary use;

(v) The place, date, time of the event, and hours of operation of the proposed use;

(vi) A statement of the approximate number of persons, animals, and/or vehicles which will participate in the event or be generated by the use and an explanation of how said number was derived, such as number of pre-sold tickets, available seating and/or parking, and past experience with similar activities; and

(vii) Other such items as reasonably requested by the Planning Director to determine the feasibility of the temporary use.

(viii) Evidence of insurance.

(2) After the application is determined to be complete, the Planning Director shall solicit recommendations from the City Fire Chief, Police Chief, City Engineer, and other enforcement agents as deemed necessary. The Planning Director shall approve, approve with conditions, or deny the application pursuant to this article. Conditions of approval shall be limited to conditions needed to conform the temporary use permit to approval standards.

(3) After making a decision, the Planning Director shall give the applicant written notice of the decision.

(4) A record of temporary use permits shall be maintained in the office of the Planning Director.

(e) The following standards shall apply to the issuance of a temporary use permit. No temporary use permit shall be issued unless the Planning Director finds the proposed temporary use:

(1) Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;

(2) Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the City;

(3) Will not conflict with construction or development in the public right-of-way or at public facilities;

(4) Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City;

(5) Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the temporary use is located; and

(6) Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the California City Municipal Code.

(f) An applicant aggrieved by the decision of the Planning Director may appeal the decision to the Planning Commission in the same manner as other land use decisions are appealed to the Commission. The Commission's decision shall be final.

ARTICLE 3. GENERAL REQUIREMENTS: ALL RESIDENTIAL DISTRICTS

9-2.300. Purpose.

This article contains requirements applicable to all residential zones.

9-2.301. Bulk Requirements.

Property in a residential district shall conform to the following minimum bulk requirements:

(a) Single or multiple family dwellings shall not exceed 2½ stories or thirty-five (35) feet in height, whichever is less, provided, with a special permit multiple family dwellings in a RM1 District shall not exceed four (4) stories or forty-five (45) feet in height, whichever is less.

(b) Single family dwellings shall have a twenty-five (25) foot front yard setback. Multiple family dwellings shall have a fifteen (15) foot front yard setback.

(c) Single or multiple family dwellings shall have a five (5) foot side and rear yard setback if the dwelling is one story in height, a ten (10) foot side and year yard setback if the dwelling is two stories in height or if the dwelling is located on a corner lot, provided, property located in an R2 or R3 District may have smaller side and rear yards with a permit.

(d) Buildings in a single family residential zone shall be separated by at least six (6) feet. Buildings in a multiple family residential zone shall be separated by at least ten (10) feet for one story structures and twenty (20) feet for multiple story structures, and accessory buildings shall be separated by at least six (6) feet.

(e) A breezeway may be used to attach main buildings with accessory buildings and accessory buildings with other accessory buildings provided such breezeway shall be constructed so as to permit authorized firemen and other emergency personnel free access between a building used for dwelling purposes and an accessory building. The intent of such breezeway shall be to permit a roofed section between buildings and not to create an enclosed room.

9-2.302. Trash.

Enclosed trash receptacles shall be installed and maintained for each multiple-family dwelling.

9-2.303. Home Based Businesses.

(a) Home based businesses shall be permitted in a residential district in accordance with this section.

(b) Before approving an application for a home based business in accordance with the provisions of this section, the Planning Director shall determine the proposed home based business will comply with the following standards:

(1) The proposed home based business will not be detrimental to other uses allowed in the zoning district;

(2) The home based business will be subordinate and incidental to all other uses.

(3) The home based business will be of such character as to permit its being allowed uniformly in all zoning districts of the same classification.

(4) A home based business shall be conducted within a dwelling by an inhabitant thereof and shall be clearly incidental to the use of the structure as a dwelling.

(5) A home based business shall not be conducted in an accessory structure, including a garage, and storage of equipment or supplies shall be inside the dwelling.

(6) A home based business shall not involve the use of any material of mechanical equipment not recognized as being part of normal household or hobby uses.

(7) There shall be no external alteration of appearance of the dwelling in which a home based business is conducted.

(8) The existence of a home based business shall not be apparent beyond the boundaries of the site and no advertising signs of any kind shall be permitted beyond the boundaries of the site.

(9) No one other than a resident of the dwelling shall be employed in the

conduct of a home based business.

(10) A home based business shall not create any noise audible beyond the boundaries of the site.

(11) No motor power other than electrically operated motors shall be used in connection with a home business, unless for emergency purposes only (power outages, earthquakes, etc.).

(12) A home based business shall not create pedestrian, automobile or truck traffic significantly in excess of the normal amount generated by permitted uses in the district.

(c) A permit for a home based business may be modified or revoked as prescribed by this chapter.

9-2.304.92 **Accessory Buildings.**

Accessory buildings shall meet the following requirements:

(a) Detached accessory buildings shall not exceed 17.5 feet in all zoning districts except RM1 and RM2 where detached accessory buildings shall not exceed fifteen (15) feet in height.

(b) Detached accessory buildings shall not be located at a distance less than sixty percent (60%) of the depth of the lot from the front property line, or ninety (90) feet, whichever is less, provided, on a corner lot, no detached accessory building shall be located at a distance less than ten (10) feet from the side line.

(c) An accessory building on the rear twenty-five (25) feet of a reverse corner lot shall not be located nearer to the side lot line on the street side of the reversed corner lot than the front yard depth required on the key lot in the rear.

(d) A private garage may be a part of the main building if such garage and the main building have a common wall not less than five (5) feet in length or if such garage is located not more four (4) feet from the main building and is connected thereto by a roof not less than five (5) feet in width.

9-2.305.93 **Fences.**

Fences, walls and hedges shall meet the following requirements:

(a) No fence, wall or hedge located in a rear or side yard in an R1, R2, R3, R4, R5, RA, RM1 or RM2 District shall exceed a height of six (6) feet.

(b) No fence, wall or hedge located in the required front yard shall exceed a height of four (4) feet, provided the maximum height shall be three (3) feet on corner lots.

(c) No fence, wall or hedge located within twenty-five (25) feet of the rear line of a reversed corner lot between the street and the established setback line on the key lot to the rear shall exceed a height of four (4) feet.

(d) No barbed wire or electrified fence shall be used or maintained independently or in connection with a fence wall or hedge along the perimeter of any lot or within three (3) feet of the perimeter and no sharp wire or sharp points shall project at the top of the fence or a wall which is less than six (6) feet in height.

(e) Acceptable fencing materials lists shall include the following:

(1) Block wall
(2) Natural wood
(3) Stick frame with stucco
(4) Manufactured vinyl
(5) Chain link (with or without privacy slats)
(6) Wrought iron
(7) Animal fencing (in RA Zone).

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92 Amended by Ord. No. 10-690 on Nov 16, 2010.
93 Amended by Ord. No. 08-668 on Sep 16, 2008.

(f) Obtain a building permit.

(g) Clear measurement points for established height requirements.

9-2.306.[94] **Other.**

(a) Dwellings in the R1, R2, or R3 Districts, including manufactured homes, shall meet the following minimum requirements:

(1) Each single-family dwelling, including manufactured homes, shall contain not less than 1,200 square feet of building area and shall be at least twenty-four (24) feet wide. A special permit may be granted for multiple-story manufactured homes of less than twenty-four (24(feet wide that are integrated with a garage and having a combined width of at least thirty-four (34) feet. Multiple-story single-family dwellings shall have a ground floor containing not less than 750 square feet.

(2) Manufactured homes installed on a lot permitting conventional single family dwellings shall have:

(i) a concrete foundation sufficient to support all loads of and on the structure including wind and seismic loads pursuant to Health and Safety Code Section 18551 and appropriate parts of the Code of Regulations. The distance between the ground floor and grade shall be not less than six (6) inches nor more than twelve (12) inches, provided, a variance may be granted to allow floors more than twelve (12) inches above grade. The floor may not be more than twenty-four (24) inches above grade if a basement is present. Ventilation of two (2) square feet shall be provided for each twenty-five (25) lineal feet of foundation, and one (1) square foot of ventilation shall be provided within five (5) lineal feet of each corner.

(ii) Except in a mobile home park, each single family dwelling and each manufactured home unit shall have an attached garage measuring not less than twenty (20) feet wide and twenty (20) feet long with a 3/12 roof pitch or a carport where permitted by development standards. Access to such area shall be provided by means of an asphalt or concrete driveway.

(iii) Each single family dwelling, each manufactured home unit and each accessory structure, except minor structures excluded by the Uniform Building Code and patio enclosures and awnings, shall have a roof with a minimum pitch of three (3) inches vertically for each twelve (12) inches horizontally provided, room additions which are physically constrained to a flatter slope shall have the maximum available slope consistent with approved roofing, provided further, the Building Official may allow less roof pitch or eave width when necessary to accommodate a recognized architectural style. Roof eaves shall not be less than sixteen (16) inches.

(iv) The manufactured home shall be manufactured no earlier than ten years before the date of the application for permit to install the manufactured home.

(v) The architectural requirements for roofing and siding material for a manufactured home shall be the same as would be required for conventional single dwellings on the same lot.

(b) As used herein, "manufactured homes" means a structure transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or, when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States and complies with the standards established under 42 U.S.C. 5402(6); and except that

94 Amended by Ord. 05-635 on 11/15/05.

such terms shall not include any self-propelled recreational vehicle.

(c) No person shall maintain an inoperable vehicle, engage in the prolonged repair of mechanical equipment, including vehicles, or engage in the repair of more than two vehicles except within an area not visible from adjoining properties or adjoining public streets. As used herein, the term prolonged repair activities refers to repair activities which are not completed within thirty (30) consecutive days. The violation of this provision is an infraction.

9-2.307.[95] **Second Unit Housing.**

(a) No person shall construct, or cause to be constructed, maintain, or cause to be maintained, second unit housing within the City unless a special use permit is first obtained.

(b) The following procedure shall be employed to secure a second unit housing permit:

(1) An application for a second unit housing permit shall be filed with the City Clerk. The application shall set forth such information as the City Clerk shall reasonably require. The application shall be accompanied by an application processing and permit fee in an amount from time to time established by the Council by resolution.

(2) Upon receipt of an application for second unit housing and the payment of the required fees, the City Engineer shall prepare an initial study in accordance with the City's environmental regulations to examine the environmental impact of the proposed second unit.

(3) Upon completion of the required environmental study, the City Engineer shall present the environmental documents and the application to the Planning Commission for the Commission's review. The Commission may impose such requirements as are allowed by law including the imposition of measures necessary to mitigate adverse environmental impacts of the proposed unit as permit conditions.

(4) Any person may, within ninety (90) days after the Commission's decision, appeal the decision of the Commission to the Council in which event the Council shall conduct a de novo hearing. At the conclusion of the hearing, the Council shall either affirm the Commission's decision or refer he decision back to the Commission with instructions how to modify the decision.

(5) Any person dissatisfied with the decision of the Commission after the matter has been remanded to the Commission may appeal the decision of the Commission in the same manner as set forth hereinabove in which event, the Council will conduct a subsequent de novo hearing unless the Council determines that the appeal is frivolous. If the Council conducts a subsequent de novo hearing, the Council may either affirm the decision of the Commission or remand the matter to the Commission with instructions for further action. (6)

The Planning Commission shall act upon second unit housing applications within thirty days after such applications are presented to it for action by the City Engineer or within thirty days after Council action. The decision of the Commission shall be final one hundred (100) days after the decision is rendered unless an appeal is pending in which event, the decision shall be final when the Council affirms the Commission's decision or one hundred (100) days after the Commission acts upon the Council's instructions upon remand, as the case may be.

(7) The City Clerk shall, within ten days after the Commission's final decision, either issue the permit for second unit housing to the applicant or inform the applicant on the grounds for the denial of such permits.

(8) The criteria set forth in Government Code Section 65852.2 shall be observed in the imposition of requirements or conditions upon second unit housing permit.

(c) A Second Unit shall have a minimum of 500 square feet of floor area and not

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95 Amended by Ord No. 08-661 on April 15, 2008.

more than 1,000 square feet of floor area.

9-2.308. Temporary Sales Offices.96

9-2.309. Garage and Yard Sales.97

ARTICLE 4. RA – RESIDENTIAL/AGRICULTURAL DISTRICT

9-2.400. Purpose.

The Residential/Agricultural ("RA") District provides living area which combines the advantages of urban and rural location by limiting development to very low density one-family dwellings and permitting animals and fowl to be kept for pleasure or hobbies.

9-2.401. Permitted Uses. 98

The following uses are permitted in the RA District:

(a) Single Family Dwellings and Mobile Homes;

(b) Riding Stables. In the housing of equines, the following three requirements must be met:

(1) Corrals: A corral shall be constructed for each horse. Corrals shall be a minimum of 12 ft. by 24 ft. and constructed of proper building material to maintain an animal of this size. The corrals shall be constructed of pipe corrals, wood or equine vinyl/PVC. Each corral shall have a minimum of three (3) 2" by 6" rails and use non-climb or v-mesh wire fencing with no less than a 4" by 4" post.

(2) Shelters: Each shelter shall be a minimum of 12 ft. by 12 ft. with no less than a three-sided enclosure with a roof to provide for adequate shade and to protect against prevailing winds.

(3) Animals housed in fenced areas shall have cross-fencing in the event of failure of the primary fence. Cross-fencing shall be made of adequate strength and material to hold an animal of this size, in the event a horse escapes - a corral area.

(c) Agricultural uses, including the keeping of poultry and rabbits or similar livestock. These animals will be kept in proper housing and enclosed areas. No numerical limit shall be enforced, provided the animals' housing is not overcrowded or becomes a nuisance to neighbors or to the neighborhood. No more than one each of horse, swine, mule, cow, goat, sheep, llama, emu, ostrich, deer, or bison is permitted for each one-fourth (1/4) acre of unimproved (except for animal enclosures) area of the parcel upon which such animals are kept, provided, no person shall allow or provide for the grazing of these animals except within fenced and enclosed areas from which the animal cannot wander. No person shall drive, herd or cause such animal to be moved along or over the streets of the City except within the confines of a licensed vehicle. Equines may be ridden along equestrian trails if they do not to cause any traffic impediment. No person shall raise, breed, keep, or maintain an endangered, rare (threatened species) or exotic species of bird, mammal, fish, amphibian, nonpoisonous or poisonous reptiles, spiders, scorpions, other insects, including bees;

(d) Nurseries and greenhouses;

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96 Repealed by Ord 06-637 on 2/7/06.
97 Repealed by Ord 06-637 on 2/7/06.
98 Amended 8/5/03 by Ord. 03-610.

(e) Temporary stands for the sale of agricultural, horticultural, or farming products grown or produced on the premises; and

(f) Open space and conservation lands.

9-2.402. Conditional Uses. 99

The following uses may be permitted in the RA District with a conditional use permit:

(a) Churches in excess of 15,000 square feet.

(b) Public or quasi-public uses of an educational or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, licensed daycare facilities for more than twelve (12) children; churches, parsonages and other religious institutions.

(c) Public and private charitable institutions, general hospitals, sanitariums, nursing and convalescent homes, not including specialized hospitals, sanitariums, or nursing, rest and convalescent homes for acute psychiatric, drug addiction or alcoholism cases.

(d) Public uses of a recreational or cultural type including museums, art galleries, ambulance services.

(e) Electric distribution substations.

(f) Gas regulator stations.

(g) Public utility service yards, excluding municipally owned.

(h) Public utility pumping stations and/or elevated pressure tanks, excluding municipally owned.

(i) Mobile home parks.

(j) Planned developments.

(k) Fraternal organizations, lodge halls, private clubs, philanthropic institutions and other related quasi-public institutions.

(l) Private or public golf courses.

(m) Outdoor festivals (including those on private property and excluding City sponsored activities).

(n) Commercial and noncommercial communication facilities (equipment buildings) and towers.

(o) Portable cargo container accessory to the main structure and used on the same site.

(p) Governmental or quasi-governmental correction, probation or prison facilities and services.

(q) Recreational camps and resorts.

(r) Sites for the development or extraction of natural materials.

(s) Boat liveries.

(t) Recreational camps and resorts.

(u) Equine veterinaries; equestrian establishments, including stables and horse corrals, riding academies, riding schools, and riding amusements.

9-2.403. Site and Structure Requirements100

The following site and structure standards apply to the RA District:

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99 Amended 8/5/03 by Ord. 03-610.

100 Amended by Ord. 09-672 on 2/17/09.

(a) The minimum lot area in the RA District is one acre (43,560 square feet).

(b) The minimum dimension of a lot in the RA District is:

Min. Width	Min. Depth
120 ft.	150 ft.

(c) The maximum lot area covered by structures shall be 10,000 square feet, of which a maximum of 1,750 square feet being accessory buildings.

