

CORRECTED FOR CLERICAL ERROR 12/7/07

ORDINANCE NO. 3461-C.S.

AN ORDINANCE AMENDING SECTION 10-2.2112 OF ARTICLE 21 OF CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE RELATING TO SIGN REGULATIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 10-2.2112 of Article 21 of Chapter 2 of Title 10 of the Modesto Municipal Code is hereby amended to read as follows:

10-2.2112. SIGN REQUIREMENTS BY ZONE.

Only the signs listed this in section are permitted in the applicable zoning districts.

- (a) **Residential zones.** Any sign installed within the R-1, R-2, or R-3 zoning districts shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-1.
- (b) **Professional Office (P-O) zone.** Any sign installed within the P-O zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-2.
- (c) **Commercial and industrial zones, other than C-3.** Any sign installed within the C-1, C-2, C-M, M-1, and M-2 zoning districts shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-3.
- (d) **Highway Commercial (C-3) zone.** Any sign installed within the C-3 zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-4. Freestanding business identification signs are allowed within the C-3 zone as follows.
 - (1) **Permit requirement.** Administrative approval by Director is required.
 - (2) **Type of signs allowed.** All freestanding business identification signs within the C-3 zone shall be monument signs.

(3) **Maximum number of signs and required site characteristics.** The following provisions shall apply to each parcel or, where multiple parcels constitute a shopping center, to each center:

(i) For sites with up to one hundred (100) feet of frontage on any single street, one sign with a maximum area of twenty-four (24) square feet (plus four (4) square feet for a street address), not to exceed six (6) feet in height.

(ii) For sites with from one hundred (100) feet to two hundred (200) feet of frontage on any single street, one sign with a maximum area of forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.

(iii) For sites exceeding two hundred (200) feet in frontage along a single street, one sign with a maximum area of seventy-two (72) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height. If the total frontage on any single street exceeds four hundred (400) feet, the site shall be allowed one additional sign for each additional two hundred (200) feet of frontage beyond the first two hundred (200) feet of frontage, each limited to no greater than forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.

(iv) For sites having frontage on more than one street, the number and size of signs on each street shall be in accordance with that allowed for the length of each frontage as if considered individually, except that in no case shall any site be allowed more than one sign greater than forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.

(4) **Removal of directional signs required.** A freestanding business identification sign may be permitted only where any existing, exterior directional signs for all businesses on the site are first removed. No new exterior directional signs shall be installed thereafter.

(e) **Business Park (B-P) zone.** Any sign installed within the B-P zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-5.

- (f) **Planned Development (P-D) zone.** Any sign installed within the P-D zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional sign requirements established as a condition of the applicable P-D zone, which shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the specific P-D zone.

**TABLE 21-1
SIGNS PERMITTED IN RESIDENTIAL ZONES (R-1, R-2, R-3)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Residential uses	Resident/dwelling name plate	1 per dwelling unit	1 sf	Height of wall	None
	Gateway	1 on each side of a driveway serving 5 or more dwellings	12 sf each	36 in	Sign copy shall be limited to housing project name and logo, street name and address, and/or for sale, rent, or lease.
Identification - Conditional uses (1)	Freestanding, identification or bulletin board	1 per site	25 sf, plus 4 sf for required street address	6 ft	None
	Freestanding, school or church identification		72 sf	20 ft	CUP required.
	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of wall	35 ft	Shall be externally illuminated only.
Identification - Nonconforming uses (2)	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of any wall facing a public street	35 ft	Shall face a public street; and shall be externally illuminated only.
	Window		No limitation on area	Height of window	Shall face a public street; and shall be externally illuminated only, except for neon signs inside of windows.
Directional	Freestanding, exterior	1 per driveway or pedestrian walkway serving 5 or more dwellings	12 sf	Freestanding sign: 6 ft Wall sign: 12 ft	Sign copy shall be limited to street name and address, housing project name and logo, and/or for sale, rent, or lease.
(Continues)	Freestanding, interior	No limitation on number	6 sf each	6 ft	None

**TABLE 21-1
SIGNS PERMITTED IN RESIDENTIAL ZONES (R-1, R-2, R-3)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Directional (continued)	Garage sale	2 per garage sale	3 sf each	5 ft	Shall be: unlighted; displayed only when sale is actually being conducted; and only installed on private property with the consent of the owner. These signs shall not be placed on street trees, utility poles, or otherwise within public rights-of-way.
Real estate	Freestanding or wall - For sale or rent	1 per street frontage	8 sf each	6 ft	Shall be unlighted.
	Freestanding - Open house	5 for each house or group of houses offered by the same realtor at the same location	3 sf each	42 in	Shall be unlighted and in place during daylight hours only. Message shall be limited to real estate office name. The signs shall only be installed on private property with the consent of the owner.
	Freestanding - Subdivision sales	See Section 10-2.2114(m)			
Construction	Freestanding or wall	1 per site	64 sf	10 ft	Shall be removed within 30 days after completion of construction.
Political	Freestanding - On parcels with a residential structure	No limitation on number	6 sf each, and a maximum combined total of 60 sf	6 ft	Signs shall be unlighted. Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election.
	Freestanding - On parcels with no residential structure		32 sf each, and a maximum combined total of 100 sf	10 ft	

Notes:

- (1) These signs are allowed only for uses that are required by Chapter 2 of Title 10 of the Municipal Code (Zoning Regulations) to have conditional use permit approval in the applicable zoning district.
- (2) Allowed only for the purpose of replacing one nonconforming use with another nonconforming use, in compliance with Article 22 of Chapter 2 of Title 10 of the Municipal Code (Nonconforming Uses).

**TABLE 21-2
SIGNS PERMITTED IN THE P-O ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Residential uses	Resident/dwelling name plate	1 per dwelling unit	1 sf	Height of wall	Shall be wall mounted and unlighted.
Identification - Non-residential uses	Freestanding	1 per street frontage	16 sf, plus 4 sf for required street address	8 ft	The sign facing the street which provides the street address of the site shall include a street address. See 10-2.2114.L.
	Canopy and wall		0.5 sf in combined area for each linear foot of wall	35 ft	None
Identification - For uses also allowed in the R-3 zone with CUP approval (1)	Freestanding, identification or bulletin board	1 per site, in addition to the signs for nonresidential uses above	25 sf, plus 4 sf for required street address	6 ft	None
	Freestanding, school or church identification		72 sf	20 ft	Conditional Use Permit approval required for sign.
Identification - Nonconforming uses (2)	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of any wall facing a public street	35 ft	Shall face a public street; and shall be externally illuminated only.
(Continues)	Window		No limitation on area	Height of window	Shall face a public street; and shall be externally illuminated only, except for neon signs inside of windows.

Directional	Freestanding, exterior	1 per driveway or pedestrian walkway serving 5 or more dwellings	12 sf	Freestanding sign: 6 ft Wall sign: 12 ft	Sign copy shall be limited to street name and address, housing project name and logo, and/or for sale, rent, or lease.
	Freestanding, interior	No limitation on number	6 sf each	6 ft	None
	Garage sale	2 per garage sale	3 sf each	5 ft each	Shall be: unlighted; displayed only when sale is actually being conducted; and only installed on private property with the consent of the owner. These signs shall not be placed on street trees, utility poles, or otherwise within public rights-of-way.
Real estate	Freestanding or wall - For sale or rent	1 per street frontage	8 sf each	6 ft	Shall be unlighted
	Freestanding - Open house	5 for each house or group of houses offered by the same realtor at the same location	3 sf each	42 in	Shall be unlighted and in place during daylight hours only. Message shall be limited to real estate office name. The signs shall only be installed on private property with the consent of the owner.

Construction	Freestanding or wall	1 per site	64 sf	10 ft	Shall be removed within 30 days after completion of construction.
Political	Freestanding - On parcels with a residential structure	No limitation on number	16 sf each, and a maximum combined total of 60 sf	6 ft	Signs shall be unlighted. Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election.
	Freestanding - On parcels with no residential structure		32 sf each, and a maximum combined total of 100 sf	10 ft	

Notes:

- (1) These signs are allowed only for land uses that are also allowed in the R-3 zone with conditional use permit approval.
- (2) Allowed only for the purpose of replacing one nonconforming use with another nonconforming use, in compliance with Article 22 of Chapter 2 of Title 10 of this Code (Nonconforming Uses).

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding, or	1 freestanding, or 1 projecting, or 1 marquee per use, except in shopping centers (see 10-2.2114(k), and "Shopping Center Identification Signs" below). A second marquee sign is allowed if the 2 signs are single-faced, parallel, and placed on opposite ends of the marquee. A pylon/pole sign that existed on 3/1/77 which extends above the ridgeline may remain as a nonconforming sign in addition to one of the allowed signs.	Freestanding: 72 sf, plus 4 sf for a street address, as required by 10-2.2114(l).	20 ft	None
	Projecting, or		Projecting: 72 sf; 48 sf, if any portion of the sign projects over a street or alley right-of-way.	35 ft or the height of the ridgeline, whichever is less	
	Marquee		Marquee: 48 sf		
(Continues)	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-10.2110(c).	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in compliance with 10-2.2110(c).
	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft		
Identification (continued)	Window	No limitation on number	No limitation	No limitation	None

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g)			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Shopping center identification	Freestanding	1 for each street frontage of the center.	72 sf, plus 4 sf for a street address, as required by 10-2.2114	20 ft	See 10-2.2114(k)
	Freeway-oriented	See Section 10-2.2114(g)			
Directional	Freestanding, exterior	1 per use for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
(Continues)	Restaurant and car wash menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants and car washes only

Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None
Political	Freestanding	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frames, banners, flags, etc	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones				

**TABLE 21-4
SIGNS PERMITTED IN THE C-3 COMMERCIAL ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding - See Section 10-2.2112(d).	See Section 10-2.2112(d).	See Section 10-2.2112(d).		Sign may be permitted only where any existing, exterior directional signs for all businesses on the site are first removed. No new exterior directional signs shall be installed thereafter. See 10-2.2112(d).
	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-10.2110(c).	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in compliance with 10-2.2110(c).
	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft		
(Continues)					

Identification (continued)	Window	No limitation on number	No limitation	No limitation	None
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g)			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Shopping center identification	Freeway-oriented	See Section 10-2.2114(g)			
Directional	Freestanding, exterior (Note: these signs are allowed only when the site and business have no freestanding identification sign as allowed by 10-2.2112(d).)	1 for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No Business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
(Continues)	Restaurant and car wash menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants and car washes only

Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None
Political	Freestanding or wall	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frames, banners, flags, etc	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones				

**TABLE 21-5
SIGNS PERMITTED IN THE B-P (BUSINESS PARK) ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding - Individual business identification	1 sign per site	72 sf, plus 4 sf for required street address	20 ft	Sign shall include street address per 10-2.2114(l).
	Freestanding - Business park identification	1 sign for business park	72 sf	6 ft	BZA approval of plot plan required. Sign copy shall be limited to business park name and logo.
	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-10.2110(c).	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in compliance with 10-2.2110(c).
	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft		
(Continues)					

Identification (continued)	Window	No limitation on number	No limitation	No limitation	None
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g).			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Directional	Freestanding, exterior	1 for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No Business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
(Continues)	Restaurant menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants only

Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None
Political	Freestanding or wall	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frame signs, banners, flags, etc.	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones, except in compliance with Section 10-2.2114(i).				

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3461-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December, 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3462-C.S.

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2007 CALIFORNIA PLUMBING CODE, REGULATING AND GOVERNING THE ERECTION, INSTALLATION, ALTERATION, REPAIR, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF PLUMBING AND DRAINAGE SYSTEMS AND PARTS THEREOF IN THE CITY OF MODESTO; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 2 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 2 - PLUMBING CODE

ARTICLE 1. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA PLUMBING CODE

9-2.101. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA PLUMBING CODE.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2007 California Plumbing Code, California Code of Regulations, Title 24, Part 5, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), as now existing, or hereafter amended, regulating and governing the erection, alteration, installation, repair, relocation, replacement, addition to, use or maintenance of plumbing and drainage systems and parts thereof for the protection of public health and safety, providing for the issuance of permits and collection of fees, providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2007 California Plumbing Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed

in this Chapter, be and hereby is adopted as the Plumbing Code of the City of Modesto.

ARTICLE 2. GENERAL CODE PROVISIONS

9-2.201. TITLE.

These regulations shall be known as the "Plumbing Code of the City of Modesto," and may cited and referred to herein as such or may be cited and referred to herein as the "Plumbing Code," the "2007 California Plumbing Code," the "California Plumbing Code," or "this Code."

9-2.202. PURPOSE.

The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access for persons with disabilities, sanitation, adequate light and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to firefighters and emergency responders during emergency operations.

9-2.203. SCOPE.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto.

9-2.204. APPENDICES.

Provisions contained in the appendices of the 2007 California Plumbing Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

9-2.205. MAINTENANCE.

All plumbing or drainage systems, materials, and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition. All devices or safeguards required by this Code shall be maintained in conformance with the code edition under which installed.

9-2.206. ADDITIONS, ALTERATIONS, OR REPAIRS.

Additions, alterations, or repairs may be made to any plumbing or drainage system, or parts thereof, or equipment without requiring the existing to comply with all the requirements of this Code, provided the addition, alteration, or repair conforms to that required for new installation. Additions, alterations, or repairs shall not cause an existing system to become unsafe, unsanitary, or overloaded.

9-2.207. MOVED BUILDINGS.

Plumbing or drainage systems and all parts thereof, that are part of buildings or structures moved into the City of Modesto shall comply with the provisions of this Code for new installations.

Exception: All parts of the plumbing or drainage system of any building, or parts thereof, that is moved from one foundation to another, or from one location to another, shall be completely tested as prescribed elsewhere in this Code for new work, except that walls or floors need not be removed during such test when other equivalent means of inspection acceptable to the Building Official are provided.

9-2.208. MOST RESTRICTIVE; SPECIFIC REQUIREMENT.

Where, in any specific case, different sections of this Code specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

9-2.209. OTHER LAWS.

The provisions of this Code shall not be deemed to nullify any provision(s) of local, state, or federal law.

9-2.210. APPLICATION OF REFERENCES..

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

9-2.211. REFERENCED CODES AND STANDARDS.

The codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where

differences occur between provisions of this Code and referenced codes and standards, the provisions of this Code shall apply, unless stated otherwise.

9-2.212. PARTIAL INVALIDITY.

In the event that any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this Code.

9-2.213. EXISTING INSTALLATIONS.

Plumbing systems or equipment lawfully in existence at the time of the adoption of this Code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such system or equipment.

9-2.214. EXISTING BUILDING SEWERS AND DRAINS.

Existing building sewers and drains may be used in connection with new buildings or new plumbing and drainage work only when they are found on examination and test to conform in all respects to the requirements governing new work, and the Building Official shall notify the owner to make any changes necessary to conform to this Code. No building or part thereof shall be erected or placed over any part of a drainage system which is constructed of materials other than those approved elsewhere in this Code for use under or within a building.

9-2.215. DRAINAGE OPENINGS.

All openings into a drainage or vent system, excepting those openings to which plumbing fixtures are properly connected or which constitute vent terminals, shall be permanently plugged or capped in an approved manner, using the appropriate materials required by this Code.

9-2.216. CONFLICTS BETWEEN PLUMBING AND MECHANICAL CODE.

When the requirements within the jurisdiction of the Plumbing Code referenced in Section 9-2.101 conflict with the Mechanical Code referenced in Section 9-7.101, the Plumbing Code shall prevail.

ARTICLE 3. BUILDING SAFETY DIVISION

9-2.301. CREATION OF ENFORCEMENT AGENCY.

The Building Safety Division is hereby created and the official in charge thereof shall be known as the Building Official.

9-2.302. APPOINTMENT.

The Building Official shall be appointed by the Community and Economic Development Department (C&ED) Director, in accordance with the prescribed personnel procedures of the City of Modesto.

9-2.303. DEPUTIES.

In accordance with the prescribed personnel procedures of the City of Modesto and with the concurrence of C&ED Director, the Building Official shall have the authority to appoint a Deputy Building Official, the related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers as delegated by the Building Official.

ARTICLE 4. DUTIES AND POWERS OF THE BUILDING OFFICIAL

9-2.401. GENERAL.

The Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this Code and to adopt policies and procedures, and enforce policies and procedures, rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in compliance with the intent and purpose of this Code. Such policies and procedures, rules and regulations shall not have the effect of waiving the requirements specifically provided for in this Code. Such interpretations may be appealed to the Board of Building Appeals.

The language used in this Code is intended to convey the common and accepted meaning familiar to the building industry.

9-2.402. APPLICATIONS AND PERMITS.

The Building Official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, and moving of buildings

and structures, plumbing, electrical, and mechanical systems or equipment, or parts thereof, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this Code.

9-2.403. NOTICE OF VIOLATIONS; NOTICE AND ORDERS.

The Building Official shall issue all necessary notice of violations or notice and orders to ensure compliance with this Code.

9-2.404. INSPECTIONS.

The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as is deemed necessary to report upon unusual technical issues that arise. The Building Official's decision may be appealed to the Board of Building Appeals.

9-2.405. IDENTIFICATION.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

9-2.406. RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this Code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this Code, which makes the structure or premises unsafe, dangerous, or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or the person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

9-2.407. DEPARTMENT RECORDS.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required by the City of Modesto Records Retention Manual.

9-2.408. NONRESPONSIBILITY OF THE CITY.

Neither the City, nor any department, nor any board, commission, officer, or employee thereof, shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of or failure to issue or the revocation of any permit or certificate of inspection or the making of any inspection under the provisions of this Code, or the issuance of or failure to issue a notice of violation or notice and order.

9-2.409. APPROVED MATERIALS AND EQUIPMENT.

Materials, equipment, and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

9-2.410. USED MATERIALS AND EQUIPMENT.

The use of used materials that meet the requirements of this Code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

9-2.411. MODIFICATIONS.

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of the action granting modifications shall be recorded and entered in the files of the Building Safety Division.

9-2.412. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically

prescribed by this Code, provided that any such alternative has been approved by the Building Official. An alternative material, design, or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety.

9-2.413. RESEARCH REPORTS.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources.

9-2.414. TESTS.

Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the City of Modesto. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention in the City of Modesto Records Retention Manual.

ARTICLE 5. PERMITS

9-2.501. REQUIRED.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, or equipment or parts thereof, the installation of which is regulated by this Code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

9-2.502. WORK EXEMPT FROM PERMIT.

Exemptions from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other local, state, or federal law.

Gas:

A permit shall not be required for the following:

- (a) Portable heating appliance.
- (b) Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Plumbing:

A permit shall not be required for the following:

- (a) The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with the new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Code.
- (b) The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

9-2.503. EMERGENCY REPAIRS.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted and the permit obtained within the next business day.

9-2.504. REPAIRS.

Repairs to plumbing or drainage systems or other work affecting public health or general safety shall require application to the Building Official and permit obtained.

9-2.505. PUBLIC SERVICE AGENCIES.

A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution, or metering or other related equipment that is under the ownership and control of public service agencies by established right.

9-2.506. APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Building Safety Division for that purpose. Such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use and occupancy for which the proposed work is intended.
- (d) Be accompanied by construction documents and other information as required in Article 6 of this Code.
- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant or the applicant's authorized agent.
- (g) Give such other data and information as required by the Building Official.

9-2.507. ACTION ON APPLICATION.

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefor. If the Building Official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefor as soon as practicable.

9-2.508. TIME LIMITATION OF APPLICATION.

Applications for which a permit has not been issued within one hundred eighty (180) calendar days following the date of application submission shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for request by the applicant showing that circumstances beyond the control of the applicant have prevented action from

being taken on the application. This request must be in writing to the Building Official prior to expiration of the application. No application shall be extended more than once. No extension shall exceed one hundred and eighty (180) calendar days. In order to renew action on the application after expiration, the applicant shall resubmit plans and pay a new plan checking fee.

9-2.509. VALIDITY OF PERMIT.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other local, state, or federal law. Permits presuming to give authority to violate or cancel the provisions of this Code or other local, state, or federal law shall not be valid.

The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure where in violation of this Code or of any other local, state, or federal law.

9-2.510. EXPIRATION.

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of said permit, or if such building or work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of one hundred eighty (180) calendar days, or if the building or work authorized by such permit is not completed seven hundred thirty (730) calendar days from the date of such permit. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half (1/2) the amount required to obtain a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year.

Any permittee holding an unexpired permit may apply for an extension of time within which he may commence the work under that permit when he is unable to commence work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) calendar days upon written request by the permittee showing that circumstances beyond the control of the

permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new permit fee.

9-2.5011. SUSPENSION OR REVOCATION.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this Code whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Code, or other local, state, or federal law.

ARTICLE 6. CONSTRUCTION DOCUMENTS

9-2.601. SUBMITTAL DOCUMENTS.

Construction documents, including but not limited to, plans and other required submittals, statement of special inspections, and other data, shall be submitted with each permit application. The required number of sets to be submitted shall be set forth by the Building Official. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Code.

9-2.602. INFORMATION ON CONSTRUCTION DOCUMENTS.

Construction documents shall be dimensioned and drawn upon suitable material and to an acceptable scale. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules and regulations, as determined by the Building Official.

9-2.603. PLUMBING PLANS.

When required by the Building Official, the permit application must include details for installation of sanitary drainage, equipment and fixtures, gas lines,

calculations, and any other details the Building Official may require to determine compliance to the California Plumbing Code.

9-2.604. EXAMINATION OF DOCUMENTS.

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Code and other pertinent laws or ordinances.

9-2.605. APPROVAL OF CONSTRUCTION DOCUMENTS.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One (1) set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official.

9-2.606. PREVIOUS APPROVALS.

This Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred eighty (180) calendar days after the effective date of this Code and has not been abandoned.

9-2.607. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE.

When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including

phased submittal items, if permitted, for compatibility with the design of the building.

9-2.608. AMENDED CONSTRUCTION DOCUMENTS.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

ARTICLE 7. FEES AND PLAN CHECKING

9-2.701. GENERAL.

Fees shall be assessed in accordance with the provisions of this Chapter or shall be set forth in a fee schedule adopted from time to time by resolution of the City Council of the City of Modesto.

9-2.702. PERMIT FEES.

A fee for each permit shall be paid to the Building Official as set forth in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

The determination of value or valuation under any of the provisions of this Code shall be made by the Building Official. The valuation to be used in computing the permit and plan check fee shall be the total value of all construction work for which the permit is issued as well as all furnished work, roofing, electrical, plumbing, heating, air conditioning systems, and any other permanent work or permanent equipment.

9-2.703. WORK COMMENCING BEFORE PERMIT ISSUANCE.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee as adopted from time to time by resolution of the City Council of the City of Modesto.

9-2.704. PLAN CHECKING FEES.

A plan checking fee, as adopted from time to time by resolution of City Council of the City of Modesto, shall be paid to the Building Official at the time of

submitting application, construction documents and required submittals as specified in Article 6, for checking.

Where plans are incomplete or changed so as to require additional plan checking, an additional plan check fee shall be charged at a rate shown in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

9-2.705. INVESTIGATION FEE.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code, as adopted from time to time by resolution of the City Council of the City of Modesto.

9-2.706. FEES TO GOVERNMENTAL AGENCIES.

No permit fees shall be required for the issuance of building permits to governmental agencies; however, governmental agencies that obtain permits may be charged plan checking and inspection fees to defray the actual cost of these services.

9-2.707. TELEPHONE PERMIT PROCEDURE.

The Building Official is hereby authorized to establish a system for the issuance of routine permits upon telephonic request and to issue such directives and regulations as are deemed necessary to govern the operation and administration of such a system. Said directives and regulations shall have the force and effect of law and a violation thereof shall constitute a violation of this Code. Such a system may provide for the payment of permit fees on permits issued by telephone on an accounts receivable basis.

9-2.708. FEE REFUNDS.

The Building Official is authorized to establish a refund policy for the Building Safety Division. The Building Official may authorize a refund in accordance with said policy.

ARTICLE 8. INSPECTIONS

9-2.801. GENERAL.

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Code or of any local, state, or federal law. Inspections presuming to give authority to violate or cancel the provisions of this Code or of other local, state or federal law shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City of Modesto shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

9-2.802. PRELIMINARY INSPECTION.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.

9-2.803. REQUIRED INSPECTIONS.

The Building Official, upon notification, shall make the inspections set forth in Sections 9-2.804 through 9-1.807.

9-2.804. ROUGH INSPECTION.

Plumbing:

No plumbing or drainage system, building sewer, private sewer disposal system, or part thereof, shall be covered, concealed, or put into use until it has been tested, inspected, and accepted as prescribed by this Code.

9-2.805. OTHER INSPECTIONS.

In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the Building Safety Division.

9-2.806. SPECIAL INSPECTIONS.

For special inspections, see Section 1704 of the California Building Code.

9-2.807. FINAL INSPECTION.

The final inspection shall be made after all work required by the building permit is completed.

9-2.808. REINSPECTIONS.

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when required corrections have not been made.

This provision is not to be interpreted as requiring reinspection fees the first time an inspection is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspection before the project is ready for inspection or reinspection. Reinspection fees may be assessed:

- (a) When the approved plans are not readily available to the inspector.
- (b) For failure to provide access on the date for which the inspection is requested.
- (c) For any deviation from plans requiring the approval of the Building Official.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form for that purpose and pay the reinspection fee as adopted from time to time by resolution of the City Council of the City of Modesto.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

9-2.809. INSPECTION AGENCIES.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

9-2.810. INSPECTION REQUESTS.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Code.

9-2.811. APPROVAL REQUIRED.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

9-2.812. COVERING.

If any plumbing or drainage system, or part thereof, which is installed, altered, or repaired, is covered or concealed before being inspected, tested and approved as prescribed by this Code, it shall be uncovered for inspection, after notice to uncover the work has been issued by the Building Official.

ARTICLE 9. SERVICE UTILITIES

9-2.901. CONNECTION OF SERVICE UTILITIES.

No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by this Code for which a permit is required, until released by the Building Official.

In addition, the structure or building shall pass final inspection as per Article 8 of this Code prior to the connection to the electrical source.

9-2.902. TEMPORARY CONNECTION.

The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

Temporary electrical or gas connection to the electrical or gas source for a period not to exceed thirty (30) calendar days may be granted prior to the final inspection if in the opinion of the Building Official the service is safe. If after thirty (30) calendar days the structure or building has not passed final inspection, the Building Official shall have authority to request the serving utility to disconnect the service.

9-2.903. AUTHORITY TO DISCONNECT SERVICE UTILITIES.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible, the owner and occupant of the building, structure, or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

9-2.904. PRIOR OCCUPANCY.

If any building or structure is occupied prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy as required by Sections 9-1.902 or 9-1.903 of the City of Modesto Building Code, the Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility.

9-2.905. CONNECTION AFTER ORDER TO DISCONNECT.

Persons shall not make connections from energy or fuel to any equipment regulated by this Code that has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

ARTICLE 10. BOARD OF APPEALS

9-2.1001. GENERAL.

In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this Code, the California Mechanical Code, the California Building Code, the California Electrical Code, and Flood Damage Prevention Regulations to hear appeals provided for in said codes and regulations, there shall be and is hereby created a Board of Building Appeals, hereinafter referred to as the Board, consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall act as Secretary of the Board. The members of the Board shall be appointed and hold office in accordance with the provisions of Article XI of the Charter of the City of Modesto.

The Board of Building Appeals created hereby shall be the successor to the Board of Building Appeals created by Title IX of the Modesto Municipal Code, as said chapters existing previous to the effective date of this Code, and the members of said Board of Building Appeals holding office when this Code becomes effective shall continue to hold office as members of the Board of Building Appeals created by this Code, for the remainder of the terms to which they were originally appointed and until their respective successors shall be appointed and qualified. All actions taken and decisions made by said Board of Building Appeals prior to the effective date of this Code shall continue in full force and effect the same as if taken or made by the Board of Building Appeals created by this Code.

9-2.1002. AUTHORITY TO ADOPT RULES.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official within thirty (30) calendar days of the hearing with a duplicate copy to the appellant. The Board may recommend to the Council of the City of Modesto such new legislation that is consistent therewith.

9-2.1003. ADOPTED CODE APPLICABLE.

Except as otherwise provided in the California Mechanical Code, the California Building Code, the California Electrical Code, and Flood Damage Prevention Regulations, the Board shall hear appeals in accordance with the procedures set forth herein.

9-2.1004. LIMITATIONS ON AUTHORITY.

An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. The Board shall have no authority to waive requirements of this Code.

9-2.1005. APPEALS HEARING DATE.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either

by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-2.1006. REQUEST FOR INFORMATION.

Whenever in the course of any proceedings taken hereunder, the Board shall have cause to request additional information, the same may be requested of the Building Safety Division of the Community and Economic Development Department, the Fire Department, the Health Department, or any other agencies charged by law with enforcement of health or safety requirements of local or state law.

9-2.1007. BOARD DECISIONS.

The decision of the Board in granting or denying an appeal shall become final on the date of service of the Decision. Any appeal of the Decision must be filed by the appellant(s) with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6, within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

Decisions of the Board shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The Decision of the Board shall be issued within thirty (30) calendar days of the hearing. A copy of the decision shall be delivered to the appellant(s) personally or sent by certified mail, postage prepaid, return receipt requested within thirty (30) calendar days of the effective date of the Decision.

The effective date of the Decision(s) of the Board shall be as stated therein.

9-2.1008. APPEAL OF BOARD'S DECISION.

Any appeal of a Board Decision must be filed with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

ARTICLE 11. VIOLATIONS

9-2.1101. UNLAWFUL ACTS.

It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish any plumbing or drainage systems, parts thereof, or equipment regulated by this Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Code.

9-2.1102. NOTICE OF VIOLATION OR NOTICE AND ORDER.

The Building Official is authorized to serve a notice of violation or notice and order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal or demolition of any plumbing or drainage systems, or parts thereof, or equipment regulated by this Code in violation of the provisions of this Code, or in violation of a permit or certificate issued under the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

9-2.1103. METHOD OF SERVICE.

Service of the notice of violation or notice and order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

(i) By leaving a copy during usual business hours in the recipients business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;

- (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.
- (2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.
- (3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.
- (4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such notice of violation or notice and order shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-2.1104. PROOF OF SERVICE.

Proof of service of the notice of violation or notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice of violation or notice and order retained by the Building Official.

9-2.1105. RECORDATION OF NOTICE AND ORDER.

If compliance is not had with the notice of violation or notice and order within the time specified therein, and no appeal has been properly and timely filed, the Building Official may file in the office of the County Recorder a certificate describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. Whenever the corrections

ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished or all required corrections have been made and fees paid and that the building is no longer substandard, whichever is appropriate.

9-2.1106. RIGHT OF APPEAL.

Any person having record title or legal interest in the building may appeal from any notice of violation or notice and order or any action of the Building Official under this Title by filing at the office of the Building Official within thirty (30) calendar days from the date of service of the notice of violation or notice and order, or the date of the action of the Building Official, a written appeal.

(a) The written appeal must contain a brief statement setting forth the legal interest of each of the appellants in the building or the land subject to the action of the Building Official or involved in the notice of violation or notice and order. The written appeal must contain a brief statement in ordinary and concise language of the specific order, action and or Building Code section under protest, together with any material facts that support the contentions of the appellant.

(b) The written appeal must contain a brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed, why the protested order or action should be reversed, modified, or otherwise set aside.

(c) The written appeal must contain signatures of all parties named as appellants and their official mailing addresses.

(d) At least one (1) appellant must submit a declaration under penalty of perjury as to the truth of matters stated in the appeal. This declaration must be submitted with the written appeal itself.

9-2.1107. PROCESSING OF APPEAL.

(a) Upon receipt of any appeal filed and payment of the appeal fee, as adopted from time to time by resolution of the City Council of the City of Modesto, the Building Official shall forward the appeal to the secretary of the Board of Building Appeals. The secretary shall calendar the appeal for a hearing.

(b) If the appeal is received by the Building Official not later than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

(c) If the appeal is received by the Building Official on a date less than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

9-2.1108. NOTICING APPEAL FOR HEARING.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time and place for the hearing of the appeal by the Board of Building Appeals. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-2.1109. FORM OF NOTICE OF HEARING.

The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Building Appeals at _____ on the day of _____, 20____, at the hour _____ upon the notice of violation/action of the Building Official/notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Building Appeals.

9-2.1110. APPEAL FEE.

The Building Official shall collect and require an appeal fee to be paid at the time any appeal allowed by this Code is filed. The appeal fee shall be as adopted from time to time by resolution of the City Council of the City of Modesto. The fee

shall be calculated to recover the total City costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The Building Official may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the decision of the Building Official, notice of violation or notice and order, and other factors indicating good faith attempts to comply with the decision of the Building Official, notice of violation or notice and order.

9-2.1111. EFFECT OF FAILURE TO APPEAL.

Failure of any person to file a timely appeal in accordance with the provisions of this Chapter shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the decision of the Building Official, notice of violation or notice and order, or any portion thereof, subject only to review pursuant to the provisions of California Code of Civil Procedure Section 1094.5.

9-2.1112. FURTHER PERMITS OR APPROVALS.

If a notice of violation or notice and order has not been satisfied on a particular property, and a timely appeal has not been filed, further permits or approvals for continued work permitted by this Code shall not be granted for that property unless specifically approved by the Building Official and the violation has been corrected, inspected and approved.

9-2.1113. PROSECUTION OF VIOLATION.

If the notice of violation or notice and order is not complied with promptly, the Building Official is authorized to request the legal counsel of the City of Modesto to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

9-2.1114. ADMINISTRATIVE REMEDIES.

In addition to all other remedies available at law, any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure, plumbing or drainage system, or part thereof, in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued

under the provisions of this Code, shall be subject to Administrative Remedies as prescribed by Title 1, Chapter 6, of the City of Modesto Municipal Code.

9-2.1115. FAILURE, NEGLIGENCE OR REFUSAL TO OBEY ORDER.

After any order of the Building Official or the Board of Building Appeals made pursuant to this Code becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

9-2.1116. REMEDY FOR FAILURE TO OBEY ORDER.

If, after any order of the Building Official or the Board of Building Appeals made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (i) cause such person to be prosecuted under Section 9-2.1118 or (ii) institute any appropriate action to abate such building as a public nuisance. These remedies are in addition to all other remedies allowed by law.

9-2.1117. INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City of Modesto or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of the City of Modesto, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

9-2.1118. CRIMINAL VIOLATION.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the requirements of this Code shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person

convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250.00) and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500.00).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

9-2.1119. ADMINISTRATIVE PENALTIES.

In addition to all other remedies set forth in this Chapter, administrative penalties pursuant to Title 1, Chapter 6, of the Modesto Municipal Code may be imposed against any person for violating any of the requirements set forth in this Chapter.

ARTICLE 12. STOP WORK ORDER

9-2.1201. AUTHORITY.

Whenever the Building Official finds any work regulated by this Code being performed in a manner either contrary to the provisions of this Code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

9-2.1202. ISSUANCE.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume

9-2.1203. UNLAWFUL CONTINUANCE.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject prosecution, administratively or

criminally, and subject to penalties as prescribed by law, in addition to any other remedies provided by law.

ARTICLE 13. UNSAFE STRUCTURES AND EQUIPMENT

9-2.1301. CONDITIONS.

Existing plumbing or drainage systems or equipment, or parts thereof, that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe plumbing or drainage systems, or parts thereof, or equipment shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this Code.

9-2.1302. AUTHORITY TO CONDEMN SYSTEMS OR EQUIPMENT.

Whenever the Building Official ascertains that any plumbing or drainage system or equipment regulated by this Code has become hazardous to life, health, or property, or has become unsanitary, the Building Official shall order, in writing, that such system or equipment be removed or placed in a safe or sanitary condition, as appropriate. The order shall fix a reasonable time limit for compliance. No person shall use or maintain defective plumbing or drainage systems, or parts thereof, after receiving such notice.

When such a system described above is to be disconnected, written notice shall be given. In cases of immediate danger to life or property, such disconnection may be made immediately without such notice.

9-2.1303. RECORD.

The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

9-2.1304. NOTICE.

If an unsafe condition is found, the Building Official shall serve on the owner, agent, or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be

demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

9-2.1305. METHOD OF SERVICE.

Service of the written notice of unsafe structures or equipment may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the written notice and any amended or supplemental written notice shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the written notice and any amended or supplemental written notice may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

- (i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;
- (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service

cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such written notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-2.1306. PROOF OF SERVICE.

Proof of service of the written notice shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the written notice and retained by the Building Official

9-2.1307. RESTORATION.

The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of this Code.

ARTICLE 14. TECHNICAL AMENDMENTS

9-2.1401. ADDED REQUIREMENTS.

Reserved

9-2.1401.1. DEFINITION.

Building Official. The officer or other designated authority charged with the administration and enforcement of this Code, or duly authorized representative. The office and title of Chief Building Official of the City of Modesto shall serve as the officer responsible for administration and enforcement of this Code.

9-2.1402. DELETED SECTIONS.

Reserved

9-2.1403. AMENDED SECTIONS.

Reserved

SECTION 2. FINDING AND DECLARATION. As required by the 2007 California Plumbing Code Section 101.8, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2007 California Plumbing Code are reasonably necessary because of local climate and geographic conditions. This ordinance also prescribes local procedures to be used in the administration and enforcement of this Code; provides for local interpretations of this Code, and makes other changes in this Code consistent with local custom and practice as reflected in the prior local Plumbing Code.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED:


JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3462-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3463-C.S.

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2007 CALIFORNIA ELECTRICAL CODE, REGULATING, GOVERNING AND PROVIDING STANDARDS FOR THE ERECTION, INSTALLATION, REPAIR, RELOCATION, REPLACEMENT, ADDITION TO, USE, OR MAINTENANCE OF ELECTRICAL SYSTEMS AND PARTS THEREOF IN THE CITY OF MODESTO FOR THE PROTECTION OF PUBLIC HEALTH AND SAFETY, PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF AND REPEALING ALL ORDINANCES AND THE PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 3 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 3 - ELECTRICAL CODE

ARTICLE 1. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA ELECTRICAL CODE

9-3.101. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA ELECTRICAL CODE.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2007 California Electrical Code, California Code of Regulations Title 24, Part 3, as published by the Building News, inc. (BNi), as now existing, or hereafter amended, regulating, governing and providing standards for the erection, installation, repair, relocation, replacement, addition to, use, or maintenance of electrical systems and parts thereof for the protection of public health and safety, providing for the issuance of permits and collection of fees, providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2007 California Electrical Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions, and changes if any, prescribed in this Chapter, be and hereby is adopted as the Electrical Code of the City of Modesto.