(d) Set Back requirements in the RA District are:

Front Yard	Side Yard	Rear Yard
25 ft.	10 ft. (single)	25 ft. (single story)
	15 ft. (two story)	20 ft. (two story)
	20 ft. (street corner)	

ARTICLE 5. R1 - ONE-FAMILY RESIDENTIAL DISTRICT MEDIUM DENSITY

9-2.500. Purpose.

The medium density one-family residential district is established to provide living areas within the City where development is limited to medium density concentrations of one-family dwellings and implement the six dwelling unit per acre density standard of the General Plan.

9-2.501. Permitted Uses.

(a) The following uses are permitted in an R1 District:

(1) One-family dwellings; and

(2) Private garages not to exceed three (3) automobiles in capacity unless the lot size is at least 12,500 square feet, the minimum lot frontage is one hundred (100) feet, and the house size is at least 2,000 square feet, in which event a four-automobile garage is permitted.

(b) For each dwelling unit, the occupant may keep for personal use not more than three (3) generally accepted household pets, such as dogs, cats, small caged birds, and rabbits. Such household pets shall be restrained from doing anything which may be or become an annoyance or nuisance to neighbors or to the neighborhood. No raising. breeding, boarding or kenneling of dogs, cats, small caged birds, or rabbits is permitted. Fish may be kept in aquariums without numerical limit. No bird cage or aviary shall be located outside the structures and within twenty feet from lot lines or within 100 feet of a place where food products are stored, manufactured or consumed by the public. No raising, breeding, keeping or maintaining of fauna is permitted.

9-2.502. Conditional Uses.

The following uses may be permitted in the R1 District with a conditional use permit:

(a) Electric distribution substations.
(b) Gas regulator stations.
(c) Public utility pumping stations and/or elevated pressure tanks, excluding municipally owned.
(d) Mobile home parks.
(e) Planned developments.
(f) Licensed daycare for nine (9) to fourteen (14) children in addition to the residing family.
(g) Twenty-four hour care facilities for foster homes, for a maximum of six (6) individuals in addition to the residing family.
(h) Five-car garages if the lot size is at least 12,500 square feet, lot frontage is at least one hundred (100) feet, and the house size is at least 2,000 square feet.

9-2.503. Site and Structure Requirements.

(a) The minimum lot area in the R1 District is 6,000 square feet.
(b) The minimum dimensions of a lot in the R1 District is:

Min. Width	Min. Depth
60 ft.	100 ft.

(c) Structures shall cover no more than forty-five percent (45%) of the lot area in an R1 District.

(d) Set Back Requirements in the R1 District are:

Front Yard	Side Yard	Rear Yard
25 ft.	5 ft. (single)	5 ft. (single story)
	10 ft. (two story)	10 ft. (two story)
	15 ft. (street corner)	

Residential side yard setbacks along a public street shall allow a building structure to be ten (10) feet from the property line. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

(e) One single-family residential unit is permitted on a lot in the R1 District.

ARTICLE 6. R2 – ONE-FAMILY RESIDENTIAL DISTRICT MEDIUM-LOW DENSITY

9-2.600. Purpose.

The medium-low density R2 District is established to implement the four dwelling units per acre density standard of the General Plan.

9-2.601. Permitted Uses.

The following uses are permitted in an R2 District: Uses permitted in the R1 District.

9-2.602. Conditional Uses.

The following uses are permitted in an R2 District with a conditional use permit: Uses permitted in an R1 District with a conditional use permit.

9-2.603. Site and Structure Requirements.[101]

(a) The minimum lot area in the R2 District shall be 10,000 square feet.

(b) The minimum dimensions of a lot in the R2 District is:

Min. Width	Min. Depth
80 ft.	100 ft.

(c) The maximum lot area covered by structures shall be 4,500 square feet, of which a maximum of 1,750 square feet being accessory buildings.

(d) Setback requirements in the R2 District are:

Front Yard	Side Yard	Rear Yard
25 ft.	5 ft. (single)	20 ft. (single story)
	10 ft. (two story)	20 ft. (two story)
	15 ft. (street corner)	

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line. A garage with a driveway on a street side yard shall have a setback of fifteen feet.

ARTICLE 7. R3 – ONE-FAMILY RESIDENTIAL DISTRICT LOW DENSITY

9-2.700. Purpose.

The low density R3 District is established - to implement the two dwelling unit per acre density standards of the General Plan.

9-2.701. Permitted Uses.

The following uses are permitted in an R3 District: Uses permitted in the R2 District.

9-2.702. Conditional Uses.

The following uses may be permitted in the R3 District with a conditional use permit: Uses permitted in an R2 District with a conditional use permit.

9-2.703. Site and Structure Requirements.[102]

(a) The minimum lot area in the R3 District shall be 20,000 square feet.

(b) The minimum dimensions of a lot in the R3 District is:

Min. Width	Min. Depth

560

101 Amended by Ord. 09-672 on 2/17/09.
102 Amended by Ord. 09-672 on 2/17/09.

80 ft. 200 ft.

(c) Coverage: The maximum lot area covered by structures shall be 6,000 square feet, of which a maximum of 1,750 square feet being accessory buildings.

(d) Setback requirements in the R3 District are:

Front Yard	Side Yard	Rear Yard
25 ft.	5 ft. (single)	20 ft. (single story)
	10 ft. (two story)	20 ft. (two story)
	15 ft. (street corner)	

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line provided that it is not a garage which has a driveway for vehicular access. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

ARTICLE 8. R4 – ONE-FAMILY RESIDENTIAL DISTRICT ESTATE DENSITY

9-2.800. Purpose.

The estate density, R4 District, is established to implement density standards of the General Plan.

9-2.801. Permitted Uses.

The following uses are permitted in the R4 Residential District: Uses permitted in an R3 District and keeping of animals as permitted in the RA District.

9-2.802. Conditional Uses.

The following uses may be permitted in the R4 District with a conditional use permit: Uses permitted in an R3 District with a conditional use permit.

9-2.803. Site and Structure Requirements.[103]

(a) The minimum lot area in the R4 District shall be 80,000 square feet.

(b) The minimum dimensions of a lot in the R4 District are:

	Min. Width	Min. Depth
R4	200 ft.	200 ft.

(c) Coverage: The maximum lot area covered by structures shall be 11,750 square feet, of which a maximum of 3,500 square feet being accessory buildings.

(d) Setback requirements in the R4 District are:

Front Yard	Side Yard	Rear Yard

561

103 Amended by Ord. 09-672 on 2/17/09.

25 ft.	25 ft. (single) 50 ft. (two story) 25 ft. (street corner)	25 ft. (single story) 50 ft. (two story)

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line provided that it is not a garage which has a driveway for vehicular access. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

ARTICLE 9. R5 – ONE-FAMILY RESIDENTIAL DISTRICT ESTATE DENSITY

9-2.900. Purpose.

The estate density, R5 District, is established to implement density standards of the General Plan.

9-2.901. Permitted Uses.

The following uses are permitted in the R5 District: Uses permitted in an R4 District.

9-2.902. Conditional Uses.

The following uses may be permitted in the R5 District with a conditional use permit: Uses permitted in an R4 District with a conditional use permit.

9-2.903. Site and Structure Requirements.[104]

(a) The minimum lot area in the R5 District shall be 200,560 square feet.

(b) The minimum dimensions of a lot in the R5 District are:

	Min. Width	Min. Depth
R5	200 ft.	500 ft.

(c) The maximum lot area covered by structures shall be 15,250 square feet, of which a maximum of 7,000 square feet being accessory buildings.

(d) Setback requirements in the R5 District are:

Front Yard	Side Yard	Rear Yard
25 ft.	25 ft. (single) 50 ft. (two story) 25 ft. (street corner)	25 ft. (single story) 50 ft. (two story)

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line provided that it is not a garage which has a driveway for vehicular access. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

ARTICLE 10. RM1 MULTIPLE FAMILY RESIDENTIAL DISTRICT HIGH DENSITY

562

104 Amended by Ord. 09-672 on 2/17/09.

9-2.1000. Purpose.

The RM1 District is created for multiple-family dwellings to implement density standards for areas designated High Density by the General Plan.

9-2.1001. Permitted Uses.

The following uses are permitted in the RM1 District:

(a) Uses permitted in an R4 District; and

(b) Multi-family dwellings.

9-2.1002. Conditional Uses; Commission Approval.105

The following uses may be permitted in the RM1 District with a conditional use permit:

(a) Churches in excess of 15,000 square feet.

(b) Public or quasi-public uses of an educational or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, licensed daycare facilities for more than twelve (12) children; churches, parsonages and other religious institutions.

(c) Public and private charitable institutions, general hospitals, sanitariums, nursing and convalescent homes, not including specialized hospitals, sanitariums, or nursing, rest and convalescent homes for acute psychiatric, drug addiction or alcoholism cases.

(d) Public uses of a recreational or cultural type including museums, art galleries, ambulance services.

(e) Electric distribution substations.

(f) Gas regulator stations.

(g) Public utility service yards, excluding municipally owned.

(h) Public utility pumping stations and/or elevated pressure tanks, excluding municipally owned.

(i) Mobile home parks.

(j) Planned developments.

(k) Fraternal organizations, lodge halls, private clubs, philanthropic institutions and other related quasi-public institutions.

(l) Private or public golf courses.

(m) Outdoor festivals (including those on private property and excluding City sponsored activities).

(n) Commercial and noncommercial communication facilities (equipment buildings) and towers.

(o) Boarding and Rooming Houses.

(p) Cemeteries and mausoleums.

9-2.1003. Site and Structure Requirements.

(a) The minimum lot area in the RM1 District shall be 4,356 square feet.

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105 Amended 8/5/03 by Ord. 03-610.

(b) Each dwelling unit in a RM1 District shall have at least 850 square feet of floor space.

(c) The minimum dimensions of a lot in an RM1 District are:

	Min. Width	Min. Depth
RM1	60 ft.	100 ft.

(d) The maximum lot area covered by structures shall be fifty percent (50%) of the area of the site or lot.

(e) Setback requirements in the RM1 District:

Front Yard	Side Yard	Rear Yard
15 ft.	5 ft. (single)	5 ft. (single story)
	10 ft. (two story)	10 ft. (two story)
	10 ft. (street corner)	

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line provided that it is not a garage which has a driveway for vehicular access. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

ARTICLE 11. RM2
MULTIPLE FAMILY RESIDENTIAL DISTRICT
HIGH DENSITY

9-2.1100. Purpose.

The RM2 District is created for multiple-family dwellings to implement density standards for areas designated High Density by the General Plan. The RM2 District is intended exclusively for application to areas designated High Density by the General Plan.

9-2.1101. Permitted Uses.

The following uses are permitted in the RM2 District: Uses permitted in an RM1 District with a conditional use permit.

9-2.1102. Conditional Uses; Commission Approval.

The following uses may be permitted in the RM2 District with a conditional use permit: Uses permitted in the RM1 District with a conditional use permit.

9-2.1103. Site and Structure Requirements.

(a) The minimum lot area in the RM2 District shall be 2,178 square feet.

(b) Each dwelling unit in an RM2 District shall have at lease 700 square feet of floor space per unit

(c) The minimum dimensions of a lot in an RM2 District are:

	Min. Width	Min. Depth
RM2	60 ft.	100 ft.

(d) The maximum lot area covered by structures shall be fifty percent (50%) of the area of the site or lot.

(e) Setback requirements in the RM2 District:

Front Yard	Side Yard	Rear Yard
15 ft.	5 ft. (single)	5 ft. (single story)
	10 ft. (two story)	10 ft. (two story)
	10 ft. (street corner)	

Residential side yard setbacks along a public street shall allow a building structure to be ten feet from the property line provided that it is not a garage which has a driveway for vehicular access. A garage with a driveway on a street side yard shall have a setback of fifteen (15) feet.

ARTICLE 12. G
GOVERNMENT (PUBLIC FACILITIES) DISTRICTS

9-2.1200. Purpose.

This government (public facilities) district as designated in the General Plan is intended to provide land designated for the location or governmental and quasi-governmental facilities and services which are necessary to the general welfare of the community.

9-2.1201. Established.

The government (public facilities) zoning district (G) is hereby established.

9-2.1202. Permitted Uses.

The following are permitted uses in the G District: Administrative, public service, buildings and structures owned by public agencies or utilities regulated by the Public Utilities Commission.

9-2.1203. Development Review.

The proponent of a public project in the G District shall submit a report to the Planning Director. The Commission shall review the report for consistency with the General Plan. Proposed uses shall be reviewed for compliance with applicable City codes, standards and regulations.

ARTICLE 13. CMC
COMMUNITY MEDICAL CENTER DISTRICT

9-2.1300. Purpose.

The CMC District provides for the location of medical facilities and medical offices in close relationship to one another in areas designated for community medical center use by the General Plan.

9-2.1301. Permitted Uses.

The following uses are permitted in the CMC District:

(a) Ambulance Facilities
(b) Convalescent Hospitals
(c) Medical Clinics
(d) Medical Facility Planned Development
(e) Medical Research Facilities
(f) Rehabilitation Hospitals
(g) Residential Care Facilities
(h) Rest Homes
(i) Surgery Centers
(j) Acute Care Hospitals
(k) Chemical Dependency Treatment Facilities
(l) Psychiatric Hospitals

9-2.1302. Site and Structure Requirements.

The following site and structure standards apply in the CMC District:

(a) The minimum lot area in the CMC District is one acre.
(b) The maximum building area in the CMC District is 30% of the lot area.
(c) Setback for the front yard shall be twenty (20) feet. No rear yard or side yards shall be required unless the lot abuts a residential district in which event: the minimum rear yard and minimum side yards shall be twenty (20) feet.

ARTICLE 14.

COMMERCIAL DISTRICTS – GENERAL REQUIREMENTS

9-2.1400. Purpose.

Commercial districts are designed to provide for retail stores, offices, service establishments and wholesale businesses for the convenience of the public.

9-2.1401. Commercial District.

The following districts are designated for commercial purposes in accordance with the General Plan:

C1 Neighborhood Commercial
C2 Community Commercial
C3 Commercial/Office
C4 Service Commercial
C5 Regional Commercial

9-2.1402. General Provisions and Exceptions.

The following applies to all commercial districts:

(a) Prior to issuance of a building permit, proposed commercial uses shall be reviewed by the Planning Director for compliance with applicable standards and regulations of this chapter.

(b) Businesses, services and processes shall be conducted within completely enclosed structures, except for off-street parking and off-street loading areas, and businesses which by their nature must be conducted outside a structure.

(c) No use shall emit noxious odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibration, illumination, glare or unsightliness or to involve any hazard of fire or explosive.

ARTICLE 15. C1
NEIGHBORHOOD COMMERCIAL DISTRICT

9-2.1500. Purpose and Application.

The Neighborhood Commercial District as designated in the General Plan is intended for commercial retail services serving a neighborhood area.

9-2.1501. Permitted Uses.

The following uses are permitted in the C1 District:

(a) Retail business, except:
(1) Apparel stores shall not exceed 2,000 square feet in floor area;
(2) Candy, nut and confectionery stores shall not exceed 2,000 square feet in floor area;
(3) Convenience markets shall not exceed 5,000 square feet in floor area;
(4) Floral shops shall not exceed 2,000 square feet in floor area;
(5) Food stores shall not exceed 10,000 square feet in floor area;
(6) Liquor stores shall not exceed 2,000 square feet in floor area;
(7) Meat markets, not including food lockers
(8) Office, non-medical shall not exceed 2,000 square feet in floor area;
(9) Pharmacy, not including general merchandise;
(10) Sporting goods shops shall not exceed 600 square feet in floor area;
(11) Stationery stores, not including office equipment and commercial supplies; and

(12) Video machine and tape sales/rental shall not exceed 800 square feet in floor area.

(b) Banks and financial institutions.

9-2.1502. Conditional Uses.106

The following uses may be permitted in a C1 District, only with a conditional use permit:

Ambulance service
Apparel stores, in excess of 2,000 square feet
Automobile service, including repair
Automobile supply stores, not to exceed 2,500 square feet
Candy, nut and confectionery stores, in excess of 2,000 square feet
Churches in excess of 15,000 square feet
Communications equipment buildings
Containers, including portable cargo containers subordinate to and incidental to the main use on the same site
Convenience markets, in excess of 5,000 square feet
Eating places, including restaurants serving beer and wine, but not including drive-in restaurants
Electric distribution substations
Fire stations
Floral shops in excess of 2,000 square feet
Gas regulator stations
Licensed day care facilities
Office, non-medical, in excess of 2,000 square feet
Police stations
Residential uses, as an accessory use
Small appliance sales and service
Sporting goods stores, in excess of 600 square feet
Tire sales and repair
Utility pumping stations
Video machine and tape sales/rental, in excess of 800 square feet

ARTICLE 16. C2
COMMUNITY COMMERCIAL DISTRICT

9-2.1600. Purpose.

The Community Commercial District as designated in the General Plan is intended for a wide variety of retail businesses and compatible commercial services designated to serve the entire community on individual sites or unified shopping centers.

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106 Amended 8/5/03 by Ord. 03-610.

9-2.1601. **Permitted Uses.**[107]

The following uses are permitted in the C2 District:

(a) Uses permitted in the C1 District.

(b) Retail businesses.

(c) The following commercial uses:

Banks
Barber Shop
Bars not located within three hundred feet of any residential or public uses
Beauty Shop
Broadcasting studios
Business, professional and trade schools and colleges, including public utility training schools
Cleaning and laundry agencies including the use of one synthetic dry cleaning machine using nonflammable and non-explosive solvents
Liquor stores not located within three hundred feet of any residential or public uses
Meat Markets (not to include food lockers)
Medical supply store
Parking facilities
Pharmacy, not including general merchandise
Reverse vending machine(s) recycling facility
Self-service laundries
Shoe stores
Small collection recycling facility
Video machine and tape sales/rental (up to 800 square feet)

9-2.1602. **Conditional Uses.**

The following uses may be permitted in the C2 district with a conditional use permit:

Uses permitted in the C1 District with a conditional use permit
Automated car wash
Automobile service, including repair
Bars located within three hundred feet of any residential or public uses
Bowling alleys
Dance halls and studios
Gas service stations, including major automobile repair services, provided operations except the sale of gasoline and oil shall be conducted within a building enclosed on at least three sides.

Gymnasiums
Liquor stores within three hundred feet of any residential or public uses
Medical offices
Meeting halls
Mini-storage
Music studios
Pool halls
Residential use as an accessory use
Secondhand retail stores and pawn shops
Skating rinks, including ice, roller and skateboard
Theaters and auditoriums

569

107 Amended by Ord. No. 09-671 on Feb 3, 2009.

Tire sales and repair
Veterinary offices within an enclosed structure
Video arcade

ARTICLE 17. C3
COMMERCIAL/OFFICE DISTRICT

9-2.1700. Purpose.

The Commercial/Office District as designated in the General Plan is intended to provide for the development of professional and administrative office space with limited commercial retail. This district may also be established as a transitional zone between residential and commercial uses.

9-2.1701. Permitted Uses.

The following uses are permitted in the C3 district:

(a) Professional and administrative offices.

(b) The following limited, retail commercial uses:
Clinics
Medical, optical or dental offices or laboratories
Medical and orthopedic appliance suppliers
Prescription pharmacy

9-2.1702. Conditional Uses.

The following uses may be permitted in the C3 district with a conditional use permit:
Antique shops
Art sales
Banks and financial institutions
Barber shops
Beauty shops
Eating establishments and restaurants
Medical technician schools
Office equipment sales
Private clubs and lodges

ARTICLE 18. C4
SERVICE COMMERCIAL DISTRICT

9-2-1800. Purpose.

The Service Commercial District as designated in the General Plan is intended for medium and high intensity commercial uses which provide commercial services, repair businesses, storage, wholesale and retail activities.

9-2-1801. **Permitted Uses.**

The following uses are permitted in the C4 district:

(a) All uses permitted in the C1 or C2 districts.

(b) The following limited, service commercial uses:
Automobile repairing, overhauling, rebuilding, painting
Automobile sales and service
Automobile washing including the use of mechanical conveyors, blowers and steam cleaning
Bakeries
Bicycle shops
Blueprint and Photostat shops
Boat sales and service
Book binding
Cabinet shops
Carpenter shops
Carpet and rug cleaning and dyeing
Catering shops
Christmas tree sales lots
Convenience markets up to 7,000 square feet
Electrical repair shops
Equipment rental yards
Gardener supply stores
Gasoline service stations, including dispensing of diesel fuel and complete truck service
Glass shops
Gunsmith shops
Heating and ventilating shops
Household and office equipment and machinery repair shops
Laundries
Locksmiths
Motorcycle sales and service
Musical instrument repair shops
Nurseries and garden supply stores
Office and business machine sales and service
Office, non-medical
Offices, and retail stores incidental to and on the same site with a commercial service establishment
Parking facilities
Photographic developing and printing
Picture framing shops
Plumbing shops
Pressing, altering, repairing of clothing
Radio and television broadcasting studios
Radio and television repair shops
Refrigeration equipment sales and service
Repair garages
Restaurants

Retail stores
Reverse vending machine(s) recycling facility
Safe and vault repairing
Shoe repair shops
Sign painting
Stone and monument yards including stone mills
Sound studio
The installation of pump and underground storage tank having a capacity of three thousand gallons, when used for private companies listed as Class I under federal requirements for gasoline allotments (i.e., food suppliers, medical suppliers, etc.); also installation of underground storage tanks for auxiliary emergency facilities such as convalescent hospitals, hospitals, nursing homes, etc.
Tire sales and repair
Tool and cutlery sharpening or grinding
Trailer sales, rental and service
Upholstering shops
Used car sales (excluding service and repair)
Utility pumping station
Watch and clock repair
Wholesale establishments

9-2.1802. Conditional Uses.108

The following uses may be permitted in the C4 district with a conditional use permit:
Uses permitted with a conditional use permit in a C1 or C2 district
Assembly of electrical equipment such as radio and television receivers, phonographs, and home motion picture equipment
Assembly of small electric appliances such as lighting fixtures, irons, fans, toasters, and electric toys, but not including refrigerators, washing machines, dryers, dishwashers and similar home appliances.
Automobile storage yards
Bus depots and transit stations; cold storage plants; freight forwarding terminals; lumber yards, printing, lithographing and engraving; trucking terminals; and warehouses except for the storage of fuel or flammable liquids.
Building material yards
Business and trade schools
Churches in excess of 15,000 square feet
Cleaning and dyeing
Contractors storage yard
Corporation yards for public agencies including maintenance and repair of related equipment and chemical treatment of pertinent apparatus.
Diaper supply service
Electric distribution substations; electric transmission substations; public utility service yards; gas regulator stations; as a public service and may include gasoline, liquid propane and/or natural gas for heating/cooling/appliances; public service pumping stations; storage tanks; communications equipment buildings; blacksmith shops; and machine shops.
Exterminators
Farm equipment sales
Feed and fuel stores

572

108 Amended 8/5/03 by Ord. 03-610.

Food lockers

Kennels located not closer than five hundred feet to a residential zone. Use of a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use, and within an enclosed soundproof structure.

Laboratories

Licensed day care facilities

Linen supply service

Machinery and implement sales and rental

Machinery repair shops

Manufacture and assembly of electrical supplies such as coils, condensers, crystal holders, insulation, lamps, switches and wire cable assembly, provided no noxious or offensive fumes or odors are produced.

Manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures and light sheet metal products including heating and ventilating ducts and equipment, cornices, eaves and the like.

Manufacture of cutlery, hardware and hand tools; die and pattern making; metal stamping and extrusion of small products such as costume jewelry, pins and needles, razor blades, bottle caps, buttons and kitchen utensils.

Manufacture of ceramic products, such as pottery, figurines, and small glazed tile.

Manufacture of scientific, medical, dental and drafting instruments, orthopedic and medical appliances, optical goods, watches and clocks, electronic equipment, precision instruments, musical instruments, cameras and photographic equipment except film.

Medical technician schools

Mini-storage

Public buildings and grounds

New residential units, or expansion of existing residential units which may or may not be associated with a commercial activity.

Private recreational facilities

Railroad stations

Recycling facility

Sheet metal shops

Small animal hospitals or clinics and veterinarian offices, including short-term boarding of animals and incidental care such as bathing and trimming, provided that all operations are conducted within a completely enclosed structure which complies with specification of soundproof construction which shall be prescribed by the Planning Director.

Small collection recycling facility

Taxidermists

ARTICLE 19. C5
REGIONAL COMMERCIAL DISTRICT

9-2.1900. Purpose.

The Regional Commercial District as designated in the General Plan is intended for the exclusive establishment of commercial uses serving the region and traveling public.

9-2.1901. Permitted Uses.

The following are permitted in the C5 District:

(a) Uses permitted in the C2 District
(b) Convenience Markets
(c) Gasoline Service stations
(d) Hotels and motels
(e) Offices
(f) Restaurants
(g) Regional shopping centers and malls

9-2.1902. Conditional Uses.

The following uses may be permitted in the C5 District with a conditional use permit:

(a) Uses permitted in a C2 District with a conditional use permit

(b) Commercial recreational

(c) Amusement parks
Bowling alleys
Dance halls
Ice skating rinks
Roller skating rinks

(d) Skateboard rinks

(e) Stadium

ARTICLE 20. INDUSTRIAL DISTRICTS GENERAL REQUIREMENTS

9-2.2000. Scope.

This article contains requirements common to all industrial districts.

9-2.2001. Purpose.

The Industrial Districts are designed to achieve the following purposes:

(a) To reserve appropriately located land for various types of industrial uses as designated in the General Plan.

(b) To protect areas appropriate for industrial use from intrusion by residences and inharmonious uses.

(c) To protect properties from noise, odor, dirt, smoke, vibration, heat, glare, fire, explosion, noxious fumes, radiation and other hazardous and objectionable influences incidental to certain industrial uses.

(d) To provide opportunities for certain types of industrial lands to concentrate in mutually beneficial relationships to each other.

(e) To provide adequate space to meet the needs of modern industrial development, including off-street parking and truck loading areas.

9-2.2002. Industrial Districts.

The following districts are established for industrial purposes:

M1 Light Industrial
M2 Heavy Industrial

9-2.2003. General Conditions.

The following applies to industrial districts:

(a) The City Engineer, planning and building officials shall verify compliance of proposed uses with applicable city codes, standards and regulations prior to issuing any permit.

(b) Open and unlandscaped portions of lots shall be maintained in good condition free from weeds, dust, trash and debris.

ARTICLE 21. M1
LIGHT INDUSTRIAL DISTRICT

9-2.2100. Purpose.

The M1, light industrial, district is intended for urban areas designated for light industrial use in the General Plan.

9-2.2101.[109] Permitted Uses.

The following uses are permitted in the M1 zone:

(a) Uses permitted in commercial districts.

(b) Light manufacturing assembly or repair, including:
Apparel
Appliances, equipment or tools
Audio arts
Books
Carpet and rug
Correctional facilities
Glass products
Feed and grain products
Electric and neon signs, billboards and commercial advertising structures
Ceramic products such as pottery, figurines and small glazed tile

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109 Amended by Ord. 11-694 on 1/4/2011.

Cosmetics, drugs, pharmaceuticals, toilet soap (not including refining or rendering of fats or oils) and toiletries
Modular structures
Wood products

(c) Sales and services, including:
Automobile, truck, boat, aircraft or trailer
Radio and television broadcasting studios
Telecommunication centers
Visual arts
Film studio (motion picture production sound stages and back lot sets)

(d) Research and development facilities

9-2.2102.110 Conditional Uses.

The following additional uses may be permitted in the M1 district with a conditional use permit if the Planning Commission finds special devices, construction or site design are planned to eliminate the nuisance or hazardous characteristics normally attendant to operations of the use; and the use reasonably can be expected to conform with the required conditions prescribed for the M1 zone:

(a) Airports and heliports
(b) Contractors storage yard
(c) Residential uses, provided:
(1) at least 700 square feet shall be devoted exclusively to habitation;
(2) no more than 33% of the structure shall be devoted to habitation;
(3) a one-hour fire wall, as determined by the Uniform Building Code, shall separate portions of the structure devoted to residential use from other uses; and
(4) the permit shall terminate each time the residential use ceases.

9-2.2103. Site and Structure Requirements.

(a) There is no minimum lot area in the M1 District.
(b) The minimum setback requirements in the M1 District are:
(1) Twenty (20) feet in the front.
(2) Twenty (20) feet in the rear or side year if the rear or side yard abuts a residential district. There are no rear or side yard minimums if the lot does not abut a residential district.

ARTICLE 22. M2
HEAVY INDUSTRIAL DISTRICT

9-2.2200. Purpose.

The M2, heavy industrial district is intended for urban areas designated for heavy industrial use in the General Plan.

9-2.2201. Permitted Uses.

The following uses are permitted in the M2 District:

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110 Amended by Ord. 11-694 on 1/4/2011.

(a) Uses permitted in the M1 District.

(b) Heavy manufacturing, assembly or repair, including:
Automobile
Breweries, distilleries and wineries
Clay products
Concrete products
Leather tanning and curing
Machine tools
Machinery
Metal casting and foundries, not including magnesium foundries
Paper products
Plastics

(c) Sales and services, including:
Leather and fur finishing and dyeing
Meat processing and packaging, not including slaughtering and glue and size manufacture
Sandblasting
Solid waste recycling
Steam electric generating stations
Storage, sorting, collecting and baling of iron, junk, paper, rags or scrap
Tire sales, retreading and recapping
Wood and lumber processing and woodworking, including planing mills and sawmills, excelsior, plywood, veneer and wood preserving treatment.

9-2.2202.111**Conditional Uses.**

The following uses are permitted in the M2 zone with a conditional use permit:
Asphalt and asphalt products manufacture
Automobile wrecking yards
Chemical products manufacture and storage, including cement, lime, gypsum and plaster-of-paris, charcoal, lampblack and fuel briquettes, coal, coke and tar products, explosives, fertilizer, film stock, fireworks, paints and lacquers, petroleum and petroleum products.
Drop forges
Dumps and slag piles
Fish products processing and packaging
Gas and oil wells
Gas manufacture or storage
Gelatin, glue and size manufacture from animal or fish refuse
Incineration or reduction of garbage, offal and dead animals
Lard manufacture
Linoleum and oil cloth manufacture
Magnesium foundries
Manure, peat and topsoil processing and storage
Metal and metal ores reduction, refining, smelting and alloying
Motion picture production sound stages and backlot sets
Paper mills
Quarries, mines and mills

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111 Amended by Ord. 11-694 on 1/4/2011.

Rifle and pistol ranges
Rolling mills
Rubber manufacture or processing, including natural or synthetic rubber and gutta-percha
Sexually oriented businesses
Soap manufacture, including fat rendering
Solid waste dumps or recycling centers
Steam or other electrical generating plants
Stockyards, stock feeding yards and slaughterhouses
Storage of inflammable liquids
Storage of used building materials
Tallow manufacture
Tanneries and curing and storage of rawhides
Wood and bones distillation
Wood pulp and fiber reduction and processing
Wrecking yards

Incidental and accessory structures and uses located on the same site as a conditional use.

9-2.2203. Site and Structure Requirements.

(a) The minimum lot size in an M2 District is one-half acre.

(b) The minimum setback requirements in the M2 District are:

(1) Twenty (20) feet in the front yard.

(2) Twenty (20) feet in the rear or side yard if the rear or side yard abuts a residential district. There are no rear or side yard minimums if the lot does not abut a residential district.

ARTICLE 23. O
OPEN SPACE DISTRICT

9-2.2300. Purpose.

This open space district provides for the preservation and conservation of unique natural resource lands, protection and preservation of unique wildlife resources and habitats, protection against flooding by storm water in flood prone areas and the establishment of active and passive recreational uses.

9-2.2301. Established.

The open space zoning district (O) is hereby established.

9-2.2302. Permitted Uses.

The following uses in the O District shall be reviewed and approved by the Planning Director, and the planning and building officials to ensure compliance with applicable city codes, standards and regulations prior to development:

Agricultural uses (no dwellings)
Flood Channels
Land conservation preserves
Ponds and basins
Wildlife preserves

9-2.2303. Conditional Uses.

The following may be permitted in the O District with a conditional use permit:

Caretaker's dwelling(s) and necessary accessory buildings
Historic and cultural sites
Cemetery and appurtenant uses

ARTICLE 24. OVERLAY ZONES

9-2.2400. Purpose.

This article describes uses which may be permitted in addition to the uses permitted in the residential and commercial districts.

9-2.2401. General.

An overlay permit may be granted under this article for the uses enumerated in this Article. The permit shall be applicable to an entire tract or group of related lots. The other requirements of this Chapter shall continue to apply after the permit is issued subject only to the changes authorized by this Article.

9-2.2402. Procedures.

(a) Applications for the approval of an overlay for a development shall be submitted to the Planning Director. The application shall include a proposed site plan and proposed statement of objectives for the development. The Planning Director shall prepare a report concerning the application for presentation to the Planning Commission along with recommendations for conditions to ensure compliance with these provisions.

(b) The Planning Commission shall review the report and recommendations of the Planning Director at a duly noticed public hearing called and conducted in accordance with the procedures specified for the consideration of zone amendments.