ARTICLE 2. GENERAL CODE PROVISIONS

9-3.201. TITLE.

These regulations shall be known as the “Electrical Code of the City of Modesto”, and may be cited and referred to herein as such or may be cited and referred to herein as the “Electrical Code”, the “2007 California Electrical Code”, the “California Electrical Code”, or “this Code”.

9-3.202. PURPOSE.

The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access for persons with disabilities, sanitation, adequate light and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to firefighters and emergency responders during emergency operations.

9-3.203. SCOPE.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto.

9-3.204. APPENDICES.

Provisions contained in the appendices of the 2007 California Electrical Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

9-3.205. MAINTENANCE.

All electrical systems, materials, and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition. All devices or safeguards required by this Code shall be maintained in conformance with the code edition under which installed.

9-3.206. ADDITIONS, ALTERATIONS, OR REPAIRS.

Additions, alterations, or repairs may be made to any electrical system, or parts thereof, or equipment without requiring the existing to comply with all the

requirements of this Code, provided the addition, alteration, or repair conforms to that required for new installation. Additions, alterations, or repairs shall not cause an existing system to become unsafe, unsanitary, or overloaded.

9-3.207. MOVED BUILDINGS.

Electrical systems and all parts thereof, that are part of buildings or structures moved into the City of Modesto shall comply with the provisions of this Code for new installations.

Exception: All parts of the electrical system of any building, or parts thereof, that is moved from one foundation to another, or from one location to another, shall be completely tested as prescribed elsewhere in this Code for new work, except that walls or floors need not be removed during such test when other equivalent means of inspection acceptable to the Building Official are provided.

9-3.208. MOST RESTRICTIVE; SPECIFIC REQUIREMENT.

Where, in any specific case, different sections of this Code specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

9-3.209. OTHER LAWS.

The provisions of this Code shall not be deemed to nullify any provision(s) of local, state, or federal law.

9-3.210. APPLICATION OF REFERENCES.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

9-3.211. REFERENCED CODES AND STANDARDS.

The codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and referenced codes and standards, the provisions of this Code shall apply, unless stated otherwise.

9-3.212. PARTIAL INVALIDITY.

In the event that any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this Code.

9-3.213. EXISTING INSTALLATIONS.

Electrical systems or equipment lawfully in existence at the time of the adoption of this Code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such system or equipment.

ARTICLE 3. BUILDING SAFETY DIVISION

9-3.301. CREATION OF ENFORCEMENT AGENCY.

The Building Safety Division is hereby created and the official in charge thereof shall be known as the Building Official.

9-3.302. APPOINTMENT.

The Building Official shall be appointed by the Community and Economic Development Department (C&ED) Director, in accordance with the prescribed personnel procedures of the City of Modesto..

9-3.303. DEPUTIES.

In accordance with the prescribed personnel procedures of the City of Modesto and with the concurrence of C&ED Director, the Building Official shall have the authority to appoint a Deputy Building Official, the related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers as delegated by the Building Official.

ARTICLE 4. DUTIES AND POWERS OF THE BUILDING OFFICIAL

9-3.401. GENERAL.

The Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this Code and to adopt policies and procedures, and enforce policies and procedures, rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and

regulations shall be in compliance with the intent and purpose of this Code. Such policies and procedures, rules and regulations shall not have the effect of waiving the requirements specifically provided for in this Code. Such interpretations may be appealed to the Board of Building Appeals.

The language used in this Code is intended to convey the common and accepted meaning familiar to the building industry.

9-3.402. APPLICATIONS AND PERMITS.

The Building Official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, and moving of buildings and structures, plumbing, electrical, and mechanical systems or equipment, or parts thereof, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this Code.

9-3.403. NOTICE OF VIOLATIONS; NOTICE AND ORDERS.

The Building Official shall issue all necessary notice of violations and notice or orders to ensure compliance with this Code.

9-3.404. INSPECTIONS.

The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise. The Building Official's decision may be appealed to the Board of Building Appeals.

9-3.405. IDENTIFICATION.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

9-3.406. RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this Code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this Code, which makes the structure or premises unsafe, dangerous, or hazardous, the Building Official is authorized to enter the structure or premises

at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or the person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

9-3.407. DEPARTMENT RECORDS.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required by the City of Modesto Records Retention Manual.

9-3.408. NONRESPONSIBILITY OF THE CITY.

Neither the City, nor any department, nor any board, commission, officer, or employee thereof, shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of or failure to issue or the revocation of any permit or certificate of inspection or the making of any inspection under the provisions of this Code, or the issuance of or failure to issue a notice of violation or notice and order.

9-3.409. APPROVED MATERIALS AND EQUIPMENT.

Materials, equipment, and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

9-3.410. USED MATERIALS AND EQUIPMENT.

The use of used materials that meet the requirements of this Code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

9-3.411. MODIFICATIONS.

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not

lessen health, accessibility, life and fire safety, or structural requirements. The details of the action granting modifications shall be recorded and entered in the files of the Building Safety Division.

9-3.412. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Code, provided that any such alternative has been approved by the Building Official. An alternative material, design, or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety.

9-3.413. RESEARCH REPORTS.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources.

9-3.414. TESTS.

Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the City of Modesto. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention in the City of Modesto Records Retention Manual.

ARTICLE 5. PERMITS

9-1.501. REQUIRED.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any installation which is

regulated by this Code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

9-3.502. WORK EXEMPT FROM PERMIT.

Exemptions from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other local, state, or federal law.

Electrical:

A permit shall not be required for the following:

- (a) Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by this Code.
- (b) Repair or replacement of fixed motors, transformers, or fixed approved appliances of the same type and rating in the same location.
- (c) Temporary decorative lighting not to exceed ninety (90) days.
- (d) Repair or replacement of current-carrying parts of any switch, contractor, or control device.
- (e) Reinstallation of attachment plug receptacles, but not the outlets therefore.
- (f) Repair or replacement of an over current device of the required capacity in the same location.
- (g) Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube system.
- (h) Taping joints.
- (i) Removal of electrical wiring.
- (j) Temporary wiring for experimental purposes in suitable experimental laboratories not to exceed ninety (90) days.
- (k) The wiring for temporary theater, motion picture, or television stage sets.

- (l) Electrical wiring, devices, appliances, apparatus, or equipment operating at less than twenty-five (25) volts and not capable of supplying more than fifty (50) watts of energy.
- (m) Low-energy power, control, and signal circuits of Classes II and III as defined in this Code.
- (n) A permit shall not be required for the installation, alteration, or repair of electrical wiring, apparatus, or equipment, or the generation, transmission, distribution, or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

Repairs and Maintenance:

Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and Television Transmitting Stations:

The provisions of this Code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

Temporary Testing Systems:

A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

9-3.503. EMERGENCY REPAIRS.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted and the permit obtained within the next business day.

9-3.504. REPAIRS.

Repairs to electrical systems or other work affecting public health or general safety shall require application to the Building Official and permit obtained.

9-3.505. PUBLIC SERVICE AGENCIES.

A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution, or metering or other related equipment that is under the ownership and control of public service agencies by established right.

9-3.506. APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Building Safety Division for that purpose. Such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use and occupancy for which the proposed work is intended.
- (d) Be accompanied by construction documents and other information as required in Article 6 of this Code.
- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant or the applicant's authorized agent.
- (g) Give such other data and information as required by the Building Official.

9-3.507. ACTION ON APPLICATION.

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefor. If the Building Official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefor as soon as practicable.

9-3.508. TIME LIMITATION OF APPLICATION.

Applications for which a permit has not been issued within one hundred and eighty (180) calendar days following the date of application submission shall

expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken on the application. This request must be in writing to the Building Official prior to expiration of the application. No application shall be extended more than once. No extension shall exceed one hundred and eighty (180) calendar days. In order to renew action on the application after expiration, the applicant shall resubmit plans and pay a new plan checking fee.

9-3.509. VALIDITY OF PERMIT.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other local, state, or federal law. Permits presuming to give authority to violate or cancel the provisions of this Code or other local, state, or federal law shall not be valid.

The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure where in violation of this Code or of any other local, state, or federal law.

9-3.510. EXPIRATION.

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred and eighty (180) calendar days from the date of said permit, or if such building or work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of one hundred and eighty (180) calendar days, or if the building or work authorized by such permit is not completed seven hundred and thirty (730) calendar days from the date of such permit. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half (1/2) the amount required to obtain a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year.

Any permittee holding an unexpired permit may apply for an extension of time within which he may commence the work under that permit when he is unable to commence work within the time required by this Section for good and satisfactory

reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred and eighty (180) calendar days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new permit fee.

9-3.511. SUSPENSION OR REVOCATION.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this Code wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Code, or other local, state or federal law.

ARTICLE 6. CONSTRUCTION DOCUMENTS

9-3.601. SUBMITTAL DOCUMENTS.

Construction documents, including but not limited to, plans and other required submittals, statement of special inspections, and other data, shall be submitted with each permit application. The required number of sets to be submitted shall be set forth by the Building Official. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Code.

9-3.602. INFORMATION ON CONSTRUCTION DOCUMENTS.

Construction documents shall be dimensioned and drawn upon suitable material and to an acceptable scale. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules and regulations, as determined by the Building Official.

9-3.603. ELECTRICAL PLANS.

When required by the Building Official, the permit application must include electrical schematics indicating all details for installation of electrical service equipment and fixtures, load calculations, wire sizes, and any other details the Building Official may require to determine compliance to the California Electrical Code.

9-3.604. EXAMINATION OF DOCUMENTS.

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Code and other pertinent laws or ordinances.

9-3.605. APPROVAL OF CONSTRUCTION DOCUMENTS.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One (1) set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official.

9-3.606. PREVIOUS APPROVALS.

This Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred and eighty (180) calendar days after the effective date of this Code and has not been abandoned.

9-3.607. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE.

When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased submittal items, if permitted, for compatibility with the design of the building.

9-3.608. AMENDED CONSTRUCTION DOCUMENTS.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

ARTICLE 7. FEES AND PLAN REVIEW

9-3.701. GENERAL.

Fees shall be assessed in accordance with the provisions of this Chapter or shall be set forth in a fee schedule adopted from time to time by resolution of the City Council of the City of Modesto.

9-3.702. PERMIT FEES.

A fee for each permit shall be paid to the Building Official as set forth in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

The determination of value or valuation under any of the provisions of this Code shall be made by the Building Official. The valuation to be used in computing the permit and plan check fee shall be the total value of all construction work for which the permit is issued as well as all furnished work, roofing, electrical, plumbing, heating, air conditioning systems, and any other permanent work or permanent equipment.

9-3.703. WORK COMMENCING BEFORE PERMIT ISSUANCE.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee as adopted from time to time by resolution of the City Council of the City of Modesto.

9-3.704. PLAN CHECKING FEES.

A plan checking fee, as adopted from time to time by resolution of the City Council of the City of Modesto, shall be paid to the Building Official at the time of submitting application, construction documents and required submittals as specified in Article 6, for checking.

Where plans are incomplete or changed so as to require additional plan checking, an additional plan check fee shall be charged at a rate shown in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

9-3.705. INVESTIGATION FEE.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code, as adopted from time to time by resolution of the City Council of the City of Modesto.

9-3.706. FEES TO GOVERNMENTAL AGENCIES.

No permit fees shall be required for the issuance of building permits to governmental agencies; however, governmental agencies that obtain permits may be charged plan checking and inspection fees to defray the actual cost of these services.

9-3.707. TELEPHONE PERMIT PROCEDURE.

The Building Official is hereby authorized to establish a system for the issuance of routine permits upon telephonic request and to issue such directives and regulations as are deemed necessary to govern the operation and administration of such a system. Said directives and regulations shall have the force and effect of law and a violation thereof shall constitute a violation of this Code. Such a system may provide for the payment of permit fees on permits issued by telephone on an accounts receivable basis.

9-3.708. FEE REFUNDS.

The Building Official is authorized to establish a refund policy for the Building Safety Division. The Building Official may authorize a refund in accordance with said policy.

ARTICLE 8. INSPECTIONS

9-3.801. GENERAL.

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Code or of any local, state, or federal law. Inspections presuming to give authority to violate or cancel the provisions of this Code or of other local, state, or federal law, shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City of Modesto shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

9-3.802. PRELIMINARY INSPECTION.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.

9-3.803. REQUIRED INSPECTIONS.

The Building Official, upon notification, shall make the inspections set forth in Sections 9-3.804 through 9-3.806.

9-3.804. ROUGH INSPECTION.

Electrical:

No electrical system or equipment, or part thereof, shall be covered, concealed, or put into use until it has been tested, inspected, and accepted as prescribed by this Code.

9-3.805. OTHER INSPECTIONS.

In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the Building Safety Division.

9-3.806. FINAL INSPECTION.

The final inspection shall be made after all work required by the building permit is completed.

9-3.807. PERFORMANCE VERIFICATION.

Prior to final inspection of the building, the appropriate permittee is responsible to test all components of the fire and life safety systems and verify their proper operation. Upon completion of all components testing, the contractor or permittee shall perform an overall life safety system test.

9-3.809. REINSPECTIONS.

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when required corrections have not been made.

This provision is not to be interpreted as requiring reinspection fees the first time an inspection is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspection before the project is ready for inspection or reinspection. Reinspection fees may be assessed:

- (a) When the approved plans are not readily available to the inspector.
- (b) For failure to provide access on the date for which the inspection is requested.
- (c) For any deviation from plans requiring the approval of the Building Official.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form for that purpose and pay the reinspection fee as adopted from time to time by resolution of the City Council of the City of Modesto.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

9-3.810. INSPECTION AGENCIES.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

9-3.811. INSPECTION REQUESTS.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Code.

9-3.812. APPROVAL REQUIRED.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

9-3.813. COVERING.

If any electrical system, or part thereof, which is installed, altered, or repaired, is covered or concealed before being inspected, tested and approved as prescribed by this Code, it shall be uncovered for inspection, after notice to uncover the work has been issued by the Building Official.

ARTICLE 9. SERVICE UTILITIES

9-3.901. CONNECTION OF SERVICE UTILITIES.

No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by this Code for which a permit is required, until released by the Building Official.

In addition, the structure or building shall pass final inspection as per Article 8 of this Code prior to the connection to the electrical source.

9-3.902. TEMPORARY CONNECTION.

The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

Temporary electrical or gas connection to the electrical or gas source for a period not to exceed thirty (30) calendar days may be granted prior to the final inspection if in the opinion of the Building Official the service is safe. If after thirty (30) calendar days the structure or building has not passed final inspection, the

Building Official shall have authority to request the serving utility to disconnect the service.

9-3.903. AUTHORITY TO DISCONNECT SERVICE UTILITIES.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible, the owner and occupant of the building, structure, or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

9-3.904. PRIOR OCCUPANCY.

If any building or structure is occupied prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy as required by Sections 9-1.902 or 9-1.903 of the City of Modesto Building Code, the Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility.

9-3.905. CONNECTION AFTER ORDER TO DISCONNECT.

Persons shall not make connections from energy or fuel to any equipment regulated by this Code that has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

ARTICLE 10. BOARD OF APPEALS

9-3.1001. GENERAL.

In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this Code, the California Mechanical Code, the California Plumbing Code, the California Building Code, and Flood Damage Prevention Regulations to hear appeals provided for in said codes and regulations, there shall be and is hereby created a Board of Building Appeals, hereinafter referred to as the Board, consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall act as Secretary of the Board. The members of the Board shall be appointed and

hold office in accordance with the provisions of Article XI of the Charter of the City of Modesto.

The Board of Building Appeals created hereby shall be the successor to the Board of Building Appeals created by Title IX of the Modesto Municipal Code, as said chapters existing previous to the effective date of this Code, and the members of said Board of Building Appeals holding office when this Code becomes effective shall continue to hold office as members of the Board of Building Appeals created by this Code, for the remainder of the terms to which they were originally appointed and until their respective successors shall be appointed and qualified. All actions taken and decisions made by said Board of Building Appeals prior to the effective date of this Code shall continue in full force and effect the same as if taken or made by the Board of Building Appeals created by this Code.

9-3.1002. AUTHORITY TO ADOPT RULES.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official within thirty (30) calendar days of the hearing with a duplicate copy to the appellant. The Board may recommend to the Council of the City of Modesto such new legislation that is consistent therewith.

9-3.1003. ADOPTED CODE APPLICABLE.

Except as otherwise provided in the California Mechanical Code, the California Plumbing Code, the California Building Code and Flood Damage Prevention Regulations, the Board shall hear appeals in accordance with the procedures set forth herein.

9-3.1004. LIMITATIONS ON AUTHORITY.

An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. The Board shall have no authority to waive requirements of this Code.

9-3.1005. APPEALS HEARING DATE.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice

of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-3.1006. REQUEST FOR INFORMATION.

Whenever in the course of any proceedings taken hereunder, the Board shall have cause to request additional information, the same may be requested of the Building Safety Division of the Community and Economic Development Department, the Fire Department, the Health Department, or any other agencies charged by law with enforcement of health or safety requirements of local or state law.

9-3.1007. BOARD DECISIONS.

The decision of the Board in granting or denying an appeal shall become final on the date of service of the Decision. Any appeal of the Decision must be filed by the appellant(s) with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6, within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

Decisions of the Board shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The Decision of the Board shall be issued within thirty (30) calendar days of the hearing. A copy of the Decision shall be delivered to the appellant(s) personally or sent by certified mail, postage prepaid, return receipt requested within thirty (30) calendar days of the effective date of the Decision.

The effective date of the Decision(s) of the Board shall be as stated therein.

9-3.1008. APPEAL OF BOARD'S DECISION.

Any appeal of a Board decision must be filed with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

ARTICLE 11. VIOLATIONS

9-3.1101. UNLAWFUL ACTS.

It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish electrical systems, parts thereof, or equipment regulated by this Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Code.

9-3.1102. NOTICE OF VIOLATION OR NOTICE AND ORDER

The Building Official is authorized to serve a notice of violation or notice and order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal or demolition of any electrical installation or systems, or parts thereof, or equipment in violation of the provisions of this Code, or in violation of a permit or certificate issued under the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

9-3.1103. METHOD OF SERVICE.

Service of the notice of violation or notice and order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents, or as known to the Building Official. A copy of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

(i) By leaving a copy during usual business hours in the recipients business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;

ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such notice of violation or notice and order shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-3.1104. PROOF OF SERVICE.

Proof of service of the notice of violation or notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice of violation or notice and order retained by the Building Official.

9-3.1105. RECORDATION OF NOTICE AND ORDER.

If compliance is not had with the notice of violation or notice and order within the time specified therein, and no appeal has been properly and timely filed, the Building Official may file in the office of the County Recorder a certificate describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. Whenever the corrections

ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished or all required corrections have been made and fees paid and that the building is no longer substandard, whichever is appropriate.

9-3.1106. RIGHT OF APPEAL.

Any person having record title or legal interest in the building may appeal from any notice of violation or notice and order or any action of the Building Official under this Title by filing at the office of the Building Official within thirty (30) calendar days from the date of service of the notice of violation or notice and order, or the date of the action of the Building Official, a written appeal.