(c) The decision of the Planning Commission may be appealed to the Council by an interested party. The Council shall consider the appeal at a duly noticed public hearing called and conducted in accordance with the procedures specified for the consideration of zone amendments.

9-2.2403. Airport Related Uses.

(a) An overlay permit may be issued for property within a commercial district to be used for airport related purposes as follows:

(1) Any use permitted in a commercial zone.
(2) Any use permitted in an open space zone.
(3) Any use permitted in a residential-agricultural zone.

(b) The Commission must find such use is compatible with airport operations. The

Commission shall restrict the height of buildings, structures, appurtenances, plants and trees to not more than 35 feet above ground level to prevent a hazard to the safe landing or taking off of aircraft subject to FAA Form 1764 approval. In discharging this duty, the Commission shall function as the Airport Zoning Commission of the City. Height limits shall be as recommended by the appropriate Federal Aviation regulations. Permits issued for buildings with the area designated by the Commission for height restriction under this section shall set forth the authorized height limit.

9-2.2404. Manufactured Home Development.

(a) An overlay permit may be issued for property within a residential district for a manufactured home development. As used herein, "manufactured home development" means the use and occupancy of more than one manufactured home as a part of a single development plan, including a manufactured home subdivision and manufactured homes located on a single lot or parcel as with a manufactured home park.

(b) The permit shall include the following conditions:

(1) Manufactured homes shall be used for single family residential uses.

(2) The site shall have a minimum area of at least twenty (20) contiguous acres.

(3) Provision shall be made for continued and proper operation of community recreational facilities for the use of individual lot owners within the development.

(4) A concrete slab or other standard metal or wood deck patio containing at least 200 square feet shall be installed adjacent to each manufactured home within 120 days after installation of the manufactured home or prior to occupancy, whichever occurs first.

(5) Each manufactured home shall contain not less than 1200 square feet of living space and shall have a minimum width of twelve feet as shown on the Department of Housing and Community Development (HCD) registration for the manufactured home.

(6) The ground floor of each manufactured home shall not be less than six inches nor more than twelve inches above finished grade without variance. Ground floor shall also be at or above the base flood elevation.

(7) The driveway to off-street parking shall be surfaced with asphaltic concrete or concrete.

(8) Spaces shall have a minimum width of forty-five feet, a minimum depth of eighty feet and a minimum area of 3,600 square feet.

(9) Area of housing and related structure shall not exceed 60% of total space area.

(10) Front, side and rear yards shall comply with Title 25.

(11) Minimum separation shall not be less than that stated in Title 25.

(12) Streets shall meet the following standards:

(i) Private streets shall be paved with a minimum of three-inch asphalt concrete paving over six inches of aggregate base to a minimum width of thirty feet.

(ii) Parking along each side of access streets shall require a minimum street width of thirty-six feet.

(iii) Outside streets shall be constructed in accordance with standards for city streets.

(13) A minimum of one tree shall be provided on each space within thirty days of each occupancy.

(14) A six foot high masonry wall shall enclose the Development.

(15) Manufactured home developments shall be connected to the community

wastewater system.

(16) Manufactured home developments shall be connected to the community water system.

(c) Each lot within Tract 3151 shall be developed to the following standards:

(1) Manufactured homes for residential uses, together with normal accessory uses, such as cabanas, ramadas, patio slabs, carports or garages, and storage and washroom buildings. In no event shall more than one manufactured home be used on a lot for residential purposes.

(2) Private and public utilities.

(3) Community recreation facilities for the use of individual lot owners within the subdivision after provisions for the continued and proper operation of such facilities have been approved by the Commission. The maintenance of community recreation and service areas shall be assured by provisions in the deeds, such as covenants running with the land, or the granting of an undivided interest in the recreation area to each owner of an individual interest or other device, creating a legal entity capable of carrying out the requirements imposed by this article and providing for participation by the individual lot owners in the responsibility and costs thereof. When such maintenance is not provided, the City may, upon due notice, declare such areas to be public nuisances and may take such steps as are necessary to abate such nuisances.

(4) Temporary real estate tract offices used only during the original sale of the subdivision, not exceeding a period of one year.

(5) Medical services and neighborhood shopping facilities.

(d) The following shall be the minimum standards of development within Tract 3151:

(1) No real property in Tract 3151 shall be used for the uses permitted in this Code until:

(i) A subdivision map, prepared in accordance with the provisions of this section and the applicable provisions of Chapter 1 of this title, has been filed with the Council, and

(ii) The building permit required by the provisions of Sections 8-1.05 and 8-7.02 of this Code has been obtained.

(2) The minimum standards for recreation areas shall be as follows:

(i) A total of 300 square feet for each manufactured home site shall be devoted to open areas. If Tract 3151 is developed as a unit of more than sixty (60) acres, the recreational area of such unit shall be an area equal to at least five percent (5%) of the total area of such unit.

(ii) The recreation lots shall be entirely within the legal border of the subdivision and shall be identified with a letter such as Lot "A."

(iii) The plan of the recreation lot shall be demonstrated to be adequate in dimension, topography, and location for the intended recreational use, and a plot plan of the intended use shall be approved by the Planning Commission.

(3) Minimum setbacks shall be three (3) feet on the sides, and three (3) feet in the rear. The front yard setback shall be equal to the average front yard setback of the two nearest adjacent manufactured homes located on the same side of the street. The front yard setback for adjacent homes shall be determined by measurement from the centerline of the street which fronts the property. No building or structure shall exceed a height of two and one-half (22) stories or thirty-five (35) feet. Such setback shall be measured from the front lot line to the nearest point on the body of the manufactured home or appurtenant structure.

(4) The minimum lot size shall be 5,000 square feet, with a minimum width of forty (40) feet, measured at the front lot line.

(5) The minimum site which may be zoned for this purpose shall be thirty (30) acres, including up to one-half (2), but not to exceed thirty-three (33) feet of the width of adjacent boundary streets dedicated to the public.

(6) Private streets may be planned provided provisions are made for their maintenance.

(7) The following permanent improvements shall be installed on each lot prior to occupancy of a manufactured home on the lot for residential purposes:

(i) A concrete slab or other standard metal or wood deck patio containing at least 200 square feet or posting a Letter of Credit guaranteeing completion thereof within 120 days after installation of the manufactured home or prior to occupancy, whichever occurs first; and

(ii) A sewage disposal system acceptable to the Council and subject to provisions of this Code.

(8) The ground floor of each manufactured home shall not be more than six inches nor more than 12 inches above finished grade without variance. Ground floor shall also be at or above the base flood elevation.

(9) Every subdivision map filed in accordance with of this Code shall contain provisions for access to the rear portion of each lot in the subdivision.

(10) Any fence, wall, or visual barrier located in the required front yard of any such lot shall not exceed four (4) feet in height nor in the rear or side yard of any such lot exceed six (6) feet in height, measured from the finished grade of the lot. No fence, wall, or visual barrier located within twenty-five (25) feet of the rear line of a reversed corner lot between the street and the established setback line of the key lot to the rear shall exceed a height of four (4) feet. No barbed wire shall be used or maintained in or about the constructing of a fence wall or visual barrier along the front, side, or rear lines of any such lot or within three (3) feet of such lines, and no sharp wire or points shall project at the top of any fence or wall less than six (6) feet in height.

(11) Any clothes lines, whether temporary or permanent, or any such lot shall be installed on the rear portion of such lot.

(12) Every subdivision map filed in accordance with provisions of this Code shall contain provisions for underground telephone, television, and electrical cable through the subdivision.

(13) Every subdivision map filed in accordance with provisions of this Code shall contain provisions for driveways, as approved by the City Engineer.

(14) Notwithstanding the provisions of this Code, a manufactured home within Tract 3151 shall contain not less than 600 square feet of living space in order to inhibit the development of inadequate or overcrowded housing.

(e) In addition to the other requirements of this Code, all manufactured homes located in Tract 3151 shall have a width of at least twelve (12) feet as shown on the Department of Housing and Community Development registration for said manufactured home. No manufactured homes shall be combined in order to meet the requirements of this section unless the individual units have been manufactured to ultimately serve as a combined unit with one another and each unit is not less than ten (10) feet in width.

(f) Exceptions to the requirements of this Code may be granted for Tract 3151 provided applications therefor are filed and the public hearings are held as required for zoning amendments. Before granting such exceptions, the Commission shall find each of the following with respect to the land involved in the application:

(1) There are special circumstances or conditions affecting such property;

(2) The modification is necessary for the preservation and enjoyment of a substantial property right; and

(3) The granting of the modification will not be detrimental to the public welfare or injurious to other property in the vicinity.

(g) General Provisions:

(1) These requirements shall not be applied to any property where any portion of such property would fall within 500 feet of property in the R-1 zone. This requirement may be disregarded if the legislative body is satisfied from the evidence presented during the zoning hearings the following conditions exist:

(i) An artificial or natural barrier or other physical feature exists between the R1 Zone and Tract 3151.

(ii) The nature of such barrier or feature is such as to assure the R1 Zone will not be detrimentally affected by the requirements of Tract 3151.

(iii) All manufactured homes in the subdivision shall be connected to the system.

(iv) The sewage disposal field may be used in conjunction with recreational areas provided such use is not in conflict with the operations of the disposal field.

(v) The design and adequacy of the system shall be approved by the Council.

9-2.2405. Planned Unit Development.

(a) An overlay permit may be issued for at least ten acres of contiguous property within residential or commercial zones to be used for public, quasi-public, or commercial uses (a "Planned Unit Development ("PUD)").

(b) The permit shall include the following conditions:

(1) The number of dwelling units or commercial sites within the development does not exceed the number of dwelling units or commercial sites permitted by the underlying zoning.

(2) The uses permitted by the PUD are not more intensive than those permitted by the underlying zoning.

(3) No greater burden shall be placed upon public facilities serving the planned unit development than is placed upon the public facilities by development using the underlying zoning.

9-2.2406. Flood Hazard.

(a) An overlay permit may be issued for property within flood hazard zone to be developed.

(b) The permit shall include the following conditions:

(1) Minimum lot area shall be 4,100 square feet. Minimum setback shall be eighteen (18) feet from the front property line, ten (10) feet from the rear property line and five (5) feet from the property line on each side. Minimum lot width at the front yard setback shall be forty-two (42) feet; the average lot width shall be no less than forty-two (42) feet.

(2) Each single-family dwelling shall contain not less than 1,200 square feet

of building area. Two story structures shall have a ground floor of at least 1,000 square feet. No basements shall be permitted.

(3) Lots shall be connected to the community sewer system.

(4) No commercial activities, including quasi-home activities, shall be permitted.

(5) Off-street parking shall be solely within a garage which may be detached. No other accessory structure or outbuilding is permitted. No vehicles shall be parked more than forty-eight (48) hours where they can be observed beyond the boundaries of the lot.

(6) No fencing shall be installed along any common boundary at the municipal golf course.

9-2.2407. Farm Animal Overlay.112

(a) An overlay zone may be permitted pursuant to this article for the keeping of farm animals within a specified tract of land as follows:

(1) The keeping of farm animals shall be an accessory to a permitted use in the zone.

(2) The occupant of each dwelling unit in a single-family residential district may keep not more than one large farm animal for each one-half (1/2) acre of unimproved (except for animal enclosures) land available for the animal's use. As use in this subsection, the definition of a large farm animal is cattle, swine, horses, donkeys, mules, sheep and goats, also, including miniature versions of these animals. The occupant may keep one large farm animal for breeding, raising or for slaughter. All animals will be slaughtered and dressed only in an enclosed structure. No numerical limit on poultry, birds or rabbits if they are properly housed.

(b) Accessory structures shall be less than one hundred (100) feet from the front lot line, twenty-five (25) feet from the side lot lines, or ten (10) feet from the rear lot line. Animals housed in fenced areas must have cross-fencing in the event of failure of the primary fence. Barbed or electric wire may be used or maintained independently. A fence, wall or hedge along the perimeter of any lot, or within three (3) feet of the perimeter shall not have sharp wire or points projecting at the top of the fence or wall less than six (6) feet in height. In the housing of equines, the following items are required:

(1) Riding Stables: Corrals shall be constructed for each horse. Corrals shall be a minimum of 12 ft. by 24 ft. and constructed of proper building material to maintain an animal of this size. The orals shall be constructed of pipe corrals, wood or equine vinyl/PVC. Each corral shall have a minimum of three (3) 2" by 6" rails and use non-climb or v-mesh wire fencing with no less than a 4" by 4" post.

(2) Shelters: Each shelter shall be a minimum of 12 ft. by 12 ft. with no less than a three-sided enclosure with a roof to provide for adequate shade and to protect against - prevailing winds.

(c) The occupant of a residential district may obtain a special permit for minors to breed and raise, up to three large farm animals, in addition to the animals permitted in the zone. This would be in conjunction with a programs sponsored by a bona fide agricultural association, such as Future Farmers of America, 4-H Club, Cow Belles or Junior Farmers. As used in this subsection, the definition of a "large farm animal" is cattle, horses, donkeys, mules, sheep, goats, or swine. The permit shall be for not more than twelve months and not more than one permit shall be issued per child per year. Consent of adjoining landowners will be a condition of issuance of the permit and the lot will be open for government officials.

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112 Amended 8/5/03 by Ord. 03-610.

(d) No commercial activities shall be undertaken pursuant to this section.

(e) Hoofed animals shall graze only within a fenced and enclosed area which restricts the animals from wandering out of the lot or parcel. No person shall drive, herd or cause an animal to be moved over the streets of the City except within the confines of a licensed vehicle. Equines may be ridden along equestrian trails and roadways without impeding traffic.

(f) Rabbits, birds and poultry will be kept in enclosed areas. The enclosure shall not be allowed to become overcrowded or cause a nuisance to neighbors or the neighborhood. No person shall raise, breed, keep, or maintain an endangered, rare (threatened species) or exotic species of bird, mammal, fish, amphibian, non-poisonous or poisonous reptiles, spiders, scorpions, or other insects, including bees.

9-2.2408. Equestrian Overlay.

(a) An equestrian overlay zone may be issued for property in a residential district. One horse for each one-quarter acre of lot area is permitted in the equestrian overlay zone.

(b) The permit shall include the following conditions:

(i) All subject property located within an equestrian overlay zone shall have a minimum lot size of one acre.

(ii) Conditions of issuing a building permit or other land use entitlement in the equestrian overlay zone shall be subject to the dedication of a sixty-foot wide vehicular, equestrian and utility easement.

ARTICLE 25. CONDITIONAL USE PERMITS

9-2-2500. Purpose.

Under the Code, some uses are permitted subject to the granting of a special permit. This article describes how the Planning Commission shall consider, grant, or deny applications for use permits.

9-2-2501. Procedure for Consideration of Permit.[113]

(a) The Planning Commission may grant permits for uses as prescribed in the regulations for each district in accordance with the following procedure.

(b) Application for a use permit shall be filed with the Planning Director on a form which shall include the following data:

(1) Name and address of applicant.

(2) Verification the applicant is the owner of the property or the authorized agent of the owner.

(3) Address or description of the property or properties, in cases where an interim occupancy permit is being requested for more than one location due to construction plans for a permanent site.

(4) Statement setting forth the precise circumstances or conditions applicable

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113 Amended 8/5/03 by Ord. 03-610.

to the land, structure or use which makes the granting of a use permit necessary for the preservation and enjoyment of a substantial property right, together with data pertinent to the findings necessary for the granting of a permit.

(5) A drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the existing locations of streets and property lines and a list of the names and last known addresses of the recorded legal owners, as shown on the latest adopted assessment roll of Kern County, of all properties shown on the drawing. County Assessor's maps may be used for this purpose.

(6) Aerial photo of site and the surrounding area for a distance of one-half mile.

(7) Preliminary floor plans and front, side and rear elevations of proposed structures, if available.

(8) Three (3) prints of a site plan, drawn to scale, which shall indicate clearly and with full dimensions the following information:

(i) Lot or site dimensions.

(ii) All buildings and structures: location, size, height, proposed use.

(iii) Yards and space between buildings.

(iv) Walls and fences: location, height and materials.

(v) Off-street parking and off-street loading: location, number of spaces and dimensions of parking and loading areas, internal circulation pattern.

(vi) Access; pedestrian, vehicular, service: points of ingress and egress, internal circulation.

(vii) Signs: location, size, height and type of illumination, if any, including hooding devices.

(viii) Lighting: location and general nature, hooding devices.

(ix) Street dedications and improvements.

(x) Landscaping: location and type.

(xi) Such other data as may be required by the Planning Commission to make the required findings.

(c) An application shall be accompanied by a fee set by resolution of the Council to cover the cost of handling.