- (a) The written appeal must contain a brief statement setting forth the legal interest of each of the appellants in the building or the land subject to the action of the Building Official or involved in the notice of violation or notice and order. The written appeal must contain a brief statement in ordinary and concise language of the specific order, action and/or Building Code section under protest, together with any material facts that support the contentions of the appellant.
- (b) The written appeal must contain a brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed, why the protested order or action should be reversed, modified, or otherwise set aside.
- (c) The written appeal must contain signatures of all parties named as appellants and their official mailing addresses.
- (d) At least one (1) appellant must submit a declaration under penalty of perjury as to the truth of matters stated in the appeal. This declaration must be submitted with the written appeal itself.

9-3.1107. PROCESSING OF APPEAL.

- (a) Upon receipt of any appeal filed and payment of the appeal fee, as adopted from time to time by resolution of the City Council of the City of Modesto, the Building Official shall forward the appeal to the secretary of the Board of Building Appeals. The secretary shall calendar the appeal for a hearing.
- (b) If the appeal is received by the Building Official not later than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

- (c) If the appeal is received by the Building Official on a date less than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

9-3.1108. NOTICING THE APPEAL FOR HEARING.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time and place for the hearing of the appeal by the Board of Building Appeals. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-3.1109. FORM OF NOTICE OF HEARING.

The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Building Appeals at _____ on the day of _____, 20____, at the hour _____ upon the notice of violation/action of the Building Official/notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Building Appeals.

9-3.1110. APPEAL FEE.

The Building Official shall collect and require an appeal fee to be paid at the time any appeal allowed by this Code is filed. The appeal fee shall be as adopted from time to time by resolution of the City Council of the City of Modesto. The fee shall be calculated to recover the total City costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The Building Official may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the decision of the Building Official, notice of violation or notice

and order, and other factors indicating good faith attempts to comply with the decision of the Building Official, notice of violation or notice and order.

9-3.1111. EFFECT OF FAILURE TO APPEAL.

Failure of any person to file a timely appeal in accordance with the provisions of this Chapter shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the decision of the Building Official, notice of violation or notice and order, or any portion thereof, subject only to review pursuant to the provisions of California Code of Civil Procedure Section 1094.5.

9-3.1112. FURTHER PERMITS OR APPROVALS.

If a notice of violation or notice and order has not been satisfied on a particular property, and a timely appeal has not been filed, further permits or approvals for continued work permitted by this Code shall not be granted for that property unless specifically approved by the Building Official and the violation has been corrected, inspected and approved.

9-3.1113. PROSECUTION OF VIOLATION.

If the notice of violation or notice and order is not complied with promptly, the Building Official is authorized to request the legal counsel of the City of Modesto to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

9-3.1114. ADMINISTRATIVE REMEDIES.

In addition to all other remedies available at law, any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure, electrical installation or system, in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to Administrative Remedies as prescribed by Title 1, Chapter 6, of the City of Modesto Municipal Code.

9-3.1115. FAILURE, NEGLIGENCE OR REFUSAL TO OBEY ORDER.

After any order of the Building Official or the Board of Building Appeals, made pursuant to this Code becomes final, no person to whom any such order is

directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

9-3.1116. REMEDY FOR FAILURE TO OBEY ORDER.

If, after any order of the Building Official or the Board of Building Appeals, made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (i) cause such person to be prosecuted under Section 9-3.1118 or (ii) institute any appropriate action to abate such building as a public nuisance. These remedies are in addition to all other remedies allowed by law.

9-3.1117. INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City of Modesto or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of the City of Modesto, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

9-3.1118. CRIMINAL VIOLATION.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the requirements of this Code shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250.00) and for

a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500.00).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

9-3.1119. ADMINISTRATIVE PENALTIES.

In addition to all other remedies set forth in this Chapter, administrative penalties pursuant to Title 1, Chapter 6, of the Modesto Municipal Code may be imposed against any person for violating any of the requirements set forth in this Chapter.

ARTICLE 12. STOP WORK ORDER

9-3.1201. AUTHORITY.

Whenever the Building Official finds any work regulated by this Code being performed in a manner either contrary to the provisions of this Code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

9-3.1202. ISSUANCE.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

9-3.1203. UNLAWFUL CONTINUANCE.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to prosecution, administratively or criminally, and subject to penalties as prescribed by law, in addition to any other remedies provided by law.

ARTICLE 13. UNSAFE STRUCTURES AND EQUIPMENT

9-3.1301. CONDITIONS.

Existing electrical systems or equipment, or parts thereof, that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe electrical systems, or parts thereof, or equipment shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this Code.

9-3.1302. AUTHORITY TO CONDEMN SYSTEMS OR EQUIPMENT.

Whenever the Building Official ascertains that any electrical system or equipment regulated by this Code has become hazardous to life, health, or property, or has become unsanitary, the Building Official shall order, in writing, that such system or equipment be removed or placed in a safe or sanitary condition, as appropriate. The order shall fix a reasonable time limit for compliance. No person shall use or maintain defective electrical systems, or parts thereof, after receiving such notice. When such a system described above is to be disconnected, written notice shall be given. In cases of immediate danger to life or property, such disconnection may be made immediately without such notice.

9-3.1303. RECORD.

The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

9-3.1304. NOTICE.

If an unsafe condition is found, the Building Official shall serve on the owner, agent, or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

9-3.1305. METHOD OF SERVICE.

Service of the written notice of unsafe structure or equipment may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County

recorded documents or as known to the Building Official. A copy of the written notice and any amended or supplemental written notice shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the written notice and any amended or supplemental written notice may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

- (i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;
- (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such written notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-3.1306. PROOF OF SERVICE.

Proof of service of the written notice shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the written notice and retained by the Building Official.

9-3.1307. RESTORATION.

The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of this Code.

ARTICLE 14 TECHNICAL AMENDMENTS

9.3.1401. ADDED REQUIREMENTS.

Section 334.12(A) of the 2007 California Electrical Code is hereby amended by adding the following:

- (11) Type NM and NMC nonmetallic sheath cable shall not be used in A, B, E, F, H, I, M, S. Occupancies are defined in the California Building Code. Cable types (AC) Armored clad Cable and (MC) Metal – clad Cable, where listed for the occupancy, may be installed in A, B, E, F, H, I, M and S occupancies.

Section 310.14 of the 2007 California Electrical Code is hereby amended to read as follows:

310.14. Aluminum Conductor Material. Aluminum wiring shall not be used except as follows: Stranded aluminum wiring shall be allowed in No. 8 or larger sizes only.

9.3.1401.1. DEFINITION.

Building Official. The officer or any other designated authority charged with the administration and enforcement of this Code, or duly authorized representative. The office and title of Chief Building Official of the City of Modesto shall serve as the officer responsible for administration and enforcement of this Code.

9-3.1502. Deleted Sections.
Reserved

SECTION 2. FINDING AND DECLARATION. As required by the 2007 California Electrical Code Section 89.108.6.2, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2007 California Electrical Code are reasonably necessary because of local climate and geographic conditions. This ordinance also prescribes local procedures to be used in the administration and enforcement of this Code; provides for local interpretations of this Code, and makes other changes in this Code consistent with local custom and practice as reflected in the prior local Electrical Code.

SECTION 3.EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in

the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

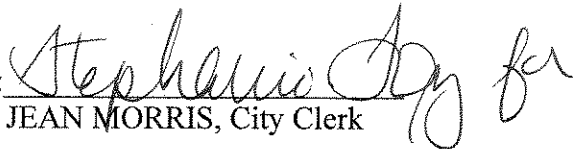
AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3463-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3464-C.S.

AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2007 CALIFORNIA MECHANICAL CODE, REGULATING AND GOVERNING MECHANICAL SYSTEMS AND PARTS THEREOF, INCLUDING BUT NOT LIMITED TO, ADDITION TO OR ERECTION, INSTALLATION, ALTERATION, REPAIR, RELOCATION, REPLACEMENT, USE, OR MAINTENANCE OF ANY HEATING, VENTILATION, COOLING, REFRIGERATION SYSTEMS OR EQUIPMENT THEREOF; INCINERATORS OR PARTS OR EQUIPMENT THEREOF; OR OTHER MISCELLANEOUS HEAT PRODUCING APPLIANCES, PARTS OR EQUIPMENT THEREOF IN THE CITY OF MODESTO; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 7 of Title 9 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 7 - MECHANICAL CODE

ARTICLE 1. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA MECHANICAL CODE

9-7.101. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA MECHANICAL CODE.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2007 California Mechanical Code, California Code of Regulations, Title 24, Part 4, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), as now existing, or hereafter amended, which said Code governs and provides proper regulations of mechanical systems and parts thereof, including, but not limited to, addition to or erection, installation, alteration, repair, relocation, replacement, use, or maintenance of any heating, ventilation, cooling, refrigeration systems or equipment thereof; incinerators or parts or equipment thereof; or other miscellaneous heat producing appliances, parts or equipment

thereof; providing for the issuance of permits and collection of fees therefor; providing for the inspection thereof; providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2007 California Mechanical Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions, and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Mechanical Code of the City of Modesto.

ARTICLE 2. GENERAL CODE PROVISIONS

9-7.201. TITLE.

These regulations shall be known as the “Mechanical Code of the City of Modesto”, and may be cited and referred to herein as such or may be cited and referred to herein as the “Mechanical Code”, the “2007 California Mechanical Code”, the “California Mechanical Code”, or “this Code”.

9-7.202. PURPOSE.

The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access for persons with disabilities, sanitation, adequate light and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to firefighters and emergency responders during emergency operations.

9-7.203. SCOPE.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto. Including, but not limited to, addition to or erection, installation, alteration, repair, relocation, replacement, use, or maintenance of any heating, ventilation, cooling, refrigeration system or equipment or part thereof; incinerators or parts or equipment thereof; or other miscellaneous heat producing appliances, parts or equipment thereof.

9-7.204. APPENDICES.

Provisions contained in the appendices of the 2007 California Mechanical Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

9-7.205. MAINTENANCE.

All mechanical systems, materials, and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition. All devices or safeguards required by this Code shall be maintained in conformance with the code edition under which installed.

9-7.206. ADDITIONS, ALTERATIONS, OR REPAIRS.

Additions, alterations, or repairs may be made to any mechanical system, or parts thereof, or equipment without requiring the existing to comply with all the requirements of this Code, provided the addition, alteration, or repair conforms to that required for new installation. Additions, alterations, or repairs shall not cause an existing system to become unsafe, unsanitary, or overloaded.

9-7.207. MOVED BUILDINGS.

Mechanical systems and all parts thereof that are part of buildings or structures moved into the City of Modesto shall comply with the provisions of this Code for new installations.

Exception: All parts of the mechanical systems of any building, or parts thereof, that is moved from one foundation to another, or from one location to another, shall be completely tested as prescribed elsewhere in this Code for new work, except that walls or floors need not be removed during such test when other equivalent means of inspection acceptable to the Building Official are provided.

9-7.208. MOST RESTRICTIVE; SPECIFIC REQUIREMENT.

Where, in any specific case, different sections of this Code specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

9-7.209. OTHER LAWS.

The provisions of this Code shall not be deemed to nullify any provision(s) of local, state, or federal law.

9-7.210. APPLICATION OF REFERENCES.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

9-7.211. REFERENCED CODES AND STANDARDS.

The codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and referenced codes and standards, the provisions of this Code shall apply, unless stated otherwise.

9-7.212. PARTIAL INVALIDITY.

In the event that any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this Code.

9-7.213. EXISTING INSTALLATIONS.

Mechanical systems or equipment lawfully in existence at the time of the adoption of this Code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such system or equipment.

9-7.214. CONFLICTS BETWEEN PLUMBING AND MECHANICAL CODES.

When the requirements within the jurisdiction of the Plumbing Code referenced in Section 9-2.101 conflict with the Mechanical Code referenced in Section 9-7.101, the Plumbing Code shall prevail.

ARTICLE 3. BUILDING SAFETY DIVISION

9-7.301. CREATION OF ENFORCEMENT AGENCY.

The Building Safety Division is hereby created and the official in charge thereof shall be known as the Building Official.

9-7.302. APPOINTMENT.

The Building Official shall be appointed by the Community and Economic Development Department (C&ED) Director, in accordance with the prescribed personnel procedures of the City of Modesto.

9-7.303. DEPUTIES.

In accordance with the prescribed personnel procedures of the City of Modesto and with the concurrence of C&ED Director, the Building Official shall have the authority to appoint a Deputy Building Official, the related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers as delegated by the Building Official.

ARTICLE 4. DUTIES AND POWERS OF THE BUILDING OFFICIAL

9-7.401. GENERAL.

The Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this Code and to adopt policies and procedures, and enforce policies and procedures, rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in compliance with the intent and purpose of this Code. Such policies and procedures, rules and regulations shall not have the effect of waiving the requirements specifically provided for in this Code. Such interpretations may be appealed to the Board of Building Appeals.

The language used in this Code is intended to convey the common and accepted meaning familiar to the building industry.

9-7.402. APPLICATIONS AND PERMITS.

The Building Official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, and moving of buildings and structures, plumbing, electrical, and mechanical systems or equipment, or parts thereof, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this Code.

9-7.403. NOTICE OF VIOLATIONS; NOTICE AND ORDERS.

The Building Official shall issue all necessary notice of violations or notice and orders to ensure compliance with this Code.

9-7.404. INSPECTIONS.

The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as is deemed necessary to report upon unusual technical issues that arise. The Building Official's decision may be appealed to the Board of Building Appeals.

9-7.405. IDENTIFICATION.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

9-7.406. RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this Code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this Code, which makes the structure or premises unsafe, dangerous, or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or the person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

9-7.407. DEPARTMENT RECORDS.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required by the City of Modesto Records Retention Manual.

9-7.408. NONRESPONSIBILITY OF THE CITY.

Neither the City, nor any department, nor any board, commission, officer, or employee thereof, shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of or failure to issue or the revocation of any permit or certificate of inspection or the making of any inspection under the

provisions of this Code, or the issuance of or failure to issue a notice of violation or notice and order.

9-7.409. APPROVED MATERIALS AND EQUIPMENT.

Materials, equipment, and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

9-7.410. USED MATERIALS AND EQUIPMENT.

The use of used materials that meet the requirements of this Code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

9-7.411. MODIFICATIONS.

Whenever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of the action granting modifications shall be recorded and entered in the files of the Building Safety Division.

9-7.412. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Code, provided that any such alternative has been approved by the Building Official. An alternative material, design, or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety.

9-7.413. RESEARCH REPORTS.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources.

9-7.414. TESTS.

Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the City of Modesto. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention in the City of Modesto Records Retention Manual.

ARTICLE 5. PERMITS

9-7.501. REQUIRED.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any gas or mechanical system, or equipment or parts thereof, the installation of which is regulated by this Code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

9-7.502. WORK EXEMPT FROM PERMIT.

Exemptions from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other local, state, or federal law.

Mechanical:

A permit shall not be required for the following:

- (a) Portable heating appliance.
- (b) Portable ventilation equipment.
- (c) Portable cooling unit.
- (d) Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this Code.

- (e) Replacement of any part that does not alter its approval or make it unsafe.
- (f) Portable evaporative cooler.
- (g) Self-contained refrigeration system containing ten (10) pounds (5 kg) or less of refrigerant and actuated by motors of one (1) horsepower (746 W) or less.

9-7.503. EMERGENCY REPAIRS.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted and the permit obtained within the next business day.

9-7.504. REPAIRS.

Repairs to mechanical systems or other work affecting public health or general safety shall require application to the Building Official and permit obtained.

9-7.505. PUBLIC SERVICE AGENCIES.

A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution, or metering or other related equipment that is under the ownership and control of public service agencies by established right.

9-7.506. APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Building Safety Division for that purpose. Such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use and occupancy for which the proposed work is intended.
- (d) Be accompanied by construction documents and other information as required in Article 6 of this Code.

- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant or the applicant's authorized agent.
- (g) Give such other data and information as required by the Building Official.

9-7.507. ACTION ON APPLICATION.

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application, in writing, stating the reasons therefor. If the Building Official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefor as soon as practicable.

9-7.508. TIME LIMITATION OF APPLICATION.

Applications for which a permit has not been issued within one hundred eighty (180) calendar days following the date of application submission shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken on the application. This request must be in writing to the Building Official prior to the expiration of the application. No application shall be extended more than once. No extension shall exceed one hundred eighty (180) calendar days. In order to renew action on the application after expiration, the applicant shall resubmit plans and pay a new plan checking fee.

9-7.509. VALIDITY OF PERMIT.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other local, state or federal law. Permits presuming to give authority to violate or cancel the provisions of this Code or other local, state, or federal law, shall not be valid.

The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized

to prevent occupancy or use of a structure where in violation of this Code or of any other local, state, or federal law.

9-7.510. EXPIRATION.

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of said permit, or if such building or work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of one hundred eighty (180) calendar days, or if the building or work authorized by such permit is not completed seven hundred thirty (730) calendar days from the date of such permit. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half (1/2) the amount required to obtain a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year.

Any permittee holding an unexpired permit may apply for an extension of time within which he may commence the work under that permit when he is unable to commence work within the time required by this Section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) calendar days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new permit fee.

9-7.511. SUSPENSION OR REVOCATION.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this Code whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Code, or other local, state, or federal law.

ARTICLE 6. CONSTRUCTION DOCUMENTS

9-7.601. SUBMITTAL DOCUMENTS.

Construction documents, including but not limited to, plans and other required submittals, statement of special inspections, and other data, shall be submitted

with each permit application. The required number of sets to be submitted shall be set forth by the Building Official. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Code.

9-7.602. INFORMATION ON CONSTRUCTION DOCUMENTS.

Construction documents shall be dimensioned and drawn upon suitable material and to an acceptable scale. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules and regulations, as determined by the Building Official.

9-7.603. PLUMBING PLANS.

When required by the Building Official, the permit application must include details for installation of sanitary drainage, equipment and fixtures, gas lines, calculations, and any other details the Building Official may require to determine compliance with the California Plumbing Code.

9-7.604. EXAMINATION OF DOCUMENTS.

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Code and other pertinent laws or ordinances.

9-7.605. APPROVAL OF CONSTRUCTION DOCUMENTS.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One (1) set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official.

9-7.606. PREVIOUS APPROVALS.

This Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred eighty (180) calendar days after the effective date of this Code and has not been abandoned.

9-7.607. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE.

When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased submittal items, if permitted, for compatibility with the design of the building.

9-7.608. AMENDED CONSTRUCTION DOCUMENTS.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

ARTICLE 7. FEES AND PLAN CHECKING

9-7.701. GENERAL.

Fees shall be assessed in accordance with the provisions of this Chapter or shall be set forth in a fee schedule adopted from time to time by resolution of the City Council of the City of Modesto.

9-7.702. PERMIT FEES.

A fee for each permit shall be paid to the Building Official as set forth in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

The determination of value or valuation under any of the provisions of this Code shall be made by the Building Official. The valuation to be used in computing the permit and plan check fee shall be the total value of all construction work for which the permit is issued as well as all furnished work, roofing, electrical, plumbing, heating, air conditioning systems, and any other permanent work or permanent equipment.

9-7.703. WORK COMMENCING BEFORE PERMIT ISSUANCE.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee as adopted from time to time by resolution of the City Council of the City of Modesto.

9-7.704. PLAN CHECKING FEES.

A plan checking fee, as adopted from time to time by resolution of City Council of the City of Modesto, shall be paid to the Building Official at the time of submitting application, construction documents and required submittals as specified in Article 6, for checking.

Where plans are incomplete or changed so as to require additional plan checking, an additional plan check fee shall be charged at a rate shown in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

9-7.705. INVESTIGATION FEE.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code, as adopted from time to time by resolution of the City Council of the City of Modesto.

9-7.706. FEES TO GOVERNMENTAL AGENCIES.

No permit fees shall be required for the issuance of building permits to governmental agencies; however, governmental agencies that obtain permits may be charged plan checking and inspection fees to defray the actual cost of these services.

9-7.707. TELEPHONE PERMIT PROCEDURE.

The Building Official is hereby authorized to establish a system for the issuance of routine permits upon telephonic request and to issue such directives and regulations as are deemed necessary to govern the operation and administration of such a system. Said directives and regulations shall have the force and effect of law and a violation thereof shall constitute a violation of this Code. Such a system may provide for the payment of permit fees on permits issued by telephone on an accounts receivable basis.

9-7.708. FEE REFUNDS.

The Building Official is authorized to establish a refund policy for the Building Safety Division. The Building Official may authorize a refund in accordance with said policy.

ARTICLE 8. INSPECTIONS

9-7.801. GENERAL.

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Code or of any local, state, or federal law. Inspections presuming to give authority to violate or cancel the provisions of this Code or of other local, state or federal law shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City of Modesto shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

9-7.802. PRELIMINARY INSPECTION.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.

9-7.803. REQUIRED INSPECTIONS.

The Building Official, upon notification, shall make the inspections set forth in Sections 9-7.804 through 9-7.806.

9-7.804. OTHER INSPECTIONS.

In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the Building Safety Division.

9-7.805. SPECIAL INSPECTIONS.

For special inspections, see Section 1704 of the California Building Code.

9-7.806. FINAL INSPECTION.

The final inspection shall be made after all work required by the building permit is completed.

9-7.807. REINSPECTIONS.

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when required corrections have not been made.

This provision is not to be interpreted as requiring reinspection fees the first time an inspection is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspection before the project is ready for inspection or reinspection. Reinspection fees may be assessed:

- (a) When the approved plans are not readily available to the inspector.
- (b) For failure to provide access on the date for which the inspection is requested.
- (c) For any deviation from plans requiring the approval of the Building Official.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form for that purpose and pay the reinspection fee as adopted from time to time by resolution of the City Council of the City of Modesto.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

9-7.808. INSPECTION AGENCIES.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

9-7.809. INSPECTION REQUESTS.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Code.

9-7.810. APPROVAL REQUIRED.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

9-7.811. COVERING.

If any mechanical system, or part thereof, which is installed, altered, or repaired, is covered or concealed before being inspected, tested and approved as prescribed by this Code, it shall be uncovered for inspection, after notice to uncover the work has been issued by the Building Official.

ARTICLE 9. SERVICE UTILITIES

9-7.901. CONNECTION OF SERVICE UTILITIES.

No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by this Code for which a permit is required, until released by the Building Official.

In addition, the structure or building shall pass final inspection as per Article 8 of this Code prior to the connection to the electrical source.

9-7.902. TEMPORARY CONNECTION.

The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

Temporary electrical or gas connection to the electrical or gas source for a period not to exceed thirty (30) calendar days may be granted prior to the final inspection if in the opinion of the Building Official the service is safe. If after thirty (30) calendar days the structure or building has not passed final inspection, the Building Official shall have authority to request the serving utility to disconnect the service.

9-7.903. AUTHORITY TO DISCONNECT SERVICE UTILITIES.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible, the owner and occupant of the building, structure, or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

9-7.904. PRIOR OCCUPANCY.

If any building or structure is occupied prior to the issuance or in violation of a Certificate of Occupancy or Temporary Certificate of Occupancy as required by Sections 9-1.902 or 9-1.903 of the City of Modesto Building Code, the Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility.

9-7.905. CONNECTION AFTER ORDER TO DISCONNECT.

Persons shall not make connections from energy or fuel to any equipment regulated by this Code that has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

ARTICLE 10. BOARD OF APPEALS

9-7.1001. GENERAL.

In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this Code, the California Building Code, the California Plumbing Code, the California Electrical Code, and Flood Damage Prevention Regulations to hear appeals provided for in said codes and regulations, there shall be and is hereby created a Board of Building Appeals, hereinafter referred to as the Board, consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall act as Secretary of the Board. The members of the Board shall be appointed and hold office in accordance with the provisions of Article XI of the Charter of the City of Modesto.

The Board of Building Appeals created hereby shall be the successor to the Board of Building Appeals created by Title 9 of the Modesto Municipal Code, as said chapters existing previous to the effective date of this Code, and the members of said Board of Building Appeals holding office when this Code becomes effective shall continue to hold office as members of the Board of Building Appeals created by this Code, for the remainder of the terms to which they were originally appointed and until their respective successors shall be appointed and qualified. All actions taken and decisions made by said Board of Building Appeals prior to the effective date of this Code shall continue in full force and effect the same as if taken or made by the Board of Building Appeals created by this Code.

9-7.1002. AUTHORITY TO ADOPT RULES.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official within thirty (30) calendar days of the hearing with a duplicate copy to the appellant. The Board may recommend to the Council of the City of Modesto such new legislation that is consistent therewith.

9-7.1003. ADOPTED CODE APPLICABLE.

Except as otherwise provided in the California Building Code, the California Plumbing Code, the California Electrical Code, and Flood Damage Prevention Regulations, the Board shall hear appeals in accordance with the procedures set forth herein.

9-7.1004. LIMITATIONS ON AUTHORITY.

An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of

construction is proposed. The Board shall have no authority to waive requirements of this Code.

9-7.1005. APPEAL HEARING DATE.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-7.1006. REQUEST FOR INFORMATION.

Whenever in the course of any proceedings taken hereunder, the Board shall have cause to request additional information, the same may be requested of the Building Safety Division of the Community and Economic Development Department, the Fire Department, the Health Department, or any other agencies charged by law with enforcement of health or safety requirements of local or state law.

9-7.1007 . BOARD DECISIONS.

The decision of the Board in granting or denying an appeal shall become final on the date of service of the Decision. Any appeal of the Decision must be filed by the appellant(s) with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6, within thirty (30) days of service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

Decisions of the Board shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The Decision of the Board shall be issued within thirty (30) calendar days of the hearing. A copy of the Decision shall be delivered to the appellant(s) personally or sent by certified mail, postage prepaid, return receipt requested within thirty (30) calendar days of the effective date of the Decision.

The effective date of the Decision(s) of the Board shall be as stated therein.

9-7.1008. APPEAL OF BOARD'S DECISION.

Any appeal of a Board Decision must be filed with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of the date of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

ARTICLE 11. VIOLATIONS

9-7.1101. UNLAWFUL ACTS.

It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish any mechanical systems, parts thereof, or equipment regulated by this Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Code.

9-7.1102. NOTICE OF VIOLATION OR NOTICE AND ORDER.

The Building Official is authorized to serve a notice of violation or notice and order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition of mechanical systems, or parts thereof, or equipment in violation of the provisions of this Code, or in violation of a permit or certificate issued under the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

9-7.1103. METHOD OF SERVICE.

Service of the notice of violation or notice and order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order shall also be posted on the premises.

- (a) In lieu of personally serving the owner or service by certified mail, service of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order may be made as follows:

- (1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:
 - (i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;
 - (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.
- (2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.
- (3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.
- (4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such notice of violation or notice and order shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-7.1104. PROOF OF SERVICE.

Proof of service of the notice of violation or notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in

acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice of violation or notice and order retained by the Building Official.

9-7.1105. RECORDATION OF NOTICE AND ORDER.

If compliance is not had with the notice of violation or notice and order within the time specified therein, and no appeal has been properly and timely filed, the Building Official may file in the office of the County Recorder a certificate describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished or all required corrections have been made and fees paid and that the building is no longer substandard, whichever is appropriate.

9-7.1106. RIGHT OF APPEAL.

Any person having record title or legal interest in the building may appeal from any notice of violation or notice and order or any action of the Building Official under this Title by filing at the office of the Building Official within thirty (30) calendar days from the date of service of the notice of violation or notice and order or the date of the action of the Building Official, a written appeal.

- (a) The written appeal must contain a brief statement setting forth the legal interest of each of the appellants in the building or the land subject to the action of the Building Official or involved in the notice of violation or notice and order. The written appeal must contain a brief statement in ordinary and concise language of the specific order, action and/or Building Code section under protest, together with any material facts that support the contentions of the appellant.
- (b) The written appeal must contain a brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed, why the protested order or action should be reversed, modified, or otherwise set aside.
- (c) The written appeal must contain signatures of all parties named as appellants and their official mailing addresses.

- (d) At least one (1) appellant must submit a declaration under penalty of perjury as to the truth of matters stated in the appeal. This declaration must be submitted with the written appeal itself.

9-7.1107. PROCESSING OF APPEAL.

- (a) Upon receipt of any appeal filed and payment of the appeal fee, as adopted from time to time by resolution of the City Council of the City of Modesto, the Building Official shall forward the appeal to the secretary of the Board of Building Appeals. The secretary shall calendar the appeal for a hearing.
- (b) If the appeal is received by the Building Official not later than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.
- (c) If the appeal is received by the Building Official on a date less than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

9-7.1108. NOTICING THE APPEAL FOR HEARING.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time and place for the hearing of the appeal by the Board of Building Appeals. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-7.1109. FORM OF NOTICE OF HEARING.

The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Building Appeals at _____ on the day of _____, 20____, at the hour _____ upon the notice of violation/action of the Building Official/notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all

witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Building Appeals.

9-7.1110. APPEAL FEE.

The Building Official shall collect and require an appeal fee to be paid at the time any appeal allowed by this Code is filed. The appeal fee shall be as adopted from time to time by resolution of the City Council of the City of Modesto. The fee shall be calculated to recover the total City costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The Building Official may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the decision of the Building Official, notice of violation or notice and order, and other factors indicating good faith attempts to comply with the decision of the Building Official, notice of violation, or notice and order.

9-7.1111. EFFECT OF FAILURE TO APPEAL.

Failure of any person to file a timely appeal in accordance with the provisions of this Chapter shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the decision of the Building Official, notice of violation or notice and order, or any portion thereof, subject only to review pursuant to the provisions of California Code of Civil Procedure Section 1094.5.

9-7.1112. FURTHER PERMITS OR APPROVALS.

If a notice of violation or notice and order has not been satisfied on a particular property, and a timely appeal has not been filed, further permits or approvals for continued work permitted by this Code shall not be granted for that property unless specifically approved by the Building Official and the violation has been corrected, inspected and approved.

9-7.1113. PROSECUTION OF VIOLATION.

If the notice of violation or notice and order is not complied with promptly, the Building Official is authorized to request the legal counsel of the City of Modesto to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

9-7.1114. ADMINISTRATIVE REMEDIES.

In addition to all other remedies available at law, any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure, mechanical system, equipment, or part thereof, in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to Administrative Remedies as prescribed by Title 1, Chapter 6, of the City of Modesto Municipal Code.

9-7.1115. FAILURE, NEGLIGENCE OR REFUSAL TO OBEY ORDER.

After any order of the Building Official or the Board of Building Appeals made pursuant to this Code becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

9-7.1116. REMEDY FOR FAILURE TO OBEY ORDER.

If, after any order of the Building Official or the Board of Building Appeals made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (i) cause such person to be prosecuted under Section 9-7.1118 or (ii) institute any appropriate action to abate such building as a public nuisance. These remedies are in addition to all other remedies allowed by law.

9-7.1117. INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City of Modesto or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of the City of Modesto, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

9-7.1118. CRIMINAL VIOLATIONS.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the requirements of this Code shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250.00) and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500.00).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

9-7.1119. ADMINISTRATIVE PENALTIES.

In addition to all other remedies set forth in this Chapter, administrative penalties pursuant to Title 1, Chapter 6, of the Modesto Municipal Code may be imposed against any person for violating any of the requirements set forth in this Chapter.

ARTICLE 12. STOP WORK ORDER

9-7.1201. AUTHORITY.

Whenever the Building Official finds any work regulated by this Code being performed in a manner either contrary to the provisions of this Code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

9-7.1202. ISSUANCE.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

9-7.1203. UNLAWFUL CONTINUANCE.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to prosecution, administratively and criminally, and subject to penalties as prescribed by law, in addition to any other remedies provided by law.

ARTICLE 13. UNSAFE STRUCTURES AND EQUIPMENT

9-7.1301. CONDITIONS.

Existing mechanical systems or equipment, or parts thereof, that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe mechanical systems, or parts thereof, or equipment shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this Code.

9-7.1302. AUTHORITY TO CONDEMN SYSTEMS OR EQUIPMENT.

Whenever the Building Official ascertains that any mechanical system or equipment regulated by this Code has become hazardous to life, health, or property, or has become unsanitary, the Building Official shall order, in writing, that such system or equipment be removed or placed in a safe or sanitary condition, as appropriate. The order shall fix a reasonable time limit for compliance. No person shall use or maintain defective mechanical systems, or parts thereof, after receiving such notice.

When such a system described above is to be disconnected, written notice shall be given. In cases of immediate danger to life or property, such disconnection may be made immediately without such notice.

9-7.1303. RECORD.

The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

9-7.1304. NOTICE.

If an unsafe condition is found, the Building Official shall serve on the owner, agent, or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

9-7.1305. METHOD OF SERVICE.

Service of the written notice of unsafe structures or equipment may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the written notice and any amended or supplemental written notice shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the written notice and any amended or supplemental written notice may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

(i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;

(ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such written notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-7.1306. PROOF OF SERVICE.

Proof of service of the written notice shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the written notice and retained by the Building Official.

9-7.1307. RESTORATION.

The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of this Code.

ARTICLE 14. TECHNICAL AMENDMENTS

9.7.1401. ADDED REQUIREMENTS.

(reserved)

9.7-1401.1. DEFINITION.

Building Official. The officer or any other designated authority charged with the administration and enforcement of this Code, or duly authorized representative. The office and title of Chief Building Official of the City of Modesto shall serve as the officer responsible for administration and enforcement of this Code.

**9-7.1402. DELETED SECTIONS.
(reserved)**

9-7.1403. AMENDED SECTIONS.

Section 203 of the 2007 California Mechanical Code is hereby amended to read as follows:

Where application is made for construction as described in this Section, the owner or registered design professional in responsible charge acting as the owner's agent shall employ one (1) or more special inspectors to provide inspection during construction on the types of work listed under Section 1704. The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the Building Official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in *Article 8*.

SECTION 2. FINDING AND DECLARATION. As required by the 2007

California Mechanical Code Section 101.8, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2007 California Mechanical Code are reasonably necessary because of local climate and geographic conditions. This ordinance also prescribes local procedures to be used in the administration and enforcement of this Code, provides for local interpretations of this Code and makes other changes in this Code consistent with local custom and practice as reflected in the prior local Mechanical Code.

SECTION 3.EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense

committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3464-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3465-C.S.

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9, OF THE MODESTO MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2007 CALIFORNIA BUILDING CODE, REGULATING AND GOVERNING THE CONSTRUCTION, ALTERATION, MOVEMENT, ENLARGEMENT, REPLACEMENT, REPAIR, EQUIPMENT, USE AND OCCUPANCY, LOCATION, MAINTENANCE, REMOVAL, DEMOLITION OF EVERY BUILDING OR STRUCTURE OR ANY APPURTENANCES CONNECTED OR ATTACHED TO SUCH BUILDINGS OR STRUCTURE IN THE CITY OF MODESTO; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 1 of Title 9 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 1 - BUILDING CODE

ARTICLE 1. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA BUILDING CODE

9-1.101. ADOPTION BY REFERENCE OF THE 2007 CALIFORNIA BUILDING CODE.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2007 California Building Code, California Code of Regulations, Title 24, Part 2, Volumes 1 and 2, as published by the International Code Council, as now existing, or hereafter amended, regulating and governing the conditions of all properties, buildings, and structures; by providing the standards for facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupancy and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demotion of such structures; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2007 California Building Code on file in the Office

of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Building Code of the City of Modesto.

ARTICLE 2. GENERAL CODE PROVISIONS

9-1.201. TITLE.

These regulations shall be known as the "Building Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as the "Building Code," the "2007 California Building Code," the "California Building Code," or "this Code."

9-1.202. PURPOSE.

The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access for persons with disabilities, sanitation, adequate light and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to firefighters and emergency responders during emergency operations.

9-1.203. SCOPE.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto.

9-1.204. APPENDICES.

Provisions contained in the appendices of the 2007 California Building Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

9-1.205. MOST RESTRICTIVE; SPECIFIC REQUIREMENT.

Where, in any specific case, different sections of this Code specify different materials, methods of construction, or other requirements, the most restrictive

shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

9-1.206. OTHER LAWS.

The provisions of this Code shall not be deemed to nullify any provision(s) of local, state, or federal law.

9-1.207. APPLICATION OF REFERENCES.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

9-1.208. REFERENCED CODES AND STANDARDS.

The codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and referenced codes and standards, the provisions of this Code shall apply, unless stated otherwise.

9-1.209. PARTIAL INVALIDITY.

In the event that any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this Code.

9-1.210. MAINTENANCE.

All plumbing, mechanical, electrical system, materials, and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition. All devices or safeguards required by this Code shall be maintained in conformance with the code edition under which installed.

9-1.211. EXISTING STRUCTURES.

The legal occupancy of any structure existing on the date of adoption of this Code shall be permitted to continue without change, except as is specifically covered in this Code, the California Mechanical Code, or the California Fire Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

9-1.212. EXISTING INSTALLATIONS.

Plumbing, mechanical, and electrical systems or equipment lawfully in existence at the time of the adoption of this Code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such system or equipment.

ARTICLE 3. BUILDING SAFETY DIVISION

9-1.301. CREATION OF ENFORCEMENT AGENCY.

The Building Safety Division is hereby created and the official in charge thereof shall be known as the Building Official.

9-1.302. APPOINTMENT.

The Building Official shall be appointed by the Community and Economic Development Department (C&ED) Director, in accordance with the prescribed personnel procedures of the City of Modesto.

9-1.303. DEPUTIES.

In accordance with the prescribed personnel procedures of the City of Modesto and with the concurrence of the C&ED Director, the Building Official shall have the authority to appoint a Deputy Building Official, the related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers as delegated by the Building Official.

ARTICLE 4. DUTIES AND POWERS OF THE BUILDING OFFICIAL

9-1.401. GENERAL.

The Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this Code and to adopt policies and procedures, and enforce policies and procedures, rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in compliance with the intent and purpose of this Code. Such policies and procedures, rules and regulations shall not have the effect of waiving

the requirements specifically provided for in this Code. Such interpretations may be appealed to the Board of Building Appeals.

The language used in this Code is intended to convey the common and accepted meaning familiar to the building industry.

9-1.402. APPLICATIONS AND PERMITS.

The Building Official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, and moving of buildings and structures, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this Code.

9-1.403. NOTICE OF VIOLATIONS; NOTICE AND ORDERS.

The Building Official shall issue all necessary notice of violations or notice and orders to ensure compliance with this Code.

9-1.404. INSPECTIONS.

The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as is deemed necessary to report upon unusual technical issues that arise. The Building Official's decision may be appealed to the Board of Building Appeals.

9-1.405. IDENTIFICATION.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

9-1.406. RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this Code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this Code, which makes the structure or premises unsafe, dangerous, or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that credentials be

presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or the person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

9-1.407. DEPARTMENT RECORDS.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required by the City of Modesto Records Retention Manual.

9-1.408. NON-RESPONSIBILITY OF THE CITY.