(d) The Planning Director shall investigate the application for its compliance with title and submit a report to the Planning Commission. The report shall include a recommendation for the action by the Commission and a statement supporting such recommendation.

(e) The Commission shall hold a public hearing on the application after notice given in the same manner as notices for hearings on zoned amendments. The Commission shall review the application and the statement and drawings and shall receive pertinent evidence and testimony concerning the proposed use and the proposed conditions.

(f) The Commission shall act on the application within thirty (30) days following the closing of the public hearing. By resolution, the Commission may grant or deny the permit for the use applied for or may modify the permit on the basis of the evidence submitted at the hearing. The Commission shall make the following findings if the permit is granted or conditionally granted:

(1) There are circumstances or conditions applicable to the land, structure or use making the granting of a permit necessary for the preservation and enjoyment of a substantial property right.

(2) The proposed location of the conditional use is in accordance with the objectives of the General Plan and the purposes of the zone district where the property is located.

(3) The proposed use will comply with this Chapter.

(4) The permit may be revocable, granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. Conditions of approval necessary to protect the public health, safety and general welfare shall be stated in a resolution approving the permit.

(g) The decision may be appealed to the Council by the applicant or any other interested party within ten (10) days following the date of a decision of the Commission on a conditional use permit.

(i) The notice of appeal shall be filed with the City Clerk and the notice shall specify claimed errors or abuse of discretion by the Commission, including how the decision is not supported by the evidence in the record. The City Clerk shall give notice to the applicant and to the appellate (if the applicant is not the appellant) and may give notice to any other interested party of the time when the appeal will be considered by the City Council.

(ii) The Planning Secretary shall transmit the record to the City Clerk within five (5) days of the filing of the notice of appeal.

(iii) The City Council shall hear the appeal at a regular meeting at least ten (10) days and not more than thirty (30) days after the filing of the appeal. The City Council may affirm, reverse or modify a decision of the Commission if a decision denying a conditional use permit is reversed or a decision granting a conditional use permit is modified, the City Council shall, on the basis of the record transmitted and such additional evidence as may be submitted, make the findings prerequisite to the granting of a conditional use permit.

(h) The permit number shall be indicated on the Zoning Map.

9-2.2502. Term of Permit.

(a) A permit is effective when granted by resolution of the Commission or, if appealed to the Council, when the Council adopts a resolution resolving the appeal-. The permit granted shall run with the land and shall continue to be valid upon a change of ownership.

(b) A permit shall expire on the date specified by the Commission, unless time is prescribed unless the permit is extended or revoked as set forth below. The time limits set by the Commission shall be reasonable, based on the size, nature and complexity of the development. The time limit may be extended for good cause, such as proof of an unusual hardship not of the applicant's own making.

(c) A permit may be revoked for violation of this Chapter or failure to comply with the permit conditions. Notice of revocation shall be sent to the persons responsible for compliance by the Planning Director. The Commission shall consider the revocation. The same notice and hearing procedure shall be used for revocation as for consideration of a conditional use permit. The Commission may revoke the permit or take such action as may be necessary to ensure compliance.

9-2.2503. New Application for Conditional Use Permit.

Following the denial of a use permit application or the revocation of a use permit, no

application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six (6) months from the date of denial or revocation of the use permit.

ARTICLE 26. ZONE VARIANCE

9-2.2600. Purpose.

Under this article, the Planning Director may grant variances to prevent or lessen practical difficulties and unnecessary physical hardships resulting from a strict or literal interpretation and enforcement of land use regulations.

9-2.2601. Scope.

A practical difficulty or unnecessary physical hardship necessary for a variance must result from size, shape or dimensions of a site or the location of existing structures from geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity. A variance from use regulations is not permitted. Variances shall be limited to requirements for fences and walls, site areas, width, frontage, depth, coverage, front yard, rear yard, side yards, height of structures, distances between structures, off-street parking facilities and off-street loading facilities.

9-2.2602. Procedure for Considering a Variance.

(a) Application for a variance shall be made to the Planning Director on a form which shall include the following:

(1) Name and address of applicant.

(2) Statement the applicant is the owner of the property or is the authorized agent of the owner or the plaintiff in an action of eminent domain to acquire the property involved.

(3) Address or description of property.

(4) Statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title which would result from a strict or literal interpretation and enforcement of a specified regulation of this Title, together with any other data pertinent to the findings prerequisite to the granting of a variance prescribed in this Section.

(5) A drawing of the site and adjacent property affected, showing existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

(6) A drawing of the site and surrounding area, showing surrounding properties within three hundred (300) feet of the site, and a list of names and last known addresses of the recorded legal owners of such properties, as shown on the latest adopted assessment roll of Kern County shall be included. County Assessor's maps may be used for this purpose.

(7) The fee established by resolution of the City Council to cover the cost of handling the application.

(b) The Planning Director shall prepare a report and transmit the report to the

applicant.

(c) The Planning Director shall act on the application within thirty (30) days of filing. The Planning Director may grant a variance if the Planning Director makes the following findings:

(1) Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship, inconsistent with the objectives of this Title.

(2) There are special circumstances or conditions applicable to the property involved such that strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

(3) The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. The Planning Director may grant a variance for off-street parking facilities or off-street loading facilities if the Planning Director makes the findings prescribed above and the following additional findings:

(4) Present and anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably do not require strict or literal interpretation and enforcement of the specified regulation.

(5) The granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with free traffic flow on the streets.

(6) The granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this Title. The variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Planning Director may prescribe. The Planning Director may deny a variance application.

(d) A variance shall become effective upon the expiration of ten (10) days following the date on which the variance was granted unless an appeal has been taken to the Planning Commission.

(e) The Planning Director's decision may be appealed to the Planning Commission by the applicant or any other interested party within ten (10) days following the date of a decision of the Planning Director. The notice of appeal shall be filed with the Planning Secretary, and state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Director or wherein its decision is not supported by the evidence in the record. The Planning Secretary shall transmit the record to the Planning Commission within five (5) days of the filing of an appeal. The Planning Secretary shall give notice to the applicant and may give notice to any other interested party of the time within which the appeal will be considered by the Planning Commission. The Planning Commission shall hear the appeal at a regular meeting at least ten (10) days, but not more than thirty (30) days after the filing of the appeal. The Planning Commission may affirm, reverse or modify a decision of the Commission on a variance application. A decision which results in the granting a variance shall be on the basis of the record transmitted to the Planning Commission and such additional evidence as may be submitted, and shall be set forth in findings. A variance which has been the subject of an appeal to the Planning Commission shall become effective immediately following the date on which the variance is granted by the Planning Commission.

9-2.2603. Term of Variance.

(a) the term of the variance shall be determined by the Planning Director or the Planning Commission, as the case may be.

(b) An application for renewal of the variance may be presented to the Planning Director, and the Director may grant or deny an application for renewal of a variance.

(c) The variance may be revoked upon violation of this Title, or if granted subject to a condition or conditions, upon failure to comply with the condition or conditions. Notice of revocation shall be sent to the person or persons responsible for compliance. Within thirty (30) days of the suspension, the Planning Director shall consider the suspension. If not satisfied the regulation, general provision, condition or conditions are being complied with, the Planning Director may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, condition or conditions.

9-2.2604. New Application for Variance.

Following the denial of a variance application or the revocation of a variance, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within six (6) months of the date of denial of the variance application or revocation of the variance.

ARTICLE 27. ZONE AMENDMENTS

9-2.2700. Purpose.

This article sets forth the process for amen ding the zoning regulations.

9-2.2701. Procedure for Consideration of Amendment.

(a) A change in the boundaries of a zone may be initiated by the Commission, Council or owner of property. The person proposing a change in the boundaries of the district shall file an application with the Planning Director on a form prescribed by the Planning Director, including the following data:

(1) Name and address of the applicant.

(2) Statement the applicant is the owner of the property for which the change in district boundaries is proposed or the authorized agent of the owner, or the plaintiff in an action of eminent domain to acquire the property involved.

(3) A drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site, showing the location of streets and property lines and the names and last known addresses of the recorded legal owners of all properties shown on the drawing, as shown on the latest adopted tax roll of the County of Kern. Assessor's maps may be used for this purpose.

(4) The application shall be accompanied by a fee set by a resolution of the City Council to cover the cost of processing.

(b) The Planning Director shall investigate the application and submit a report to the Planning Commission, with a recommendation for action.

(c) The Planning Commission shall hold a duly noticed public hearing on the

application. The Planning Commission shall review the application and receive evidence and testimony concerning the proposed zone change and determine if the change is consistent with the General Plan and application of the zone classification which is being proposed. A change in district boundaries shall not be made conditionally. The Planning Commission shall make its decision and adopt findings within forty-five (45) days following the completion of the public hearing. The Commission shall transmit its decision to the City Council.

(d) The City Council shall hold a duly noticed public hearing upon receipt of the decision of the Planning Commission approving the application The City Council need not take any further action if the Planning Commission has recommended against the adoption of the amendment unless an interested party files a written notice of appeal with the City Clerk within five (5) days after the Planning Commission adopts its decision. The City Council shall find whether the amendment is required to achieve the objectives of this chapter and whether the amendment would be consistent with the General Plan and the zoning district classification. The City Council may approve, modify or disapprove the recommendation of the Planning Commission. A modification not previously considered by the Commission shall be referred to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a hearing thereon. Failure of the Planning Commission to report within forty (40) days of the reference, or such longer period as may be designated by the City Council, shall be deemed to be approval of the modification.

(e) The Council shall enact an ordinance amending the zoning district if the Council approves the application.

9-2.2702. Change on Zoning Map.

A change in a district boundary shall be indicated on the Zoning Map with a notation of the date and number of the ordinance amending the map.

9-2.2703. New Application for Amendment.

No application for the same or substantially the same change shall be filed within six (6) months of the date of denial of the application.

ARTICLE 28. ADMINISTRATION AND ENFORCEMENT

9-2.2800. Purpose.

This article covers the enforcement of zoning regulations. These provisions supplement other available enforcement mechanisms.

9-2.2801. Nuisance.

(a) A use of property not permitted by this chapter is a nuisance.

(b) A use of property permitted by this chapter shall not be undertaken in a manner

which constitutes a nuisance.

9-2.2802. Nonconforming Uses.

(a) A use of property existing on April 4, 1966, or a use of property existing after April 4, 1966, which was permitted by the then current zoning regulations of the City, but which was subsequently prohibited by the zoning regulations, is a lawful nonconforming use.

(b) A lawful nonconforming use may be continued and maintained if there is no physical change other than: (1) maintenance and repair of a nonconforming building or structure; or (2) the reconstruction of a nonconforming building or structure partially damaged by fire, collapse, explosion, or acts of God if the expense of such reconstruction does not exceed 150 percent of the assessed value of the building or structure at the time the damage occurred, and the reconstruction is started within one year from the date of the damage, and diligently prosecuted to completion.

(c) Part of a building, structure, or land occupied by a nonconforming use which is changed to, or replaced by, a use conforming to the zoning regulations shall not thereafter be used or occupied by the earlier lawful nonconforming use.

(d) If no structural alterations are made, a lawful, nonconforming use of a building or structure may be changed to another lawful, nonconforming use of a more restrictive classification with the written approval of the Planning Director.

(e) Part of a building, structure, or land occupied by a lawful, nonconforming use, which use is abandoned or ceased for one year or more, shall not again be used or occupied for a lawful, nonconforming use.

(f) A conforming conditional use established prior to [**date**] shall be permitted to continue as a lawful, nonconforming use until the expiration of the permit.

(g) A nonconforming building or structure for which a building permit was issued may be completed and used in accordance with the plans, specifications and permits on which the building permit was granted if construction was commenced prior to the effective date of the zoning amendment which prohibited such use or within sixty (60) days after the issuance of the building permit, whichever occurs first and construction is prosecuted diligently to completion.

9-2.2803. Enforcement: General.

(a) Departments, officials, and employees vested with the duty or authority to issue permits or licenses shall conform this chapter and shall issue no permit or license for uses, buildings, or purposes in conflict with this chapter. A permit or license issued in conflict with this chapter null and void.

(b) City employees may reasonably enter upon any premises affected by this chapter for the purposes of inspection. This subsection does not authorize City employees to enter a building without the consent of the owner or the person in lawful possession thereof without first securing a search warrant.

9-2.2804. Enforcement: Civil.

(a) This chapter may also be enforced by injunction issued by the Superior Court upon the suit of the City or the owner or occupant of real property affected by a violation or prospective violation of the provisions of this chapter. Such method of enforcement shall be cumulative and shall in no way affect the penal enforcement of this chapter.

(b) A building, structure, or other work of improvement erected, constructed, demolished, altered, improved, moved or converted contrary to this chapter or use of any land, structure, building, work of improvement, or premise established, conducted, operated, or maintained, contrary to this chapter is a public nuisance.

(c) The City shall commence actions and proceedings for the abatement, removal, and enjoinment in the manner provided by law and shall take such other steps and shall apply to any court as may have jurisdiction to grant such relief as will abate or remove such building, structure, or use, and restrain and enjoin any person from erecting or maintaining such building or structure or using any property contrary to this chapter.

9-2.2805. Enforcement: Criminal.

A person determined guilty of violating any provision of this Chapter shall, upon conviction thereof, be punishable as set forth in Chapter 2, Title 2 of this Code.

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CHAPTER 3. LAND DIVISIONS

ARTICLE 1. GENERAL

Sec. 9-3.101. Purpose and Scope.

This chapter regulates the division of land, the merger of lots and reversion of land to acreage. This chapter may be cited as the City"s "Land Division Regulations."

The Subdivision Map Act regulates the local control of the design and improvement of subdivision and authorizes the City to enact local ordinances for the control of the design and improvement of land divisions which do not constitute subdivisions. This chapter incorporates by reference those provisions of the Subdivision Map Act mandated by state law and adopts additional provisions governing land divisions in those areas where the Subdivision Map Act allows the City to exercise discretion.

Sec. 9-3.102. Definitions.

(a) The following definitions apply to this chapter:
- (1) "Advisory Agency" means the Planning Commission of the City.
- (2) "Governing Body" or "Legislative Body" means the Council.
- (3) "Local agency" means the City.
- (4) "Local ordinance" means this chapter.
- (5) "Subdivision Map Act" or "Map Act" refers to Division 2 of Title 7 (commencing with §66410) of the Government Code.

(b) Except as provided herein, the definitions now or hereinafter set forth in the Subdivision Map Act are hereby incorporated by this reference and made a part hereof.

ARTICLE 2. MAPS REQUIRED

Sec. 9-3.201. Application. 114

The production of tentative and final subdivision maps and tentative and final parcel maps shall be governed by the Map Act and this chapter.

Sec. 9-3.202. Tentative and Final Subdivision Maps. 115

(a) A tentative and final subdivision map shall be proposed for s
ubdivisions in conformance with the Map Act.

(b) Final subdivision maps shall contain the information and be in the form specified by the Map Act and shall also satisfy the additional requirements of this chapter.

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114 Amended by Ord 06-641 on 4/4/06.
115 Amended by Ord 06-641 on 4/4/06.

Sec. 9-3.203. Parcel Maps. 116

(a) A tentative parcel map and final parcel map shall be filed for each division of land which does not constitute a subdivision unless the parcel map is waived as set forth in this chapter.

(b) Parcel maps shall contain the information and be in the form specified by the Map Act and shall also satisfy requirements of this chapter.

(c) The Planning Commission may require the certificates and acknowledgments required for parcel maps be recorded concurrently with the final parcel map.

ARTICLE 3. PROCEDURE

Sec. 9-3.301. Application.117

The procedures set forth in this article govern the processing of tentative and final subdivision and tentative and final parcel maps.

Sec. 9-3.302. Tentative Maps. 118

(a) The project proponent shall file the tentative subdivision or a tentative parcel map with the Planning Commission which shall conduct a public hearing to determine whether the tentative map be approved, conditionally approved or disapproved. The decision of the Commission shall be final unless appealed to the Council by any interested party within 30 days of the Commission's action or failure to act. The appeal shall be filed with the City Clerk within ten months of the Commission"s action or failure to act, if an environmental impact report is required, or within four months, if a negative declaration is required.

(b) If the Commission's decision is appealed to the Council, the City Clerk shall provide notice of appeal to interested parties by publication at least once in a newspaper of general circulation at least ten (10) days prior to the date of hearing and by mail to the owners of property within 300 feet of the proposed land division as shown on the last equalized assessment rolls.

(c) On appeal, the Council shall review the decision of the Planning Commission and approve, conditionally approve or disapprove the tentative map. In the case of an appeal, the Council's decision shall be final.

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116 Amended by Ord 06-641 on 4/4/06.
117 Amended by Ord 06-641 on 4/4/06.
118 Amended by Ord 06-641 on 4/4/06.