Neither the City, nor any department, nor any board, commission, officer, or employee thereof, shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of or failure to issue or the revocation of any permit or certificate of inspection or the making of any inspection under the provisions of this Code, or the issuance of or failure to issue a notice of violation or notice and order.

9-1.409. APPROVED MATERIALS AND EQUIPMENT.

Materials, equipment, and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

9-1.410. USED MATERIALS AND EQUIPMENT.

The use of used materials that meet the requirements of this Code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

9-1.411. MODIFICATIONS.

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The

details of the action granting modifications shall be recorded and entered in the files of the Building Safety Division.

9-1.412. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Code, provided that any such alternative has been approved by the Building Official. An alternative material, design, or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety.

9-1.413. RESEARCH REPORTS.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources.

9-1.414. TESTS.

Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the City of Modesto. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention in the City of Modesto Records Retention Manual.

ARTICLE 5. PERMITS

9-1.501. REQUIRED.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any installation which is

regulated by this Code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

9-1.502. WORK EXEMPT FROM PERMIT.

Exemptions from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other local, state, or federal law.

A permit shall not be required for the following:

- (a) One-story, detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11 m²).
- (b) Oil derricks.
- (c) Retaining walls that are not over 4 (four) feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
- (d) Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2:1.
- (e) Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
- (f) Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
- (g) Temporary motion picture, television and theater stage sets, and scenery.
- (h) Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
- (i) Swings and other playground equipment accessory to detached one- and two-family dwellings.
- (j) Window awnings supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support of Group R-3 and U occupancies.

- (k) Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches (1,753 mm) in height.

9-1.503. EMERGENCY REPAIRS.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted and the permit obtained within the next business day.

9-1.504. REPAIRS.

Repairs to structures or other work affecting public health or general safety shall require application to the Building Official and permit obtained.

9-1.505. PUBLIC SERVICE AGENCIES.

A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution, or metering or other related equipment that is under the ownership and control of public service agencies by established right.

9-1.506. APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Building Safety Division for that purpose. Such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use and occupancy for which the proposed work is intended.
- (d) Be accompanied by construction documents and other information as required in Article 6 of this Code.
- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant or the applicant's authorized agent.

(g) Give such other data and information as required by the Building Official.

9-1.507. ACTION ON APPLICATION.

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefor. If the Building Official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefor as soon as practicable.

9-1.508. TIME LIMITATION OF APPLICATION.

Applications for which a permit has not been issued within one hundred eighty (180) calendar days following the date of application submission shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken on the application. This request must be in writing to the Building Official prior to expiration of the application. No application shall be extended more than once. No extension shall exceed one hundred eighty (180) calendar days. In order to renew action on the application after expiration, the applicant shall resubmit plans and pay a new plan checking fee.

9-1.509. VALIDITY OF PERMIT.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other local, state, or federal law. Permits presuming to give authority to violate or cancel the provisions of this Code or other local, state, or federal law shall not be valid.

The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure where in violation of this Code or of any other local, state, or federal law.

9-1.510. EXPIRATION.

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of said permit, or if such building or work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of one hundred eighty (180) calendar days, or if the building or work authorized by such permit is not completed seven hundred thirty (730) calendar days from the date of such permit. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half (1/2) the amount required to obtain a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year.

Any permittee holding an unexpired permit may apply for an extension of time within which he may commence the work under that permit when he is unable to commence work within the time required by this Section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) calendar days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new permit fee.

9-1.511. SUSPENSION OR REVOCATION.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this Code whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Code, or other local, state, or federal law.

ARTICLE 6. CONSTRUCTION DOCUMENTS

9-1.601. SUBMITTAL DOCUMENTS.

Construction documents, including but not limited to, plans and other required submittals, statement of special inspections, and other data, shall be submitted with each permit application. The required number of sets to be submitted shall be set forth by the Building Official. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Code.

9-1.602. INFORMATION ON CONSTRUCTION DOCUMENTS.

Construction documents shall be dimensioned and drawn upon suitable material and to an acceptable scale. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules and regulations, as determined by the Building Official.

9-1.603. FIRE PROTECTION SYSTEM SHOP DRAWINGS.

Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this Code, the City of Modesto Fire Code, and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the California Building Code.

9-1.604. MEANS OF EGRESS.

The construction documents shall show in sufficient detail the location, construction, size, and character of all portions of the means of egress in compliance with the provisions of this Code. In other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor and in all rooms and spaces.

9-1.605. EXTERIOR WALL ENVELOPE.

Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this Code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening

details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

9-1.606. SITE PLAN.

The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

9-1.607. EXAMINATION OF DOCUMENTS.

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Code and other pertinent laws or ordinances.

9-1.608. APPROVAL OF CONSTRUCTION DOCUMENTS.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One (1) set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official.

9-1.609. PREVIOUS APPROVALS.

This Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred eighty (180) calendar days after the effective date of this Code and has not been abandoned.

9-1.610. PHASED APPROVAL.

The Building Official is authorized to issue a permit for the construction of any part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this Code. The holder of such permit for the part(s) of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

9-1.611. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE.

When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased submittal items, if permitted, for compatibility with the design of the building.

Where structural observation is required by Section 1709 of the California Building Code, the statement of special inspections shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur (see also duties specified in Section 1704 of the California Building Code).

9-1.612. AMENDED CONSTRUCTION DOCUMENTS.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

ARTICLE 7. FEES AND PLAN CHECKING

9-1.701. GENERAL.

Fees shall be assessed in accordance with the provisions of this Chapter or shall be set forth in a fee schedule adopted from time to time by resolution of the City Council of the City of Modesto.

9-1.702. PERMIT FEES.

A fee for each permit shall be paid to the Building Official as set forth in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

The determination of value or valuation under any of the provisions of this Code shall be made by the Building Official. The valuation to be used in computing the permit and plan check fee shall be the total value of all construction work for which the permit is issued as well as all furnished work, roofing, electrical, plumbing, heating, air conditioning systems, and any other permanent work or permanent equipment.

9-1.703. WORK COMMENCING BEFORE PERMIT ISSUANCE.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee as adopted from time to time by resolution of the City Council of the City of Modesto.

9-1.704. PLAN CHECKING FEES.

A plan checking fee, as adopted from time to time by resolution of City Council of the City of Modesto, shall be paid to the Building Official at the time of submitting application, construction documents and required submittals as specified in Article 6, for checking.

Where plans are incomplete or changed so as to require additional plan checking, an additional plan check fee shall be charged at a rate shown in a fee schedule as adopted from time to time by resolution of the City Council of the City of Modesto.

9-1.705. INVESTIGATION FEE.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code, as adopted from time to time by resolution of the City Council of the City of Modesto.

9-1.706. FEES TO GOVERNMENTAL AGENCIES.

No permit fees shall be required for the issuance of building permits to governmental agencies; however, governmental agencies that obtain permits may be charged plan checking and inspection fees to defray the actual cost of these services.

9-1.707. TELEPHONE PERMIT PROCEDURE.

The Building Official is hereby authorized to establish a system for the issuance of routine permits upon telephonic request and to issue such directives and regulations as are deemed necessary to govern the operation and administration of such a system. Said directives and regulations shall have the force and effect of law and a violation thereof shall constitute a violation of this Code. Such a system may provide for the payment of permit fees on permits issued by telephone on an accounts receivable basis.

9-1.708. FEE REFUNDS.

The Building Official is authorized to establish a refund policy for the Building Safety Division. The Building Official may authorize a refund in accordance with said policy.

9-1.709. RELATED FEES.

The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

ARTICLE 8. INSPECTIONS

9-1.801. GENERAL.

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an

inspection shall not be construed to be an approval of a violation of the provisions of this Code or of any local, state, or federal law. Inspections presuming to give authority to violate or cancel the provisions of this Code or of other local, state, or federal law shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City of Modesto shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

9-1.802. PRELIMINARY INSPECTION.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.

9-1.803. REQUIRED INSPECTIONS.

The Building Official, upon notification, shall make the inspections set forth in Sections 9-1.804 through 9-1.813.

9-1.804. FOOTING AND FOUNDATION INSPECTION.

Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

9-1.805. CONCRETE SLAB AND UNDERFLOOR INSPECTION.

Concrete slab and underfloor inspections shall be made after in-slab or underfloor reinforcing steel and building service equipment, conduit, piping accessories, and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

9-1.806. LOWEST FLOOR ELEVATION.

In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 of the California Building Code shall be submitted to the Building Official.

9-1.807. FRAME INSPECTION.

Framing inspections shall be made after the roof covering, roof deck, or sheathing, all framing, fireblocking, and bracing are in place and pipes, chimneys, and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes, and ducts are approved.

For roofing inspections, underlayment, sheathing, and other pertinent elements must be inspected prior to and upon installation of roof coverings.

9-1.808. LATH AND GYPSUM BOARD INSPECTION.

Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

Exception: Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

9-1.809. FIRE-RESISTANT PENETRATIONS.

Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

9-1.810. ENERGY EFFICIENCY INSPECTIONS.

Inspections shall be made to determine compliance with the California Energy Code and shall include, but not be limited to, inspections for: envelope insulation R and U values, fenestration U value, duct system R value, and HVAC and water-heating equipment efficiency.

9-1.811. OTHER INSPECTIONS.

In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the Building Safety Division.

9-1.812. SPECIAL INSPECTIONS.

For special inspections, see Section 1704 of the California Building Code.

9-1.813. FINAL INSPECTION.

The final inspection shall be made after all work required by the building permit is completed.

9-1.814. REINSPECTIONS.

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when required corrections have not been made.

This provision is not to be interpreted as requiring reinspection fees the first time an inspection is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspection before the project is ready for inspection or reinspection. Reinspection fees may be assessed:

- (a) When the approved plans are not readily available to the inspector.
- (b) For failure to provide access on the date for which the inspection is requested.
- (c) For any deviation from plans requiring the approval of the Building Official.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form for that purpose and pay the reinspection fee as adopted from time to time by resolution of the City Council of the City of Modesto.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

9-1.815. INSPECTION AGENCIES.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

9-1.816. INSPECTION REQUESTS.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Code.

9-1.817. APPROVAL REQUIRED.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

ARTICLE 9. CERTIFICATE OF OCCUPANCY

9-1.901. USE AND OCCUPANCY.

No building or structure shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other local, state or federal law.

9-1.902. CERTIFICATE OF OCCUPANCY.

After the Building Official inspects the building or structure and finds no violations of the provisions of this Code or other laws that are enforced by the Building Safety Division, the Building Official may issue a Certificate of Occupancy that contains the following:

- (a) The building permit number.
- (b) The address of the structure.
- (c) The name and address of the owner.
- (d) A description of that portion of the structure for which the certificate is issued.
- (e) A statement that the described portion of the structure has been inspected for compliance with the requirements of this Code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

- (f) The name of the Building Official.
- (g) The edition of the code under which the permit was issued.
- (h) The use and occupancy in accordance with the provisions of Chapter 3 of the California Building Code.
- (i) The type of construction as defined in Chapter 6 of the California Building Code.
- (j) The design occupant load.
- (k) If an automatic sprinkler system is provided, whether the sprinkler system is required.
- (l) Any special stipulations and conditions of the building permit.

9-1.903. TEMPORARY OCCUPANCY.

If any building or structure, including Groups R3 or U occupancy, is to be occupied with the approval of the Building Official prior to the final inspection and/or final corrections, the occupant, owner, and contractor shall sign a Temporary Certificate of Occupancy prior to occupying the building agreeing to make all corrections required and/or listed within thirty (30) calendar days of occupancy. If corrections are not completed within thirty (30) calendar days, the Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility and may file a notice of noncompliance with the County Recorder. The notice of noncompliance shall be removed by the Building Official only after all items requiring correction are completed.

9-1.904. CHANGES IN BUILDING OCCUPANCY.

Plumbing, mechanical, and electrical systems or equipment that are part of any building or structure undergoing a change in use or occupancy, as defined in this Code, shall comply to all requirements of this Code that may be applicable to the new use or occupancy.

9-1.905. REVOCATION.

The Building Official is authorized to, in writing, suspend or revoke a Certificate of Occupancy or completion issued under the provisions of this Code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any law, ordinance or regulation or any of the provisions of this Code.

9-1.906. OCCUPANCY VIOLATIONS.

Whenever any building or structure or equipment therein regulated by this Code is being used contrary to the provisions of this Code, the Building Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this Code.

ARTICLE 10. SERVICE UTILITIES

9-1.1001. CONNECTION OF SERVICE UTILITIES.

No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by this Code for which a permit is required, until released by the Building Official.

In addition, the structure or building shall pass final inspection as per Article 8 of this Code prior to the connection to the electrical source.

9-1.1002. TEMPORARY CONNECTION.

The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

Temporary electrical or gas connection to the electrical or gas source for a period not to exceed thirty (30) calendar days may be granted prior to the final inspection if in the opinion of the Building Official the service is safe. If after thirty (30) calendar days the structure or building has not passed final inspection, the Building Official shall have authority to request the serving utility to disconnect the service.

9-1.1003. AUTHORITY TO DISCONNECT SERVICE UTILITIES.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible, the owner and occupant of the building, structure, or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

9-1.1004. PRIOR OCCUPANCY.

If any building or structure is occupied prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy as required by Sections 9-1.902 or 91.903 of this Code, the Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility.

9-1.1005. CONNECTION AFTER ORDER TO DISCONNECT.

Persons shall not make connections from energy or fuel to any equipment regulated by this Code that has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

ARTICLE 11. BOARD OF APPEALS

9-1.1101. GENERAL.

In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and Flood Damage Prevention Regulations to hear appeals provided for in said codes and regulations, there shall be and is hereby created a Board of Building Appeals, hereinafter referred to as the Board, consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall act as Secretary of the Board. The members of the Board shall be appointed and hold office in accordance with the provisions of Article XI of the Charter of the City of Modesto.

The Board of Building Appeals created hereby shall be the successor to the Board of Building Appeals created by Title IX of the Modesto Municipal Code, as said chapters existing previous to the effective date of this Code, and the members of said Board of Building Appeals holding office when this Code becomes effective shall continue to hold office as members of the Board of Building Appeals created by this Code, for the remainder of the terms to which they were originally appointed and until their respective successors shall be appointed and qualified. All actions taken and decisions made by said Board of Building Appeals prior to the effective date of this Code shall continue in full force and effect the same as if taken or made by the Board of Building Appeals created by this Code.

9-1.1102. AUTHORITY TO ADOPT RULES.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official within thirty (30) calendar days of the hearing with a duplicate copy to the appellant. The Board may recommend to the Council of the City of Modesto such new legislation that is consistent therewith.

9-1.1103. ADOPTED CODE APPLICABLE.

Except as otherwise provided in the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and Flood Damage Prevention Regulations, the Board shall hear appeals in accordance with the procedures set forth herein.

9-1.1104. LIMITATIONS ON AUTHORITY.

An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. The Board shall have no authority to waive requirements of this Code.

9-1.1105. APPEAL HEARING DATE.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or

by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-1.1106. REQUEST FOR INFORMATION.

Whenever in the course of any proceedings taken hereunder, the Board shall have cause to request additional information, the same may be requested of the Building Safety Division of the Community and Economic Development Department, the Fire Department, the Health Department, or any other agencies charged by law with enforcement of health or safety requirements of local or state law.

9-1.1107. BOARD DECISIONS.

The Decision of the Board in granting or denying an appeal shall become final on the date of service of the Decision. Any appeal of the Decision must be filed by the appellant(s) with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6, within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

Decisions of the Board shall be in writing and shall contain findings of fact, a determination of issues presented, and the requirements to be complied with. The Decision of the Board shall be issued within thirty (30) calendar days of the hearing. A copy of the Decision shall be delivered to the appellant(s) personally or sent by certified mail, postage prepaid, return receipt requested within thirty (30) calendar days of the effective date of the Decision. The effective date of the Decision(s) of the Board shall be as stated therein.

9-1.1108. APPEAL OF BOARD'S DECISION.

Any appeal of a Board Decision must be filed with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

ARTICLE 12. DISABLED ACCESS APPEALS BOARD

9-1.1201. GENERAL.

In order to hear appeals to actions taken by the City and to provide reasonable interpretations of the California Access Laws, there is hereby created a Disabled Access Appeals Board, hereinafter referred to as the Board, consisting of five (5) members. Two (2) of the members are to be physically handicapped, two (2) members to be experienced in construction, and one (1) member a public member. The Building Official shall act as Secretary of the Board. The members of the Board shall be appointed and hold office in accordance with the provisions of Article XI of the Charter of the City of Modesto.

9-1.1202. DISABLED ACCESS APPEALS BOARD AUTHORITY TO ADOPT RULES.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official within thirty (30) calendar days of the hearing with a duplicate copy to the appellant. The Board may recommend to the Council of the City of Modesto such new legislation as is consistent therewith.

The Board shall hear appeals in accordance with the procedures set forth herein.

9-1.1203. DISABLED ACCESS APPEALS BOARD HEARING DATE.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall not be less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the addressee(s) shown on the appeal.

9-1.1204. DISABLED ACCESS APPEALS BOARD DECISIONS.

The Decision of the Board in granting or denying an appeal shall become final on the date of service of the Decision. Any appeal of the Decision must be filed by the appellant(s) with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

Decisions of the Board shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The Decision of the Board shall be issued within thirty (30) calendar days of the hearing. A copy of the Decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested within thirty (30) calendar days of the effective date of the Decision.

The effective date of Decision(s) of the Board shall be as stated therein.

9-1.1205. APPEAL OF DISABLED ACCESS APPEALS BOARD DECISION.

Any appeal of a Board Decision must be filed with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within thirty (30) calendar days of the service of the Decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the Decision of the Board.

ARTICLE 13. VIOLATIONS

9-1.1301. UNLAWFUL ACTS.

It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, plumbing, mechanical, or electrical system, parts thereof, or equipment regulated by this Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Code.

9-1.1302. NOTICE OF VIOLATION OR NOTICE AND ORDER.

The Building Official is authorized to serve a notice of violation or notice and order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this Code, or in violation of a permit or certificate issued under the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

9-1.1303. METHOD OF SERVICE.

Service of the notice of violation or notice and order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return

receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the notice of violation or notice and order and any amended or supplemental notice of violation or notice and order may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

- (i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;
- (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such notice of violation or notice

and order shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-1.1304. PROOF OF SERVICE.

Proof of service of the notice of violation or notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice of violation or notice and order retained by the Building Official.

9-1.1305. RECORDATION OF NOTICE AND ORDER.

If compliance is not had with the notice of violation or notice and order within the time specified therein, and no appeal has been properly and timely filed, the Building Official may file in the office of the County Recorder a certificate describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished or all required corrections have been made and fees paid and that the building is no longer substandard, whichever is appropriate.

9-1.1306. RIGHT OF APPEAL.

Any person having any record title or legal interest in the building may appeal from any notice of violation or notice and order or any action of the Building Official under this Title by filing at the office of the Building Official within thirty (30) calendar days from the date of service of the notice of violation or notice and order, or the date of the action of the Building Official, a written appeal.

- (a) The written appeal must contain a brief statement setting forth the legal interest of each of the appellants in the building or the land subject to the action of the Building Official or involved in the notice of violation or notice and order. The written appeal must contain a brief statement in ordinary and concise language of the specific order, action and/or Building

Code section under protest, together with any material facts that support the contentions of the appellant.

(b) The written appeal must contain a brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed, why the protested order or action should be reversed, modified, or otherwise set aside.

(c) The written appeal must contain signatures of all parties named as appellants and their official mailing addresses.

(d) At least one (1) appellant must submit a declaration under penalty of perjury as to the truth of matters stated in the appeal. This declaration must be submitted with the written appeal itself.

9-1.1307. PROCESSING OF APPEAL.

(a) Upon receipt of any appeal filed and payment of the appeal fee, as adopted from time to time by resolution of the City Council of the City of Modesto, the Building Official shall forward the appeal to the secretary of the Board of Building Appeals. The secretary shall calendar the appeal for a hearing.

(b) If the appeal is received by the Building Official not later than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

(c) If the appeal is received by the Building Official on a date less than fifteen (15) calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

9-1.1308. NOTICING THE APPEAL FOR HEARING.

As soon as practicable after receiving a written appeal, the Building Official shall fix a date, time and place for the hearing of the appeal by the Board of Building Appeals. Such date shall be not less than ten (10) calendar days nor more than forty-five (45) calendar days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant(s) by the Building Official either by causing a copy of such notice to be delivered to the

appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

9-1.1309. FORM OF NOTICE OF HEARING.

The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Building Appeals at _____ on the day of _____, 20____, at the hour _____ upon the notice of violation/action of the Building Official/notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Building Appeals.

9-1.1310. APPEAL FEE.

The Building Official shall collect and require an appeal fee to be paid at the time any appeal allowed by this Code is filed. The appeal fee shall be as adopted from time to time by resolution of the City Council of the City of Modesto. The fee shall be calculated to recover the total City costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, preparation and service of notices and staff appearance at the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The Building Official may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the Decision of the Building Official, notice of violation or notice and order, and other factors indicating good faith attempts to comply with the Decision of the Building Official, notice of violation or notice and order.

9-1.1311. EFFECT OF FAILURE TO APPEAL.

Failure of any person to file a timely appeal in accordance with the provisions of this Chapter shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the Decision of the Building Official, notice of violation or notice and order, or any portion thereof, subject only to review pursuant to the provisions of California Code of Civil Procedure Section 1094.5.

9-1.1312. FURTHER PERMITS OR APPROVALS.

If a notice of violation or notice and order has not been satisfied on a particular property, and a timely appeal has not been filed, further permits or approvals for continued work permitted by this Code shall not be granted for that property unless specifically approved by the Building Official and the violation has been corrected, inspected and approved.

9-1.1313. PROSECUTION OF VIOLATION.

If the notice of violation or notice and order is not complied with promptly, the Building Official is authorized to request the legal counsel of the City of Modesto to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

9-1.1314. ADMINISTRATIVE REMEDIES.

In addition to all other remedies available at law, any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to Administrative Remedies as prescribed by Title 1, Chapter 6, of the City of Modesto Municipal Code.

9-1.1315. FAILURE, NEGLIGENCE OR REFUSAL TO OBEY ORDER.

After any order of the Building Official, the Board of Building Appeals or the Disabled Access Appeals Board made pursuant to this Code becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

9-1.1316. REMEDY FOR FAILURE TO OBEY ORDER.

If, after any order of the Building Official, the Board of Building Appeals, or Disabled Access Appeals Board made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (i) cause such person to be prosecuted under Section 9-1.1318 or (ii) institute any appropriate action to abate such building as a

public nuisance. These remedies are in addition to all other remedies allowed by law.

9-1.1317. INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City of Modesto or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of the City of Modesto, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

9-1.1318. CRIMINAL VIOLATION.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the requirements of this Code shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250.00) and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500.00).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

9-1.1319. ADMINISTRATIVE PENALTIES.

In addition to all other remedies set forth in this Chapter, administrative penalties pursuant to Title 1, Chapter 6, of the Modesto Municipal Code may be imposed against any person for violating any of the requirements set forth in this Chapter.

ARTICLE 14. STOP WORK ORDER

9-1.1401. AUTHORITY.

Whenever the Building Official finds any work regulated by this Code being performed in a manner either contrary to the provisions of this Code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

9-1.1402. ISSUANCE.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

9-1.1403. UNLAWFUL CONTINUANCE.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to prosecution, administratively or criminally, and subject to penalties as prescribed by law, in addition to any other remedies provided by law.

ARTICLE 15. UNSAFE STRUCTURES AND EQUIPMENT

9-1.1501. CONDITIONS.

Structures that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this Code. A vacant structure that is not secured against entry shall be deemed unsafe.

9-1.1502. RECORD.

The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

9-1.1503. NOTICE.

If an unsafe condition is found, the Building Official shall serve on the owner, agent, or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

9-1.1504. METHOD OF SERVICE.

Service of the written notice of unsafe structures or equipment may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be upon the record owner at his/her/their address as it appears on the last equalized assessment roll of Stanislaus County recorded documents or as known to the Building Official. A copy of the written notice and any amended or supplemental written notice shall also be posted on the premises.

(a) In lieu of personally serving the owner or service by certified mail, service of the written notice and any amended or supplemental written notice may be made as follows:

(1) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

(i) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first class mail a copy to the recipient where the copy was left;

(ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing, by first

class mail, a copy to the recipient at the address where the copy was left.

(2) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be as set forth in (1) above upon the property manager or rental agency.

(3) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first class mail.

(4) If the owner of the property cannot be located, or service cannot be effected as set forth in this Section, service may be made by publication in a Modesto newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such written notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

9-1.1505. PROOF OF SERVICE.

Proof of service of the written notice shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the written notice and retained by the Building Official.

9-1.1506. RESTORATION.

The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of Article 6 of the California Building Code and Chapter 34 of the California Building Code.

9-1.1507. DEMOLITION OF BUILDINGS.

Prior to the issuance of a permit to demolish a building, the owner of the property on which the building is to be demolished, or his agent, shall file with the City Clerk a bond in favor of the City of Modesto conditioned as follows:

- (a) Before any work is started on a building or structure, the permittee or his authorized agent shall notify the appropriate utilities in order that all gas, electrical, sewer, water, and oil pipelines that are to be disconnected from the building may be capped and sealed or otherwise secured.
- (b) Immediately after the demolition of any building or structure, the permittee or his authorized agent shall securely barricade all basement excavations and other holes or openings, as required by the Building Official.
- (c) Within ten (10) calendar days after the demolition of any building or structure, the permittee or his authorized agent shall complete the following work:
 - (1) Securely close and seal any sanitary piping located on the property.
 - (2) Either fill with dirt or sand or remove, at the discretion of the Building Official, any septic tanks or cesspools located on the property.
 - (3) Fill any openings, excavations, or basements remaining on the land with dirt or sand to street level or the natural level of adjoining property, unless otherwise directed by the Building Official.
 - (4) Remove any buried underground tanks formerly used for storage of flammable liquids, as may be required by the Fire Department.
 - (5) Remove all refuse, debris and waste materials from the property.

The bond required by this Chapter shall be in an amount equal to the cost of the work proposed to be done, as estimated by the Building Official.

The bond may be in the form of a corporate surety bond, cash deposit, savings and loan certificate, or an instrument of credit.

An extension of time for completion of the work required by this Section may be granted in writing by the Building Official when, in his discretion, circumstances justify such an extension; but no such extension shall release any bond or other security furnished pursuant to this Section.

ARTICLE 16. TECHNICAL AMENDMENTS TO THE 2007 CALIFORNIA BUILDING CODE

9-1.1601. DELETED SECTIONS.

Reserved

9-1.1602. AMENDED SECTIONS.

9-1.1602.1. DEFINITIONS.

Section 202 of the 2007 California Building Code is hereby amended to read as follows:

Building Official. The officer or other designated authority charged with the administration and enforcement of this Code, or duly authorized representative. *The office and title of Chief Building Official of the City of Modesto shall serve as the officer responsible for administration and enforcement of this Code.*

9-1.1602.2. STRUCTURAL DESIGN.

Section 1612.3 of the 2007 California Building Code is hereby amended to read as follows:

1612.3. ESTABLISHMENT OF FLOOD HAZARD AREAS.

To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "*The Flood Insurance Study for the City of Modesto*", dated May 7, 2001, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

Section 1612.5 of the 2007 California Building Code is hereby amended to read as follows:

1612.5. FLOOD HAZARD DOCUMENTATION.

The following documentation shall be prepared and sealed by a registered design professional and submitted to the Building Official:

1. For construction in flood hazard areas not subject to high-velocity wave action:
 - 1.1. The elevation of the lowest floor, including the basement, as required by the lowest floor elevation inspection in *9-1.806*.
 - 1.2. For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.6.2.1 of ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.6.2.2 of ASCE 24.
 - 1.3. For dry floodproofed nonresidential buildings, construction documents shall include a statement that the dry floodproofing is designed in accordance with ASCE 24.
2. For construction in flood hazard areas subject to high-velocity wave action:
 - 2.1. The elevation of the bottom of the lowest horizontal structural member as required by the lowest floor elevation inspection in *9-1.806*.
 - 2.2. Construction documents shall include a statement that the building is designed in accordance with ASCE 24, including that the pile or column foundation and building or structure to be attached thereto is designed to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components, and other load requirements of Chapter 16 of the California Building Code.
 - 2.3. For breakaway walls designed to resist a nominal load of less than 10 psf (0.48 kN/m²) or more than 20 psf (0.96 kN/m²), construction documents shall include a statement that the breakaway wall is designed in accordance with ASCE 24.

9-1.1602.3. STRUCTURAL TESTS AND SPECIAL INSPECTIONS.

Section 1602 of the 2007 California Building Code is hereby amended to read as follows:

STRUCTURAL OBSERVATION. The visual observation of the structural system by a registered design professional for general conformance to the approved construction documents at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspection required by Article 8 and Section 1704 of the California Building Code or other sections of this Code.

9-1.1602.4. SPECIAL INSPECTIONS.

Section 1604.1 of the 2007 California Building Code is hereby amended to read as follows:

1604.1. GENERAL.

Where application is made for construction as described in this Section, the owner or registered design professional in responsible charge acting as the owner's agent shall employ one (1) or more special inspectors to provide inspection during construction on the types of work listed under Section 1704 of the California Building Code. The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the Building Official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in Article 8.

SECTION 2. FINDING AND DECLARATION. As required by the 2007 California Building Code Section 101.8, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2007 California Building Code are reasonably necessary because of local climate and geographic conditions. This ordinance also prescribes local procedures to be used in the administration and enforcement of this Code; provides for local interpretations of this Code, and makes other

changes in this Code consistent with local custom and practice as reflected in the prior local Building Code.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3465-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: O'Bryant

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:



JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3466-C.S.

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE AND ADOPTING BY REFERENCE THE CALIFORNIA FIRE CODE, 2007 EDITION, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSIVE HAZARDS ARISING FROM THE STORAGE, HANDLING, AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE CITY OF MODESTO; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 1 of Title 3 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 1. ADOPTION OF THE CALIFORNIA FIRE CODE, 2007 EDITION

ARTICLE 1. FIRE CODE

3-1.101. FINDINGS FOR ADOPTION OF THE CALIFORNIA FIRE CODE, 2007 EDITION.

The City Council of the City of Modesto hereby finds and determines: That the International Code Council is a private organization which has been in existence for at least three (3) years. That the California Fire Code, 2007 Edition, published by said organization, is a nationally recognized compilation of proposed rules, regulations, and standards of said organization. That said California Fire Code, 2007 Edition has been printed and published as a code in book form within the meaning of Section 50022.2 et seq. of the Government Code. That one (1) copy of the California Fire Code, 2007 Edition, certified by the City Clerk of the City of Modesto to be a true copy, has been filed for use and examination by the public in the office of the City Clerk of the City of Modesto. Sections of the California Fire Code, 2007 Edition may be referred to by the number used in said published compilation, preceded by the words "California

Fire Code Section” or “Fire Code Section”, and may also be referred to by additional reference to the Modesto Municipal Code and sections therein pertaining to said California Fire Code, 2007 Edition.

The additional requirements and standards established herein are needed to properly protect the health, safety, and welfare of the existing and future residents and workers of the City of Modesto. Said requirements and standards are reasonably necessary because of local climatic, geological, and topographical conditions, and comply with existing state laws and regulations.

Amendment of the California Fire Code, 2007 Edition, is necessary so as to provide more stringent standards for fire extinguishing systems; fire hazard and hazardous materials controls is necessary to serve the public interest by reducing the risk to life and property of the citizens of Modesto because of the following local conditions:

- (a) Summer weather conditions are very dry, hot and windy causing ordinary combustibles to be easily ignited and fires to be fast spreading;
- (b) Very dense fog conditions occur in winter. Reduced visibility causes delays in fire response;
- (c) Fire response is delayed by railroad tracks which:
 - (1) Divide the City from northeast between Tully Road and McHenry Avenue to the west side of Ninth Street;
 - (2) Run parallel to Highway 99 through the City, restricting response at locations where overpasses are not provided;
 - (3) Run parallel to Yosemite Boulevard restricting access to the airport, Tuolumne Regional Park, and adjacent areas; and
 - (4) Restrict access at intersections and streets in the areas of Ninth, Tenth, D, and E Streets.
- (d) Modesto Irrigation Canal #3 restricts access to the neighborhoods and developments to the north and east of Briggsmore Avenue from Oakdale Road to Claus Road;
- (e) Fire response is delayed by rivers and creeks which:

- (1) Divide the southwest area of the City and City contract areas and restrict access to these areas; and
- (2) Divide the City from east to southwest along Scenic Drive.

THEREFORE, for the above reasons taken individually and cumulatively and in accordance with the authority granted in Sections 17958.5 and 17958.7 of the California Health and Safety Code, the Council of the City of Modesto expressly finds there are local climatic and topographical conditions that make the increased fire protection requirements set forth in this chapter reasonably necessary.

3-1.102. ADOPTION BY REFERENCE OF THE CALIFORNIA FIRE CODE, 2007 EDITION.

- (a) That certain document, one (1) copy of which is on file in the office of the City Clerk of the City of Modesto, being marked and designated as the California Fire Code, 2007 Edition, California Code of Regulations Title 24, Part 9, including Appendix Chapters 1 and 4, and Appendix B, C, E, F, and G, as published by the International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said California Fire Code, 2007 Edition, on file in the office of the City Clerk of the City of Modesto is hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this chapter be and is hereby adopted as the Fire Code of the City of Modesto.
- (b) These regulations shall be known as the Fire Code of the City of Modesto and may be cited as such or may be cited as the "California Fire Code, 2007 Edition," the "2007 California Fire Code", "the Fire Code", or "this Code."

3-1.103. REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or with the 2007 California Fire Code as adopted and amended are hereby repealed.

**ARTICLE 2. AMENDMENTS, ADDITIONS AND DELETIONS TO
THE 2007 CALIFORNIA FIRE CODE**

3-1.201. COMBUSTIBLE WASTE MATERIAL.

Section 304.1.2 of the 2007 California Fire Code is hereby amended to read as follows:

304.1.2. Vegetation. Cut or uncut weeds, grass, vines and other seasonal and recurring growth on vacant land shall be deemed a public nuisance and shall be removed by the owner when notified to do so by the Fire Code Official. When the Fire Code Official determines that total removal of growth is impractical due to the size or environmental factors, approved fuel breaks shall be established. Designated areas shall be cleared of combustible vegetation to establish the fuel breaks.

Abatement of a public nuisance shall be in accordance with Article 6 of Chapter 6 of Title 1 of the Modesto Municipal Code. The Fire Department may impose a nuisance abatement lien pursuant to Section 1-6.702 of the Modesto Municipal Code.

The Fire Department may recover, from a property owner, those costs associated with the suppression costs incurred in fighting a fire and for providing rescue or emergency medical services should a fire occur on said property after the owner has been notified to abate such public nuisance and has failed to do so.

3-1.202. OPEN BURNING AND RECREATIONAL FIRES.

Section 307.1 of the 2007 California Fire Code is hereby amended to read as follows:

307.1. Open burning. No person shall kindle, conduct, or maintain any burning of grass, weeds, agricultural trimmings, or other combustibles or authorize any such fire to be kindled, conducted, or maintained without a permit as required by the San Joaquin Valley Unified Air Pollution Control District and compliance with all safeguards pursuant thereto. Any such permitted burning shall be restricted to agricultural purposes and confined to areas of the City in which agricultural uses are lawful.

3-1.203. VEHICLE IMPACT PROTECTION.

Section 312.2 of the 2007 California Fire Code is hereby amended to read as follows:

312.2. Posts. Guard posts or other approved means shall be provided to protect storage tanks and connected piping, valves and fittings; dispensing areas; and use areas subject to vehicular damage. When guard posts are installed, the posts shall be:

1. Constructed of steel not less than six (6) inches in diameter and concrete filled,
2. Spaced not more than four (4) feet between posts on center,
3. Set not less than three (3) feet deep in a concrete footing of not less than a fifteen (15) inch diameter,
4. Set with the top of the posts not less than three (3) feet above ground, and
5. Located not less than five (5) feet from the tank.

3-1.204. PARKING AND GARAGING OF TRANSPORTATION VEHICLES CARRYING HAZARDOUS MATERIALS.

Parking and garaging of transportation vehicles carrying hazardous materials as defined in Chapter 27 of the 2007 California Fire Code shall be in accordance with Sections 3406.6.2 through 3406.6.3 of the 2007 California Fire Code.

3-1.205. FIRE PROTECTION AND WATER SUPPLIES.

Section 508.1 of the 2007 California Fire Code is hereby amended to read as follows:

508.1. Required Water Supply.

- (a) An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, building or portions of buildings are hereafter constructed or moved into or within the jurisdiction. See Appendix-B of the 2007 California Fire Code.

- (b) Fire hydrants shall be located on the supply side of the fire suppression system check valve.
- (c) Fire hydrants shall be accessible to the Fire Department apparatus by roads meeting the requirements of Section 503.1 of the 2007 California Fire Code.

3-1.206. FUEL FIRED APPLIANCES.

Section 603.4 of the 2007 California Fire Code is hereby amended to read as follows:

603.4. Portable Unvented Heaters. The use of listed portable unvented oil-burning heating appliances is limited to supplemental heating in Group S-2, and U occupancies.

3-1.207. INCINERATORS.

Section 603.8 of the 2007 California Fire Code is hereby amended to read as follows:

603.8. Incinerators. The use of incinerators is prohibited inside the City limits of Modesto.

EXCEPTION: Incinerators used by state licensed facilities for the cremation of human remains.

Subsections 603.8.1, 603.8.2, 603.8.3, 603.8.4 and 603.8.5 are deleted.

3-1.208. AUTOMATIC SPRINKLER SYSTEMS.

Section 903.2 of the 2007 California Fire Code is hereby amended by adding the following:

New Construction.

- (a) An approved automatic fire sprinkler system is required in all new buildings and structures constructed on or after the effective date of this ordinance, notwithstanding the use and occupancy thereof, when the total floor area under one roof exceeds five thousand (5,000) square feet. Area separation walls

shall not be used for the purpose of eliminating automatic fire sprinkler systems required by this section.

(b) In addition, when other automatic sprinklers systems are required by the Modesto Municipal Code or the 2007 California Fire Code for certain uses and/or occupancies, the requirements of Section 903.2 of the 2007 California Fire Code shall also apply.

(c) Special requirements for single family residential (R-3) homes:

An automatic fire sprinkler system shall be installed in accordance with NFPA 13 D, when one or more of the following conditions exist:

1. When the total floor area including garage exceeds 5,000 square feet.
2. All residential occupancies three (3) or more stories in height.
3. When three (3) or more single family dwellings are served by one driveway access.