Section 9-3.303. Final Maps. 119

(a) Multiple final subdivision or parcel maps relating to an approved or conditionally approved tentative subdivision or parcel map may be filed prior to the expiration of the tentative map if the requirements of the Map Act and this chapter are met, and if the Planning Commission finds:

(1) The property which is described in the final map will be adequately served by required on-site and off-site improvement even if the property not covered by the proposed final map is not developed;

(2) Dedications required to serve the property described in the final map have been completed even though such dedications also benefit the remaining property; and

(3) The inhabitants and the property owners of the City and the future inhabitants and property owners of the property described in the final map will be prejudiced by failure of the project proponent to develop the remaining property not covered by the proposed final map.

(b) The Planning Commission may approve the modification of a recorded final subdivision map or parcel map by a certificate of correction or an amending map. Such modifications shall be considered at a public hearing conducted by the Commission. The modifications shall conform with the Map Act. Any interested party may appeal such decision of the Commission to the Council within 30 days of the Commission's decision.

Sec. 9-3.304. Parcel Maps. 120

(a) Except as provided in this chapter, the procedure for processing approval, conditional approval or disapproval and filing of parcel maps and modifications thereof, shall be the same as the procedures for tentative and final subdivision maps.

(b) A parcel map shall be based on a field survey in accordance with the Land Surveyors Act if street, water, sewer or storm drain easements are required to be dedicated by the map or by a separate instrument. When such dedications are not required, the map can be compiled from recorded or filed data when sufficient information exists on filed maps to locate and retrace the boundaries of the map and at least one boundary can be established from an existing monument line.

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119 Amended by Ord 06-641 on 4/4/06.
120 Amended by Ord 06-641 on 4/4/06.

Sec. 9-3.305. Parcel Map Waiver: Criteria and Application.121

(a) The filing of a tentative or final parcel map may be waived at the discretion of the Planning Director if Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

(b) The application for a waiver of parcel map shall include the following information on the form more specifically required by the Planning Director:
- (1) A completed City of California City Subdivision Application, grant deed, legal description and map of the parcel;
- (2) Legal description of each of the proposed parcels prepared by a licensed land surveyor or registered civil engineer, authorized to perform land surveying, containing original signature and seal;
- (3) Two copies of a preliminary title report for the affected property;
- (4) Hazardous Waste Verification Statement; and.
- (5) A legible, recordable map showing the proposed land division. The map shall be submitted on a minimum 8½" x 11" sheet and shall contain the following statement: "This map is provided for illustrative purposes only."

(c) The application shall be accompanied by the fee established by resolution of the Council.

(d) The request for the waiver shall be denied if:
- (1) The proposed waiver is inconsistent with the General Plan, applicable specific plan, or applicable provisions of the Municipal Code;
- (2) The site is not physically suitable for the proposed type of development;
- (3) The site is not physically suitable for the proposed density of development;
- (4) The design of the project or the proposed improvements are likely to cause serious public health problems; and
- (5) The design of the project or the proposed improvements will conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision, but the Planning Director may approve a request for waiver if the Planning Director finds alternate easements for access or for use will be provided which are substantially equivalent to the easements previously acquired by the public. This section shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Planning Director to determine the public at large has acquired easements for access through or use of property within the proposed project.

(e) The Planning Director shall report to the applicant and the Planning Commission on the application at least fifteen days prior to the proposed effective date of the Planning Director"s decision. The decision of the Planning Director may be appealed to the Planning Commission by a written appeal filed with the Planning Secretary during the fifteen-day period.

(f) When the decision is final, the City Planning Director shall record a Certificate of Compliance and appropriate attachments reflecting the approved waiver if the following conditions have been met:

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121 Amended by Ord 07-646 on 4/17/07.

(1) The applicant has submitted grant deed or deeds for the land proposed to be conveyed for the waiver, in recordable form, and the Planning Director has determined the grant deed or deeds are in substantial compliance with the approved waiver, and the grant deed or deeds contain the words "FOR PURPOSES OF PARCEL MAP WAIVER NO. _____." In lieu of submitting the grant deed or deeds, the applicant"s title company may issue a "Letter of Intent" to arrange simultaneous recording of deeds with the Certificate of Compliance.

(2) The grant deed or deeds, and beneficiary consent, if applicable, shall be recorded concurrently and shall constitute constructive notice of the parcel map waiver.

(3) A guarantee of title or a preliminary title report dated ten or less days prior to concurrent recording of deeds and Certificate of Compliance, has been issued by a title company authorized to do business in California, showing all parties having record title interest in the land to be subdivided, or any part thereof, including, but not confined to, leaseholders, lien holders, and owners of rights-of-way, showing the nature of each respective interest and reference thereto in the Official Records, by book and page, as of the date the waiver of parcel map is filed with the County for recording. The liability of such guarantee of title, if one is issued, shall be not less than $1,000.00. In lieu of an updated preliminary title report, the title company may submit a written statement (letter of continuation) which certifies that no changes affecting the title of the subject property have occurred since the original issuance of the preliminary title report.

(4) Applicable recording fees have been paid, or arrangements have been made for all documents to be recorded by the title company.

(5) Other conditions of approval for the parcel map waiver have been satisfied.

(g) An approval or conditional approval of a waiver shall expire one year from the date of approval of the waiver. The property owner may request an extension of the expiration date of the approved parcel map waiver by written application to the Planning Director. The application shall be filed prior to the expiration date and shall state the reasons for requesting the extension and the amount of time requested. The Planning Director shall approve or deny the request for extension. The maximum amount of time for each extension request shall not exceed one year. Not more than three extensions shall be approved for a parcel map waiver, and the total period of all extensions shall not exceed thirty-six months.

(h) Minor revisions to an approved waiver of parcel map may be approved by the Planning Director upon application by the property owner or authorized agent, provided: such changes are consistent with the intent of the original approval; the original conditions need not be modified; and there are no resulting violations of the Municipal Code. Approved revisions shall be denoted on the approved waiver map and/or in writing to the property owner, whichever is appropriate. No revision shall affect the original expiration date of the approved waiver. The Planning Director may require a new application in lieu of the above procedure when, in the Planning Director"s opinion, requested changes are substantial enough to warrant refiling and reprocessing.

Sec. 9-3.306. Parcel Map Waiver: Appeal. 122

(a) The decision of the Planning Director may be appealed to the Planning Commission. A public hearing shall be conducted by the Commission within sixty days from the date the application is approved by the Planning Director. At least ten days" notice of the public hearing shall be given by publication and by mail to: the property owner, the applicant, each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services, the owners of property within three hundred feet of the exterior boundaries of the subject property, and any person who has filed a written request for such notice. In lieu of mailed notice, notice may be posted not more than three hundred feet apart along each street upon which the subject property abuts for a distance of not less than three hundred feet in each direction from the exterior limits of the subject property.

(b) The applicant or authorized representative and interested persons may appear at the hearing and be heard. The hearing may be continued, if, prior to adjournment or recess, the Planning Director or designated representative, announces the time and place to which the hearing will be continued.

(c) The Planning Commission may approve, conditionally approve, or deny the application following the close of the public hearing. The decision shall be final ten days after notice unless appealed to the council. Written notice of the decision shall be given by mail within seven calendar days after the date of the decision to the applicant and persons filing a written request for notice of the decision.

(d) The applicant or other aggrieved person may appeal to the Council from the decision of the Commission by filing a written notice of appeal with the Planning Director within ten days of notice of the decision. The Planning Director shall forward the appeal to the Clerk of the City Council who shall set the matter for hearing within thirty days after the date of filing the appeal. Notice of the hearing on the appeal shall be given in the same manner as notice for the hearing before the Commission. The City Council may reverse, affirm wholly or partly, modify, or attach other or additional conditions to the decision appealed from. The decision of the City Council shall be final upon adoption of a resolution containing its determination, and no further notice need be given.

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122 Amended by Ord 06-641 on 4/4/06.

Sec. 9-3.307. Procedure for Amending Map.

(a) A person who desires to file an amending map after a final subdivision map or final parcel map has been filed shall present the proposed amending map and the established fee to the Planning Secretary. The Secretary shall obtain the comments of the Planning Director and the Director of Public Works as to whether the proposed map conforms with the criteria set forth below. The comments of the Planning Director and Director of Public Works shall be presented to the applicant who shall make recommended corrections, if any, or request the matter be placed before the Planning Commission for action.

(b) If no corrections are required or when required corrections are made, the Planning Secretary shall schedule a public hearing on the proposed map upon the giving of such notice as required for the underlying map.

(c) The Planning Commission shall approve the proposed map if the Commission makes the findings set forth in the criteria listed below. The decision of the Planning Commission shall be final unless the decision is appealed to the City Council in the same manner as tentative parcel maps.

Sec. 9-3.308. Criteria for Amending Map.

(a) An amending map may be approved for filing if the Planning Commission finds the following conditions exist:
   (1) The proposed map addresses changes in circumstances which make the conditions of the prior map no longer appropriate or necessary;
   (2) The modifications do not alter rights, titles or interests in the real property reflected on the recorded map; and
   (3) The modified map conforms with the Map Act.

(b) An amending map shall conform to requirements concerning content and form of a final subdivision map or a final parcel map, as the case may be.

Sec. 9-3.309. Expiration of Tentative Maps and Extension of Time to File Final Maps.

(a) Approved or conditionally approved tentative subdivision or tentative parcel maps expire 24 months after approval or conditional approval. The expiration of a tentative map terminates proceedings and no final map or parcel map shall be filed without first processing a new tentative map. Delivery to the City Engineer shall be deemed a timely filing. Once a timely filing is made, subsequent acts of the City, including, but not limited to processing, approving and recording, may occur after expiration date of the tentative map.

(b) Upon written application by the property owner filed before a tentative map expires, the Planning Director may extend the time for filing a final subdivision or parcel map by up to 12 months. The director must find the extension is in the best interests of the City. The refusal of the Director to permit an extension may be appealed by the property owner to the Planning Commission within 15 days after the Director's action. The decision of the Commission is final.

(c) The Planning Commission may extend the expiration date of the tentative map by up to 36 months in addition to the period of extension described above. If the

subdivider applies for an extension prior to the expiration of the tentative map, the map shall be automatically extended for 60 days or until the application for extension is acted upon, whichever occurs first. If the Commission denies the application, the subdivider may appeal to the City Council within 15 days after the Commission's action.

(d) If the subdivider is required to expend $125,000 or more for the construction of public improvements related to the development of the property but outside the boundaries of the tentative map, excluding right-of-way improvements that abut the boundary of the property, each filing of a phased final map shall extend the date of expiration of the tentative map by 36 months but in no event more than 120 months from the approval or conditional approval of the tentative map. The value of improvements that will trigger this subsection will be changed from time-to-time by the State Allocation Board to reflect changes in the statewide cost index.

(e) The time for filing the final map shall be extended for up to 5 years during the pendency of a development moratorium imposed after the approval of the tentative map. When the development moratorium expires, the map shall be valid for the same period of time that was left to run at the time the moratorium was imposed, but in no event less than 120 days.

ARTICLE 4. REQUIREMENTS

Sec. 9-3.401. General.

The City shall disapprove a map for failure to meet the requirements imposed by the Map Act or by this chapter. The Planning Commission may recommend, and the City Council may approve, a waiver of the requirements of this chapter when the failure s the result of a technical or inadvertent error which, in determination of the Planning Commission, does not materially affect the validity of the map.

Sec. 9-3.402. Dedications: Certain Public Improvements.

The property owners shall dedicate or provide and irrevocable offer of dedication of real property within the subdivision for streets, alleys, including access rights and abutter's rights, drainage, public utility easements and other public easements. The Planning Commission may recommend, and the Council may require, the dedication of irrevocable offer of dedication of land within the subdivision for local transit facilities if the requirements of the Map Act are met. Dedications or offers of dedications of streets shall include a waiver of direct access rights to any such street from any property shown on a final or parcel map as abutting thereon and if the dedication is accepted, any such waiver shall become effective in accordance with its provisions.

Section 9-3.403. Dedications: Park and Recreational Purposes.

The project proponent shall dedicate land or pay fees in lieu thereof, or a combination of both, for neighborhood and community park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided the amount of land dedicated or fees paid shall be based upon the criteria set forth in the Map Act and the following:

(a) The amount of land required to be dedicated for park or recreational purposes pursuant to this article shall be based on the gross area included in the subdivision determined by the following formula:

Maximum Area Per Dwelling Unit	Percentage of the Gross Area of the Land Required to be Dedicated
1 unit per acre or less	2%
30,000 square feet	3%
20,000 square feet	4%
10,000 square feet	6%
9,000 square feet	7%
6,000 square feet	8%
4,000 square feet	15%
3,000 square feet	20%

(b) The Commission may require fees to be paid for the development of park or recreational facilities in lieu of or in combination with the dedication of land for such purposes. If the Commission requires fees to be paid in combination with the dedication of land, the total obligation imposed shall not exceed the fees which would have been required by the preceding paragraph.

(c) Where a fee is required to be paid in lieu of land dedication, the amount of the fee shall be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to this article. The amount of such fee shall be a sum equal to the fair market value of the amount of land required in accordance with the following formula:

Minimum Lot Size	Square Feet of Land Required Per Gross Acre of Subdivision
1 unit per acre or less	871 square feet
30,000 square feet	1,316 square feet
20,000 square feet	1,760 square feet
10,000 square feet	2,631 square feet
9,000 square feet	3,101 square feet
6,000 square feet	3,659 square feet
4,000 square feet	6,586 square feet
3,000 square feet	8,782 square feet

The fair market value of the land shall be determined by a written report prepared by a qualified appraiser acceptable to the City. The cost of the appraisal shall be borne by the developer. The appraisal shall be made immediately prior to the filing of the final map.

(d) The money collected as fees in lieu of land dedication shall be placed in a special

fund and used to acquire park lands or enhancing the recreational potential of existing parks for the benefit of new residents.

(e) The dedication of land for park or recreational purposes, or the payment of fees in lieu thereof, shall be a condition to the approval of a final subdivision map or final parcel map provided: only the payment of fees shall be required in subdivisions containing fifty (50) parcels or less in divisions not defined as a subdivision;

(f) This article relating to dedications does not apply to:
- (1) Subdivisions containing less than five (5) parcels and not used for residential purposes;
- (2) Industrial subdivisions;
- (3) Condominium projects which consists of the subdivision of airspace in an existing apartment building which is more than five (5) years old when no new dwelling units are added;
- (4) Parcel maps for a subdivision containing fewer than five (5) parcels for a shopping center containing more than 300,000 square feet of gross leaseable area and no residential development or uses.

(g) The development of the park or recreational facilities in a subdivision on property dedicated to the City pursuant to this article shall commence within sixty (60) days after fifty (50%) percent of the lots or parcels within the subdivision are occupied. If such property is, or may be, further divided, such development shall not be commenced until fifty (50%) percent of the maximum number of lots which may be created within the parcel in conformity with the City's general plan or zoning laws have been occupied.

(i) The development of land for park and recreational purposes within a parcel of land not defined as a subdivision shall commence within sixty (60) days after the lots or parcels within such area are fifty (50%) percent occupied. If such property may be further divided, such development shall not be commenced until fifty (50%) percent of the maximum number of lots which may be created within the parcel in conformity with the City's general plan or zoning laws have been occupied.

(i) Development of park or recreational facilities shall be deemed to have commenced when the Council decides to develop such facilities. The development of such land for park or recreational facilities shall be completed within a reasonable time following commencement, having due regard for the extent and nature of the proposed development; provided however, in no event shall the substantial completion of such facilities occur more than twelve (12) months after the commencement thereof.

Sec. 9-3.404. Dedications: Schools.

A subdivider who develops or completes the development of one or more subdivisions in one or more school districts maintaining an elementary school shall dedicate to the school district or districts within which such subdivisions are to be located, such land as the Council shall deem to be necessary for the purpose of constructing thereon such elementary schools as are necessary to assure the residents of the subdivision adequate public school service.

Sec. 9-3.405. Street Dedication and Improvement.

(a) A person applying for a tentative subdivision or parcel map approval shall dedicate and improve a right-of-way to the City for public road purposes if such dedication is necessary for access to the affected property. The right-of-way shall be improved with curb, gutter, sidewalk, grading and paving in accordance with the City"s standards for street construction. The right-of-way shall extend across the frontage of the property and shall be in accordance with the standards for street right-of-way as set forth in the Circulation Element of the City"s General Plan.

(b) When the area in the vicinity of the applicant"s property is without existing improved streets, the Planning Director may defer the dedication or improvement of the applicant"s easement. If the Planning Director defers the dedication or improvement, the applicant shall provide an offer of dedication for future public street purposes or surety bond to guarantee the improvements. The offer or surety bond will remain in effect and binding on the applicant and successors in interest until the City Council accepts the offer and requests the improvements or by resolution determines the dedication and improvements are no longer necessary for public use.

Sec. 9-3.406. Reservations.

Areas of real property within the subdivision shall be reserved for parks and recreational facilities, fire stations, libraries, and other public uses subject to the conditions of the Map Act.

Sec. 9-3.407. Fees: Drainage and Sewer Facilities.

Whenever a drainage or sanitary sewer plan has been adopted for a particular drainage or sanitary sewer area, and such plan contains an estimate of the total cost of constructing the local drainage or sanitary sewer facilities required by the plan, including a map of such area showing its boundaries, and location of such facilities has been adopted, the Planning Commission may recommend, and the City Council may require, the payment of fees for the purpose of defraying the actual or estimated cost of constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas and of constructing planned sanitary sewer facilities for local sanitary sewer areas.

Sec. 9-3.408. Fees: Bridges or Major Thoroughfares.

(a) The Planning Commission may require the payment of a fee as a condition for the approval of a final subdivision or parcel map or as a condition of issuing a building permit for the purpose of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways and canyons or constructing major thoroughfares. A public hearing shall be first conducted in accordance with the Map Act for each area benefited.

(b) At such public hearing, the boundaries of the area benefited, the cost, whether actual or estimated, and a fair method of allocation of the costs to the area of benefit and fee apportionment shall be established. The payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit. Payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit.

(c) If protests are not filed prior to the conclusion of the public hearing with the City Clerk by owners of more than one-half of the area of the property to be benefited by the improvement and if sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed procedure shall be abandoned and the Commission shall not for one year from the filing of written protest commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section. Consideration other than the payment of fees may be accepted.

Sec. 9-3.409. Fees: Groundwater Recharge Facilities.

(a) The Planning Commission may require the payment of a fee as a condition of approval of a final subdivision map or final parcel map or as a condition of issuing a building permit to an area of benefit under a groundwater recharge facility plan to construct recharge facilities for the replenishment of the underground water supply in such area of benefit. Before a groundwater recharge facility plan is adopted, a public hearing will be conducted by the Commission for the proposed area of benefit and, if approved, the groundwater recharge facilities plan shall be established at such public hearing.

(b) If, prior to the conclusion of such hearing, there is written protest filed with the City Clerk by the owners of more than one-half of the area of the property to be benefited by the improvement and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of the property to be benefited, the proceedings shall be abandoned and the Council shall not, for one year from the filing of that written protest, commence or carry on proceedings for the same improvement or acquisition under this article.

Sec. 9-3.4010. Reimbursement.

The Planning Commission may require the improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity or number for the benefit of property not within the subdivision and that such improvements be dedicated to the public. The subdivider shall be reimbursed for the costs of such facilities in accordance with the Map Act.

Sec. 9-3.411. Soils Reports.

(a) The Planning Commission may waive the preliminary soils report if the Commission determines that, due to the knowledge it has as to the qualities of the soils of the subdivision, no preliminary analysis is necessary.

(b) If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, a soil investigation of each lot in the subdivision may be recommended by the Planning Commission.

Sec. 9-3.412. Monuments.

At the time of making the survey for the final map or parcel map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards of the Map Act and the requirements of this chapter.

Sec. 9-3.413. Standards.

The Commission shall form time to time adopt regulations by resolution setting forth the minimum standards for the scope and quality of public improvements.

ARTICLE 5. IMPROVEMENT SECURITY

Sec. 9-3.501. General.

The project proponent may furnish security in connection with the performance of acts or agreements required by this chapter. Such security shall be one of the types of securities specified in the Map Act at the option of and subject to the approval of the Commission.

Sec. 9-3.502. Reduction of Security.

If the required subdivision improvements are financed and installed pursuant to special assessment proceedings, upon the furnishing by the contractor of the faithful performance and labor and material bonds required by the special assessment act being used, the improvement security of the subdivider may be reduced by an amount corresponding to the amount of such bonds so furnished by the Contractor.

ARTICLE 6. REVERSIONS

Sec. 9-3.601. Reversions.

A parcel map may be filed to revert to acreage land previously subdivided consisting of four or fewer contiguous parcels under the same ownership.

Sec. 9-3.602. Mergers.

A parcel or unit may be merged with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimal parcel size and the following requirements are satisfied:

(a) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed with only an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit; and

(b) With respect to an affected parcel, one or more of the following conditions exist:
- (1) Comprises less than 5,000 square feet in area at the time of the determination of merger;
- (2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
- (3) Does not meet current standards for sewage disposal and domestic water supply;
- (4) Does not meet slope stability standards;
- (5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability;
- (6) Its development would create health or safety hazards; or
- (7) Is consistent with applicable general plan and applicable specific plans other than minimum lot size and density standards.

ARTICLE 7. ENFORCEMENT

Sec. 9-3.701. Notice of Violation.

(a) The Planning Director may serve and record a notice of intention to record a notice of violation on the owners of the offending property by describing the violation and stating an opportunity will be given to the owners to present evidence.

(b) The City shall mail a copy of such notice to the owner of the real property. The notice shall specify the time, date and place at which the owner may present evidence to the Planning Commission why such notice should not be recorded.

(c) If the Commission determines there has been no violation, the City shall record a Release of the Notice of Intention to Record Notice of Violation with the County Recorder. If the Planning Commission determines the property has been illegally divided, or within 60 days after receipt of the notice of intention, the owner of the real property fails to inform the Planning Commission of objection to the recording of the Notice of Violation, the Planning Commission shall cause the recordation of the Notice of Violation.

(d) The Notice of Intention to Record a Notice of Violation and the Notice of Violation when recorded shall be deemed constructive notice of violation to successors in interest.

Sec. 9-3.702. Certificate of Compliance.

(a) A person owning real property or the vendee of such person pursuant to a contract of sale, may request the City to determine whether the real property complies with the Map Act and this Chapter. The person requesting the Certificate of Compliance shall pay the City the cost of issuing and recording the Certificate.

(b) The City Engineer shall issue an unconditional Certificate of Compliance if the City Engineer determines:
   (1) The parcel was created by a land division which complies with the Map Act and this Chapter; or
   (2) The parcel was created by a land division prior to March 4, 1972, and the conditions of Government Code section 66412.6 is satisfied; or
   (3) The parcel was created by a land division occurring on or after March 4, 1972, and the City Engineer determines a person creating the parcel did so without intent to violate the provisions of the Map Act or this Chapter and the rights of third parties have since intervened.

(c) If the City Engineer is unable to issue an unconditional Certificate of Compliance, the City Engineer shall issue a conditional Certificate of Compliance after a report to and recommendation by the Planning Commission as to such conditions. Such conditions shall be limited to conditions applicable to the division of the property at the time the applicant acquired an interest therein unless the applicant was the owner of the property at the time of an illegal land division, in which event the conditions include those which can be imposed under current land division regulations.

(d) A person applying for a certificate of compliance shall dedicate and improve a right-of-way to the City for public road purposes if such dedication is necessary for access to the affected property. The right-of-way shall be improved with curb, gutter, sidewalk, grading and paving in accordance with the City"s standards for street construction. The right-of-way shall extend across the frontage of the property and shall be in accordance with the standards for street right-of-way as set forth in the Circulation Element of the General Plan.

(e) When the area in the vicinity of the applicant"s property is without existing improved streets, the Planning Director may defer the dedication or improvement of the applicant"s easement. If the Planning Director defers the dedication or improvement, the applicant shall provide an offer of dedication for future public street purposes or surety bond to guarantee the improvements. The offer or surety bond will remain in effect and binding on the applicant and successors in interest until the City Council accepts the offer and requests the improvements or by resolution determines the dedication and improvements are no longer necessary for public use.

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CHAPTER 4. SIGNS

ARTICLE 1. TITLE AND PURPOSES

Sec. 9-4.101. Title.

This chapter shall be known as the "Sign Regulations of the City."

Sec. 9-4.102. Purposes.

This chapter constitutes the requirements applicable to the erection and maintenance of signs within the City. This Chapter supersedes other provisions in this Code regulating signs except Chapter 2 relating to nonconforming uses, conditional use permits, and variances.

ARTICLE 2. DEFINITIONS

Sec. 9-4.201. Scope.

Unless otherwise apparent from the context, the following words and phrases are defined for the purposes of this Chapter.

Sec. 9-4.202. Monument Sign.

"Monument Sign" means a sign having the ground as the primary support or a sign having a ground foundation running the length of the sign.

Sec. 9-4.203. Pole or Ground Sign.

"Pole" or "Ground Sign" means a sign, other than a monument sign, erected on one or more uprights supported from the ground and that is not part of or attached to a building or structure other than a structure erected solely for the purpose of supporting a sign.

Sec. 9-4.204. Political Sign.

"Political sign" shall mean a sign designed to influence voters.

Sec. 9-4.205. Sign.

"Sign" means a name, figure, character, outline, spectacle, display, delineation, announcement, advertising, billboard, signboard, device, appliance, or other thing of similar nature to attract attention outdoors, including parts comprising the same, and the background and support or anchorage.

Sec. 9-4.206. Temporary Sign.

"Temporary Sign" means a sign intended for use during a limited period of time.

Sec. 9-4.207. Billboard.

"Billboard" means a flat surface sign with an area between 64 square feet and 300 square feet.

ARTICLE 3. GENERAL PROVISIONS

Sec. 9-4.301. Permits Required.

No permanent and temporary sign shall be erected or maintained without a sign permit.

Sec. 9-4.302. Applications.

Applications for a sign permit shall be made to the Planning Director and shall include the following:

(a) In the case of permanent signs, two (2) copies of a plan showing:
(1) Position of sign and its relation to adjacent buildings or structures; and
(2) The design and size, colors proposed, and proposed location on the premises of such signs or sign structures;

(b) In the case of temporary signs, a statement detailing the size and dimensions of all temporary signs to be placed;

(c) A statement showing the sizes and dimension of all signs existing on the premises at the time of making such application;

(d) A fee, as established by resolution of the City Council; and

(e) Such other information as the Director may require to show full compliance with this chapter and other ordinances of the City.

Sec. 9-4.303. Exemptions.

The following signs are exempt from this chapter:

(a) Signs prohibiting trespassing and hunting or fishing not exceeding two square feet in area;

(b) Warning signs required by law or erected by public agencies, including railroad signal signs;

(c) Utility company signs identifying public telephones, cables, conduits, or hazards;

(d) Public notices and announcements authorized by courts or public officials, including highway directional signs.

(e) Street location signs and other public directional signs and signs of an instructive nature of which information required by city, county, state or federal enforcement agencies including, but not limited to, the following: gas pump instructions, recreational vehicle dump station, restroom identification, smog station, air, water, cashier, hours of operation, etc. Each sign shall not exceed four square feet in area and thirty inches in height.

(f) Advertising signs on buses and taxis and signs attached to bus stops and shelters;

(g) Signs painted on or are attached flat against vehicles which identify or advertise the associated business. The vehicle must be primarily used for business and parked on private property as a normal function;

(h) Window display signs limited to painting signs on glazing, post paper signs and placards attached to the inside of glazing of store fronts; however, the store front glazing shall not be covered in excess of fifty percent;

(i) Signs not visible outside the limits of the lot upon which the sign is located;

(j) Residential name and address signs not exceeding two square feet in area;

(k) Portable, temporary, off-site directional real estate signs located on private property used in conjunction with open house real estate sales activities provided that each portable directional sign does not exceed a height of two and one-half feet and an area of four square feet, and is not located within a road or street right-of-way. Signs shall be on display only when real estate is open for inspection.

(l) The official flag of a government, government agency, public institution, religion, corporation or other similar entity. Only one flat pole, with no more than three flags, with a maximum height of thirty feet and with a maximum dimension on the flag(s) of eight feet in its largest dimension and which is not attached to the building shall be exempt;

(m) Flags flown on a temporary basis for the purpose of honoring declared national or civic holidays that do not exceed eight feet in the largest dimension;

(n) Signs placed on public property pursuant to a signed lease or agreement;

(o) Electronic time and temperature signs as part of an on-site advertising sign, as regulated by development standards;

(p) Exit, entrance, or other on-site traffic control signs are permitted. The signs should not exceed six feet in height and shall contain no advertising;

(q) Sign regulations may be waived if the signs are included as part of a project for which a Planned Unit Development (PUD) plan is required.

Sec. 9-4.304. Prohibitions.

The wind activated signs and signs not specifically permitted by this chapter are prohibited in all zoning districts.

Sec. 9-4.305. Duration of Permits.[123]

Building permits for signs shall have a one-year duration commencing the date the permit is issued. If the applicant for a sign permit is required to obtain a business license, the duration of the sign permit shall be the same as the business license.

Sec. 9-4.306. Special Permits.

(a) The following signs are permitted upon the issuance of a special permit by the Planning Director: moving or rotating signs; signs with flashing, moving or animated illumination; roof signs and signs extending above roofs; signs projecting from buildings; and signs attached to a fence or wall.

(b) Whenever a special permit is required or requested, property owner shall file an application with the Planning Director setting forth information concerning the proposal as required by the Director. The Planning Director shall review the application and present a written report with recommendations to the Planning Commission and to the applicant.

(c) The Commission shall hold a public hearing on the proposed special permit. Notice of the hearing shall be given at least ten days prior to the hearing by publication, once in a newspaper of general circulation within the City. Such notice may also be posted in three public places in the City, including one public place in the area directly affected by the proceeding. The Commission shall consider the report of the Planning Director. Interested persons, including the applicant and the Planning Director, shall be allowed to testify and present evidence. At the conclusion of the hearing, the Commission shall render its decision by approving, conditionally approving, or disapproving the permit application. The Commission shall approve findings supporting the decision unless waived by all affected parties.

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123 Added by Ord. No. 10-686 on 3/16/10.

(d) Any interested party may appeal the decision of the Commission to the Council by filing a written notice of appeal with the City Clerk within fifteen days after the Commission approves its findings, or if findings are waived, within fifteen days after the Commission renders its decision. The City Clerk shall cause a notice of the appeal and of a hearing to consider the appeal to be given in the same manner as the Secretary's notice for the Commission's hearing. In the event of appeal, the Council shall consider all evidence presented to the Commission and such added evidence the Council deems appropriate. At the conclusion of the hearing, the Council shall render its decision by affirming, conditionally affirming, or reversing the Commission's decision. The Council shall approve findings supporting the decision unless waived by all affected parties.

Sec. 9-4.307. Political Signs on Property.

(a) Political signs are permitted with the owner"s permission on private property in any zone.

(b) Political signs may be installed within rights of way adjacent to City streets, but not within medians of City streets, if the following requirements are met:

(1) A refundable cleaning deposit in the amount of $50.00 for the first ten signs, and $100.00 for signs in excess of ten if posted within the City. The deposit will be waived for a candidate who shows indigence.

(2) Signs are removed within fifteen days after the election to which they relate or if the signs are not removed, the City shall remove the signs and deduct the actual costs of removal from the deposit set forth above.

(3) A sign larger than thirty-two square feet in area shall not be erected until a building permit is secured from the City.

(4) Political signs shall not be erected more than sixty days prior to an election.

(c) A political sign not posted in conformance with this Section shall be deemed a public nuisance and the City may order its removal upon five days" notice to the candidate, property owner or person responsible for the sign.

Sec. 9-4.308. Review of Applications.

Signs which meet the limitations of this chapter shall be reviewed by the Planning Director. The Planning Director may approve, approve with modification, or deny any application subject to the criteria of this section. Any staff decision may be appealed to the Planning Commission. Sign applications which do not meet the limitations of this chapter may be submitted to the Planning Commission. Any decision by the Planning Commission may be appealed to the City Council. Any appeal must be filed in writing, together with a fee as established by resolution of the City Council, within fifteen days after the decision is made. The Planning Director and/or Commission shall apply all the following criteria as the basis for action:

(a) The sign is necessary for the applicant's substantial trade and property rights, does not infringe upon the rights of others, and the sign does not constitute needless repetition, redundancy, or proliferation of signing.

(b) The sign is consistent with the intent and purpose of this chapter.

(c) The sign does not constitute a detriment to public health, safety or welfare.

(d) Size, shape, color and placement of the sign shall be considered in order to determine if the sign is compatible with and bears a harmonious relationship to the building and/or site which it identifies.

(e) Both the location of the proposed sign and the design of its visual elements: lettering, colors, decorative motifs, spacing, and proportions shall be considered in order to determine the sign is legible under normal viewing conditions prevailing where the sign is to be installed.

(f) The location and design of the proposed sign shall be considered in order to determine

the sign will not obscure from view or unduly detract from existing adjacent signs.

(g) The location and design of the proposed sign, its size, shape and color shall be considered in light of the visual characteristics of the surrounding area in order to determine the sign will not detract from or cause depreciation of the value of adjacent developed properties.

(h) The location and design of a proposed sign in commercial districts in close proximity to any residential district shall be considered in order to determine the sign shall not have any adverse effect on the value and character of the adjacent residential district.

Sec. 9-4.309. Maintenance.

Every sign shall be maintained in a safe, presentable and sound structural condition. The replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance shall be done in a timely manner but not to exceed thirty days from date of notice. The Planning Director shall require compliance with this section.

Sec. 9-4.310. Hazardous signs.

(a) No sign shall be erected in such a manner as to constitute a traffic or pedestrian hazard. Illuminating lights shall be shielded from the direct view of traffic. The words “stop,” “look,” “danger,” or any other word of similar import, shall not be used if they would confuse or mislead traffic.

(b) No sign shall be erected at the intersection of public streets within the triangular area formed by connecting two points twenty-five feet from the intersecting lines formed by projecting street property lines toward the intersection unless the faces of the sign are less than two and one half feet or more than eight feet above the curb grade, and its means of support has a maximum horizontal dimension of not more than one foot.

Sec. 9-4.311. Minor Variance – Procedure.

The Planning Director may authorize minor variances from the requirements of this Chapter when the variance does not significantly affect adjacent property.

(a) The Planning Director shall notify the property owner and the adjacent property owners of his intended decision and shall post a copy of his intended decision at least fifteen days prior to its effective date. An interested person may appeal the decision of the Planning Director concerning a minor variance. The decision of the Planning Director is null and void if an appeal is filed and the Commission shall act upon the application. Appeals must be filed before the effective date.

(b) An interested party may appeal the decision of the Commission to the Council by filing a written notice of appeal with the City Clerk within fifteen days after the Commission renders its decision.

Sec. 9-4.312. Abandoned Signs.

Onsite signs shall be removed within three months after a business is discontinued at a location at the expense of the property owner.

Sec. 9-4.313. Area Calculations.

The following methods shall be used to compute the area of a sign:

(a) The area of a monument or pole sign is to be computed by multiplying the total height by the total length of the sign or signs for one-sided signs, excluding framework. The base of the sign is not part of the sign when constructed on masonry.

(b) Where a two-sided monument or pole sign contains identical copy on each side, the area of the sign shall be computed by multiplying the total height by the length of one side only.

(c) The area of a freestanding sign which has three or more faces shall be computed by adding the areas of each face of the sign.

(d) The area of a freestanding sign that is an object or statuary shall be computed by the appropriate mathematical equation for determining total surface area of an object.

(e) Where the copy differs on each side of a sign, the total area shall be computed by adding together the areas of each side.

(f) A sign not in compliance with this Chapter, but existing is in violation of this section in 1998. Time extensions may be considered on the basis of amortization of initial cost of sign. Extensions may also be allowed for signs which possess features that make them a significant part of the historical heritage of the community.

ARTICLE 4. SIGNS PERMITTED

Sec. 9-4.401. R-1 and Interim Zones.

The following signs may be erected and maintained in the R-1 and interim zones provided they are located at least fifteen feet from any street or property line:

(a) One unlighted sign of not more than two square feet in area attached parallel with the front wall of the building and containing only the name and title or occupation of the occupant;

(b) For up to one year, one unlighted sign of not more than four square feet in area advertising the premises for sale, lease, or rent located at the bottom of the sign and not more than two feet above grade;

(c) One non-illuminating sign of not more than four square feet in area and not more than two feet above grade giving the names of the contractors, engineers, architects, or other persons furnishing services during a construction period, provided such sign is not illuminated and further provided the bottom of such sign is located not more than two feet above grade; and

(d) One unlighted sign of not more than four square feet in area pertaining to the sale, lease, or hire of any building, property, or premises; and

(e) Two unlighted signs of not more than thirty-two square feet each on property advertising the sale of developments or lot subdivisions containing an area of not less than two and one-half acres.

Sec. 9-4.402. Other Zones.

Signs may be erected in other than R-1 Zones without limitation as to size or number as long as such signs are constructed in accordance with the City"s building regulations, do not constitute a safety hazard and otherwise comply with this Code.

Sec. 9-4.403. Monument Signs.

Freestanding monument signs shall meet the following standards:

(a) No sign shall be located within existing or future right-of-way without approval of the City Council.

(b) The maximum height of the sign shall be twelve feet and eighteen feet for commercial

centers.

(c) Signs shall be a minimum of ten feet from property lines and shall be a minimum of twenty feet apart.

(d) Lighting of signs shall be arranged so as not to produce a glare on other properties in the vicinity.

(e) The maximum width of the sign shall be twelve feet.

(f) The maximum area of the message area of a sign shall be eighty square feet.

Sec. 9-4.404. Pole Signs.

Freestanding pole signs shall meet the following standards:

(a) The maximum area of the sign shall not exceed three hundred square feet.

(b) No part of the sign shall extend into existing or proposed street or right-of-way line or across property lines.

(c) The maximum height shall be thirty feet.

(d) Signs shall be a minimum of ten feet from common property lines and shall be a minimum of twenty-five feet apart.

Sec. 9-4.405. Building Signs.

Signs attached to a building or a wall shall meet the following standards:

(a) The signs shall be attached flat against the building and parallel thereto. Signs shall not extend more than eighteen inches from the wall of a building. (For the purpose of this section, a wall is a surface not less than sixty degrees from the horizontal.)

(b) The signs shall not exceed fifty square feet and the length shall not be greater than three times the width.

(c) The signs may be located below the soffit of a canopy, overhang or porch and may be perpendicular to the building, but are not closer than twelve inches to the soffit or beam and maintain a minimum of eight feet vertical clearance along corridors, sidewalks or exit courts which are below the sign.

(d) Lighting of the signs shall be arranged so as not to produce a glare on other properties in the vicinity, and the source of light shall not be visible from adjacent properties or a public street (neon excluded).

Sec. 9-4.406. Subdivision Signs.

Permanent identification signs, including signs which identify subdivisions, mobile home parks, apartments, townhouses, condominiums or any other residential project, shall meet the following standards:

(a) The signs shall be attached to an entrance gateway structure or monument sign.

(b) The sign shall be located and maintained in a landscaped area on a parcel within the subdivision at a primary entrance.

(c) The sign shall not be illuminated except for low silhouette spot lighting which shall not create glare on other properties in the vicinity.

(d) The design and materials of the sign shall be approved by the Planning Director.

Sec. 9-4.407. Agricultural Signs.

Signs advertising agricultural products raised or produced on the same property may be erected in agricultural zones and shall meet the following standards:

(a) There shall be no more than one sign per legal lot.

(b) The sign shall be a minimum of ten feet from the ultimate street right-of-way.

(c) The sign shall not exceed sixteen square feet in area and shall not exceed six feet in height.

(d) The sign shall not be illuminated.

(e) The sign shall be stationary.

(f) The sign shall be an on-site sign.

Sec. 9-4.408. Institutional Signs.

Signs which identify churches, schools, hospitals, colleges, universities, and social service organizations, including fraternal and benevolent, must be located on the same property and shall meet the following standards:

(a) There shall be no more than two signs per each street frontage, not to exceed a total of six such signs per lot.

(b) Each sign shall be a monument sign not exceeding six feet in height, or a wall sign which does not extend beyond the roof line or parapet wall of the building.

(c) Lighting of such signs shall be indirect, non-flashing and shall not produce a glare on other adjacent properties.

(d) The signs shall not extend into any existing or proposed road or street right-of-way.

(e) Generally recognized and acceptable religious or institutional symbols that are freestanding, are attached to or part of a church or monument sign may be exempted by the Planning Director from limitations on height and area of signs.

Sec. 9-4.409. Temporary Real Estate Sales Signs.124
Sec. 9-4.410. Temporary Subdivision Signs.125
Sec. 9-4.411. Temporary Construction Signs.126
Sec. 9-4.412. Temporary Special Event Signs.127
Sec. 9-4.413. Temporary Commercial Signs.128

124 Repealed by Ord 06-637 on 2/7/06.
125 Repealed by Ord 06-637 on 2/7/06.
126 Repealed by Ord 06-637 on 2/7/06.
127 Repealed by Ord 06-637 on 2/7/06.
128 Repealed by Ord 06-637 on 2/7/06.

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CHAPTER 5. DEVELOPMENT AGREEMENTS

Section 9-5.101. Purpose and Scope.

The provisions of this Chapter regulate the processing, review and approval of development agreements as authorized by Government Code Sections 65854 et seq.

Section 9-5.102. Application.

(a) A property owner who desires to enter into a development agreement shall make application on forms provided by the Planning Director.

(b) The Planning Director shall present a report and recommendation on the application to the Planning Commission for review at a duly noticed public hearing as set forth below.

Section 9-5.103. Notices.

(a) The Planning Secretary shall give notice of intention to consider adoption of the development agreement prior to consideration of the proposed agreement by the Commission.

(b) The notice shall contain:
- (1) The time and place of the hearing;
- (2) A general explanation of the matter to be considered including a general description of the area affected; and
- (3) Other information required by specific provision of these regulations or which the Secretary considers necessary or desirable.

(c) The notice shall be given by:
- (1) Publication at least once in a newspaper of general circulation, published and circulated in the City.
- (2) Mailing to persons shown on the last equalized assessment roll as owning real property within three hundred feet of the property which is the subject of the proposed development agreement. If the number of owners to whom notice is to be mailed is greater than 1,000, the Planning Secretary may provide notice in the manner set forth in Government Code section 65854.5(b).

Section 9-5.104. Hearing.

(a) The public hearing shall be conducted by the Commission in accordance with the procedural standards for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

(b) No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that error complained of was prejudicial and that by reason of the error the

complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not presumption that error is prejudicial or injury was done if error is shown.

Section 9-5.105. Contents of Agreement.

A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide construction shall be commenced within a specified time and the project or phase be completed within a specified time.

Section 9-5.106. Other Regulations.

Unless otherwise provided by the development agreement, rules, regulations and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

Section 9-5.107. Commission.

At the conclusion of the hearing, the Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Commission‟s determination whether or not the development agreement proposed is:

(a) Consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

(b) Compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

(c) In conformity with public convenience, general welfare and good land use practice;

(d) Detrimental to the health, safety and general welfare; and

(e) Adversely affecting the orderly development of property or the preservation of property values.

Section 9-5.108. Council.

(a) The Council shall conduct a duly noticed public hearing to consider the Commission's recommendations. The hearing shall be called and conducted in the same manner as the Commission hearing is called and conducted.

(b) After the hearing, the Council may accept, modify or disapprove the recommendation of the Planning Commission. The Council may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the Council.

(c) The Council may not approve the development agreement unless it finds the agreement is consistent with the general plan and applicable specific plans.

(d) The Council shall approve the development agreement, if at all, by ordinance. The City may enter into the agreement after the ordinance is effective.

Section 9-5.109. Recordation.

(a) Within ten days after the City enters into the development agreement, the City Clerk shall have the agreement recorded.

(b) If the agreement is amended or terminated, the City Clerk shall have notice of such action recorded.

Section 9-5.110. Periodic Review.

(a) The Commission shall conduct a hearing to review the development agreement at least every twelve months from the date of the agreement. The time for review may be modified either by agreement between the parties in one or more of the following ways:
(1) Recommendation of the planning staff;
(2) Affirmative vote of at least three members of the Planning Commission; and
(3) Affirmative vote of at least three members of the Council.

(b) The City Clerk shall begin the review proceeding by giving notice to the property owner the City intends to undertake a periodic review of the development agreement at least thirty days in advance of the hearing.

(c) At the public hearing, the property owner must demonstrate good faith compliance with the terms of the agreement. The Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

(d) If the City finds and determines on the basis of substantial evidence the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded. If the City finds and determines on the basis of substantial evidence the property owner has

not complied in good faith with the terms and conditions of the agreement during the period under review, the City may modify or terminate the agreement.

(e) The property owner may appeal a determination pursuant to this section to the Council.

CHAPTER 6. DEFERRED IMPROVEMENTS

ARTICLE 1. GENERAL

Sec. 9-6.101. General.

This Chapter describes how the City will keep, invest and disburse money collected for the construction of subdivision improvements.

Sec. 9-6.102. Definitions.

The following terms are defined for the purposes of this Chapter, unless otherwise apparent for context:

(a) "Subdivision Deferred Improvement Tracts" or "SDI Tracts" are 29 tracts within the City subject to a deferred improvement agreement and identified as tract numbers 2898, 2967, 3060, 3061, 3062, 3070, 3071, 3080, 3081, 3139, 3140, 3186, 3187, 3188, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3243, 3245, 3279, 3280, 3281, 3282, 3288, 3353.

(b) "Subdivision Deferred Improvement Lots" or "SDI Lots" are lots within Subdivision Deferred Improvement Tracts.

(c) "Subdivision Deferred Improvement Agreements," "Deferred Improvement Agreements," or "SDI Agreements" means agreements calling for payments by owners of SDI Lots to finance the subsequent construction of certain improvements for SDI Tracts.

(d) "Subdivision Deferred Improvements," "Deferred Improvements," or "SDI Improvements" means the improvements described in the SDI Agreements.

(e) "SDI Advisory Committee" means the committee created to advise the City on compliance with this Chapter. (Sec. 2, Ord. 98-552)

ARTICLE 2. PRESERVATION OF SDI FUND

Sec. 9-6.201. Establishment of SDI Fund.

Money paid by SDI Lot Owners under the SDI Agreements for the construction of SDI Improvements shall be deposited into the SDI Fund.

ARTICLE 3. SDI FUND EXPENDITURES

Sec. 9-6.301. General.

The City shall spend the money in the SDI Fund:

(a) To promptly construct any SDI Improvements remaining for tract numbers 3281, 3282, and 3288.

(b) To construct SDI Improvements for SDI Tracts not identified in (a) as the need arises. As used herein, "construction" means the actual costs related to and necessary to construct and put improvements in place for their intended use, including but not limited to the design, solicitation, evaluation, award of construction contracts and administration of construction contracts.

(c) To pay the costs of maintenance of SDI Improvements. As used herein, "maintenance" means the actual cost of operating and maintaining SDI Improvements, but does not include the cost of administering operation and maintenance programs.

Sec. 9-6.302. Determination of Need for Improvements.

(a) The City"s policy on expenditures of monies in the SDI Fund for the construction of SDI Improvements is to encourage the development of new home construction consistent with prudent municipal development and expending as much of the accumulated money as necessary to provide for and stimulate the development of SDI Tracts. The City"s goal is to develop sufficient interest to require the annual expenditure of 5 to 10 percent or more or less of the accumulated SDI Fund.

(b) On or before May 1st of each year, the City Engineer shall submit a list of proposed SDI Improvements to the SDI Advisory Committee and City Manager. A SDI Lot Owner may also propose an SDI Improvement by submitting a description of the project. Except when an urgency exists, e.g., a home under construction, proposals by SDI Lot Owners shall be reviewed by the City Engineer as described in the annual report. SDI Lot Owners proposing SDI Improvements are encouraged to submit evidence showing how the proposal will benefit SDI Lots and how the proposed improvements will be used at an early date. Proof of impending construction such as working drawings, approved construction loan, monies in escrow, building plans and water meter application must be shown to ensure the SDI Lot Owner is committed to improving the lot.

(c) The SDI Advisory Committee and the City Manager shall evaluate the report of the City Engineer and make recommendations to the City Council concerning the construction of the SDI Improvements as part of the annual budget process. The City Engineer shall prepare plans and specifications for each SDI Improvement project identified in the approved budget and shall submit such plans and specifications to the Council for action during the first quarter of each fiscal year. SDI Improvement projects identified in the approved plans and specifications shall be constructed as soon as feasible, taking into consideration variations in staffing, climate, and staging of projects.

Sec. 9-6.303. Maintenance of SDI Improvements.

(a) The City may expend monies from the SDI Fund to maintain SDI Improvements and pay for administrative expenses as permitted by this chapter under the terms and conditions of this Section.

(b) Money shall annually be transferred from the SDI Fund to the City"s General Fund for such purpose and shall not exceed the Lessor of:

(1) $290,000 per fiscal year, which total may be an average of such expenditures over a four-year period.

(2) The amount of money in the SDI Fund attributable to investment earnings (as opposed to principal).

(3) The amount of money in the SDI Fund which the City Engineer and the Finance Director jointly certify to exceed the anticipated cost of constructing outstanding SDI Improvements for SDI Tracts.

(4) The cost of maintaining SDI Improvements.

ARTICLE 4. ENFORCEMENT
Sec. 9-6.401 – 9-6.404 re: SDI Advisory Committee:
Repealed by Ord. 06-643 on 12/10/06.]