EXCEPTION: Carports, sheds, tanks, towers and agricultural buildings.

Existing Buildings and Structures. An approved automatic fire sprinkler system shall be installed in all existing buildings and structures when additions, alterations, or repairs are made within any twelve-month period that exceed fifty (50) percent of the total value (current county assessed valuation) of an existing building or structure that exceeds five thousand (5,000) square feet or which result in said building or structure exceeding five thousand (5,000) square feet.

EXCEPTION:

1. Carports, sheds, tanks, towers and agricultural buildings.
2. Each portion of an existing building or structure separated by one or more area separation walls, constructed in accordance with the current adopted edition of the Building Code, when each portion does not exceed five thousand (5,000) square feet.

3. Existing buildings or structures and their addition(s) are exempt from automatic sprinklers when the cost of the remodel of the existing building(s) or structure(s) is less than fifty (50) percent of the value (current county assessed valuation for improvements) of the buildings or structures, and sprinklers are permitted to be omitted from the addition(s), due to type of construction, use, or other special situations, by National Fire Protection Association Standard 13.

3-1.209. SPRINKLER SYSTEM MONITORING AND ALARMS.

Section 903.4 of the 2007 California Fire Code is hereby amended by adding the following:

EXCEPTIONS:

8. Valve monitoring and water-flow alarm and trouble signals shall be distinctly different and shall be automatically transmitted to a UL LISTED central station or proprietary supervising station as defined by UFC Standard 10-2, or, when approved by the building official with the concurrence of the Fire Code Official, shall emit an audible signal at a constantly attended location.

EXCEPTION: Underground key or hub valves in roadway boxes provided by the municipality or public utility need not be monitored.

3-1.210. PORTABLE FIRE EXTINGUISHERS.

Section 906.9 of the 2007 California Fire Code is hereby amended to read as follows:

906.9. Height Above Floor. Extinguishers having a gross weight not exceeding forty (40) lbs. (18.14 kg) shall be installed so that the top of the extinguisher is not more than four (4) feet above the floor. Extinguishers having a gross weight greater than forty (40) lbs. (18.14 kg) (except wheeled types) shall be so installed that the top of the extinguisher is not more than three and one-half (3.5) feet above the floor. In no case shall the clearance between the bottom of the extinguisher and the floor be less than four (4) inches.

Existing Installations. Portable fire extinguishers shall only be required to be lowered during tenant improvements.

3-1.211. FIRE ALARM AND DETECTION SYSTEMS.

Section 907.1 of the 2007 California Fire Code is hereby amended by adding the following:

907.1.5. Certification. A certificate from Underwriters Laboratories (UL) shall be required on all commercial fire alarm systems installed after the effective date of this ordinance. UL certification shall be provided for all previously existing commercial fire alarm systems no later than January 1, 2005. UL certification is required to be maintained for commercial fire alarm systems throughout the life of the alarmed building.

3-1.212. FALSE FIRE ALARMS.

Section 907 of the 2007 California Fire Code is hereby amended by adding the following:

907.20.6. False Fire Alarms. False fire alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted. The City Council may adopt by resolution reasonable fees to recover the costs associated with responses to building or structures that have excessive false fire alarms.

3-1.213. HOT WORKS.

Section 2604.2.6 of the 2007 California Fire Code is hereby amended to read as follows:

2604.2.6. Fire Extinguisher. A minimum of one portable fire extinguisher complying with Section 906 and with a minimum 2-A: 20B:C-rating shall be readily accessible within thirty (30) feet (9144 mm) of the location where hot works is performed and shall be accessible without climbing stairs. When required by the Fire Code Official, a minimum 2-A: 20B:C-rated fire extinguisher shall be mounted to each portable welding cart.

3-1.214. HAZARDOUS MATERIALS INVENTORY STATEMENT.

Section 2701.5.2 of the 2007 California Fire Code is hereby amended to read as follows:

2701.5.2. Hazardous Materials Inventory Statement (HMIS).

Where required by the Fire Code Official, an application for a permit shall include an HMIS, such as SARA (Superfund Amendments and Reauthorization Act of 1986) Title III, Tier II Report, or other approved statement. The HMIS shall include the following information:

1. Manufacturer's name.
2. Chemical name, trade names, hazardous ingredients.
3. Hazard classification.
4. MSDS or equivalent.
5. United Nations (UN), North America (NA) or the Chemical Abstract Service (CAS) identification number.
6. Maximum quantity stored or used on-site at one time.
7. Storage conditions related to the storage type, temperature and pressure.
8. Key Box. When required by the Fire Code Official, an approved key box, sized to contain emergency information, (HMMP, HMIS and Material Safety Data Sheets) shall be provided.

The HMIS shall comply with Health and Safety Code, Chapter 6.95, Sections 2500 through 25545, and Title 19, Division 2, Chapter 4.

3-1.215. DEFINITION; HAZARDOUS MATERIALS.

Section 2702.1 of the 2007 California Fire Code is amended to read as follows:

HAZARDOUS MATERIALS. Are those chemicals or substances which are physical hazards or health hazards as defined and classified in Chapter 27 of the 2007 California Fire Code, or as defined in the California Health and Safety Code, Division 20, Chapter 6.95, commencing with Section 25500, whether the materials are in usable or waste condition.

3-1.216. DEPOSITS OF HAZARDOUS MATERIALS; CLEANUP, ABATEMENT, OR MITIGATION REQUIRED; LIABILITY FOR COSTS.

Section 2703.3.1.4 of the 2007 California Fire Code is hereby amended to read as follows:

2703.3.1.4. Responsibility for Cleanup. The person, firm or corporation responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. When deemed necessary by the Fire Code Official, cleanup may be initiated by the Fire Department or by an authorized individual or firm. Costs associated with such cleanup shall be borne by the owner, operator or other person responsible for the unauthorized discharge. The remedy provided by this section shall be in addition to any other remedies provided by law.

For purposes of this section, costs incurred by the City shall include, but shall not necessarily be limited to, the following: actual labor costs of City personnel, including worker's compensation benefits, fringe benefits, administrative overhead; cost of equipment operation; cost of materials obtained directly by the City; and cost of any contract labor and materials. The authority to recover costs under this section shall not include actual fire suppression services that are normally or usually provided by the Fire Department.

3-1.217. STORAGE OF CONTAINERS.

Section 3204.3.1.1 of the 2007 California Fire Code is amended to read as follows:

3204.3.1.1. Location. Stationary containers shall be located in accordance with Section 3203.6 of the 2007 California Fire Code. Containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials.

Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited. All R-1, R-2 and R-3 zoning designations as identified in Title 10 of the Modesto Municipal Code.

3-1.218. PERMITS REQUIRED FOR EXPLOSIVES.

Section 3302 of the 2007 California Fire Code is hereby amended by adding the following:

3302.1. Permits Required. When permits are required to be issued by the Fire Code Official, the Fire Code Official may grant the authority to the agency having enforcement jurisdiction. Permit shall be obtained:

1. To possess, store, sell, display or otherwise dispose of explosive materials at any location.
2. To transport explosive materials.
3. To use explosive materials.
4. To operate a terminal for handling explosive materials.

3-1.219. NOTICE OF NEW STORAGE SITES.

Section 3303 of the 2007 California Fire Code is hereby amended by adding the following:

3303.1. Notice of New Storage Sites. When a new explosive material storage location, including a temporary job-site, is established, the local law enforcement agency and fire department shall be notified immediately of the type, quantity and location of explosive materials at the site.

3-1.220. EXPLOSIVE MATERIALS PROHIBITED AND LIMITED ACTS.

Section 3304 of the 2007 California Fire Code is hereby amended by adding the following:

3304.1. Manufacturing. Explosive materials shall not be manufactured within the city limits of Modesto.

3304.1.2. Limits Established by Law. The storage of explosives and blasting agents is restricted to those areas of the City zoned as Heavy Industrial Zone (M-2).

EXCEPTION:

1. Temporary storage for use in connection with approved blasting operations conducted in accordance with all applicable provisions of this article.
2. Wholesale and retail storage and display of ammunition and gunpowder shall be in accordance with Title 19 California Code of Regulations, Chapter 10.

3-1.221. MANUFACTURING OF FIREWORKS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.2. Manufacturing. The manufacturing of fireworks is prohibited within the city limits of Modesto.

3-1.222. PERMITS: DISPLAYS OF FIREWORKS AND APPEAL PROCESS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.3. Permits. The Fire Code Official may grant a permit for the display of fireworks, including proximate audience displays and pyrotechnic special effects in theatrical and group entertainment as applied for, or with conditions thereto, unless s/he finds that to do so would be contrary to the public health, safety, or welfare. The decision of the Fire Code Official shall be in writing and shall be mailed, postage prepaid, to the applicant.

3308.3.2. Appeal. The decision of the Fire Code Official, in acting on an application for permission to conduct a public display in accordance with the provisions of this section may be appealed to the City Manager. Notice of an appeal of the Fire Code Official's decision shall be filed by the applicant with the City Clerk within ten (10) days after the date of the decision. Upon failure to file such notice within the ten (10) day period, the action of the Fire Code Official shall be final and conclusive. The applicant may appeal the decision of the City Manager to the City Council by filing a notice of appeal to the City Clerk within ten (10) days after the date of the City Manager's decision. Upon failure to file such notice within the ten (10) day period, the action of the City Manager, or his/her designee, shall be final and conclusive.

3308.3.3. Fee. A nonrefundable fee as established by resolution of the City Council, from time to time, shall accompany every application for permission to conduct a public display of fireworks. This fee shall be in addition to any other fee or tax imposed by Title 6 of the Modesto Municipal Code.

3-1.223. SALES OF FIREWORKS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.4. Sales. It shall be unlawful to engage in the sale of "Safe and Sane" fireworks in the City of Modesto without first having secured a permit to do so.

- (1) Effective with 2005, the total number of sales permits issued in any given year shall be limited to seventy (70). If the number of permits exceed seventy (70) at the time of this ordinance the reduction will be accomplished through attrition. Therefore, any permit in excess of seventy (70) that is not renewed or lost for cause, or for any other reason shall not be reissued.
- (2) Sales permits for the sale of "Safe and Sane" fireworks in the City of Modesto shall be issued only to local nonprofit organizations and existing local for-profit organizations as defined herein.

(A) A "nonprofit organization" shall mean any nonprofit association, club, or corporation organized for veteran, patriotic, welfare, religious, civic betterment, youth or charitable purposes, as defined by Section 501(c) of the Internal Revenue Code of the United States, or affiliated with a public school located within the city limits of Modesto. Each new organization shall provide the City with a copy of their "Letters of Incorporation" as proof of their nonprofit status. Existing organizations shall submit verification of current corporation status from the State of California Secretary of State's Office. Those organizations that are an integral part of a recognized national organization having tax exempt status must provide IRS written verification of such status. All applications will be subject to additional verification with the State of California and IRS if nonprofit status comes into question.

- (B) Public school organizations shall provide current written verification of affiliation from the school each year.
- (C) A "local nonprofit organization" must have its principal and permanent meeting place in the City of Modesto. The organization must have obtained nonprofit status and have been organized and established in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit. The organization must also have a bona fide membership of at least ten (10) members who reside in the City of Modesto, which will be verified each year. Applications shall be signed by two (2) bona fide officers of the eligible organization, wherein the officer, on behalf of the organization and its agents, agrees to abide by State laws, administrative regulations, and all stipulations of this Code and the permit if permission to operate a fireworks stand is granted to the organization.

(D) An "existing local for-profit organization" must have a permitted fixed business location in the City of Modesto, have been issued a fireworks sales permit the previous year, have remained under the same management and/or ownership continuously since 1999, and have paid all business license and mill tax fees due the City of Modesto by the close of the application period. In the event mill taxes and business license fees are not current the organization's application will be denied.

(E) If any of the above items fail to be met at the time of application, the organization's application shall be denied.

- (3) Sales permits for retail sales of "Safe and Sane" fireworks in the City of Modesto issued pursuant to provision of this Code are not transferable by the holder of the permit. The sales permits may be used only by the organization to which they are issued. Violations will result in the immediate loss of the organization's sales permit.
- (4) All applications for sales permits shall be in writing to the Fire Code Official on forms supplied by the City. Applications may only be filed during normal business hours from April 1st of each year up to and including April 30th of the same year, at which time

the filing period for that year will close. A separate sales permit shall be required for each proposed location of a fireworks stand.

Each organization may file an application for one (1) sales permit for which there is only one tax ID number.

- (5) Applications shall set forth the proposed location of the fireworks stand including the nine (9) digit parcel number (APN) of the Stanislaus County Assessor, a site map, and other information as may be required by the Fire Code Official.
- (6) Applicants for sales permits shall be notified by June 15th of each year by the Fire Code Official of approval or disapproval of such application. Sales permits will be issued after final inspection of the stand reveals compliance with all state and local regulations. Organizations shall not open for sales prior to the final inspection of their stand. If an organization's stand fails to pass inspection there will be a re-inspection fee charged for the third (3rd) inspection, and each inspection thereafter until final inspection is approved, as established by Resolution No. 03-446.
- (7) Every application shall be accompanied by proof of insurance as specified in Section 3-1.226. Other items required at the time of application will be the organization's verification of eligibility as stated in 2(A) above, list of bona fide members, and current written permission signed by the property owner of record (with respect to lessee permission, approval shall be in the sole discretion of the Fire Code Official to sell fireworks at that location. Organizations representing public schools, as stated in 2(B) above, require written verification from the school of their affiliation.
- (8) Every application shall be accompanied by a nonrefundable application fee as established by resolution of the City Council from time to time. This application fee shall be in addition to any fees or taxes imposed by Title 6 of the Modesto Municipal Code.
- (9) Any local nonprofit organization as defined herein may make application for a sale permit but pre-approved (continuously permitted since 1999) organizations will have first option for a permit.

- (A) When additional sales permits are authorized and all current pre-approved organizations have applied for such permits, a lottery will be held to fill any vacancies.
 - (B) This lottery will be held fourteen (14) days after the last day of the filing period specified in paragraph 4 and will include the names of all new local nonprofit organizations that have filed a complete application within the said filing period. If the fourteenth (14th) day falls on a weekend the lottery will be held on the next business day.
 - (C) One organization will be drawn for each available vacancy. If the organization whose name is drawn declines the permit, another name will be drawn until each vacancy is filled.
 - (D) Any organization having an approved application that fails to open their stand for that sales year will automatically forfeit their permit and a new organization will be chosen the following year provided a permit is available.
- (10) A nonprofit organization may apply for a sales permit with regard to a stand located in an area annexed by the City of Modesto under the following conditions:
- (A) Two (2) consecutive years prior to annexation, the applicant was issued a sales permit, by the City or County in which the property was formerly located, and applicant presents proof of the issuance of said permits;
 - (1) The applicant has received a valid City of Modesto business license; and
 - (2) The organization must either
 - a) Meet the criteria of set forth in Section 33-1.223(2)(A) or
 - b) Present documentary evidence establishing its primary meeting for a minimum of two (2) years preceding application to City of Modesto was at the

location for which the sales permit is currently sought.

- (B) Annexed property that was previously used for a temporary booth by an organization whose current primary meeting place is outside the city limits of Modesto is not eligible to make application for a sales permit.

Permits issued to these organizations will be issued without the necessity of being selected by lottery, even though such issuance may increase the number of permits to more than allowed herein. The addition of these organizations does not change the original intent to issue a total of seventy (70) sales permits per year.

3-1.224. SALES, STORAGE, USE, AND HANDLING OF FIREWORKS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.5. General. Sales, storage, use, and handling of fireworks shall be in accordance with this chapter.

1. **Sales.** Retail sale or display with the intent to sell fireworks is limited to State of California Fire Marshal approved and labeled "Safe and Sane" fireworks within the City of Modesto, by State of California licensed retailers, provided a permit to sell those fireworks has been approved and obtained from the Fire Code Official. Fireworks may be sold or offered for sale from 12:00 noon to 10:00 p.m. on June 28, 9:00 a.m. to 10:00 p.m. on June 29 through July 5, and 9:00 a.m. to 12:00 noon on July 6.

The storage of fireworks within the City of Modesto is limited to State of California Fire Marshal-approved and labeled "Safe and Sane" fireworks by State of California licensed wholesalers and retailers.

- (A) **Wholesale Storage.** Wholesalers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 1 through July 31 of each year. Storage facilities shall comply with H3 occupancy classification requirements as defined by the 2007 California Building Code.

(B) **Retailers Storage.** Retailers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 22 through July 15 of each year. "Safe and Sane" fireworks that are not being sold or displayed with the intent to sell, shall be stored solely in the following manner:

- (1) Within the permitted fireworks stand with a responsible adult on the premises at all times.
- (2) In a completely enclosed and locked utility type trailer constructed of one-fourth (1/4) inch plywood or other approved noncombustible material.
- (3) In a completely detached garage on residential property with a minimum ten (10) feet clearance from other structures or property lines. There shall be no open-flame or spark producing equipment, or Class 1 flammable liquids stored or used within in the garage.
- (4) Fireworks shall not be stored within forty (40) feet of any building classified or used as a public or private school, day care facility, residential care facility, hospital, place of detention, public oil/gas station, or public garage, or any place of public assembly that can accommodate fifty (50) or more persons.
- (5) In an approved and permitted fireworks warehouse.

3. **Operator Safety.** Each year, one (1) or more representatives from each organization, that is granted a permit to sell fireworks, shall attend a stand operator safety seminar conducted by the City of Modesto Fire Department and the fireworks industry. Failure to attend the seminar shall result in the revocation of the organization's permit to sell fireworks for that calendar year.

4. **Temporary Fireworks Stands.**

- (1) All retail sales of "Safe and Sane" fireworks shall be permitted only from within a temporary fireworks stand and sales from any other building or structure is hereby prohibited.
- (2) City Business License, Fire Department Permit and State License shall be displayed in the fireworks stand during hours of operation.
- (3) Temporary fireworks stand shall not be set up before application for permit has been approved nor earlier than June 14.
- (4) The fireworks stands shall be located at least twenty (20) feet from other structures.
- (5) Zoning of property, in which the fireworks stand will be located, shall be in accordance with Section 10-2.2330 of the Modesto Municipal Code.
- (6) Fireworks shall not be stored, sold, offered for sale, or discharged within one hundred (100) feet of a location where gasoline, LPG, other class 1 flammable liquids or flammable gasses are stored or dispensed.
- (7) All unsold stock and accompanying litter shall be removed from the location by 5:00 p.m. on the 6th day of July.
- (8) The fireworks stand shall be removed from the temporary location by 12:00 noon on the 12th day of July, and all accompanying litter shall be cleared from said location by said time and date.
- (9) A penalty of one hundred dollars (\$100.00) per day will be assessed to the permittee of any fireworks stand not removed by 12:00 noon on the 12th day of July.

5. **Safety Precautions.**

- (1) No person under the age of eighteen (18) shall sell, or handle for sale, any classification of fireworks.

(2) No person under the age of eighteen (18) shall purchase or be allowed to purchase any classification of fireworks.

(3) Smoking, open-flame, and spark-producing equipment shall be prohibited for a distance of twenty (20) feet around any fireworks stand.

(4) Dry grass, weeds, trash, and other combustible material shall be removed for a distance of twenty (20) feet around any fireworks stand.

(5) Fireworks shall not be discharged within fifty (50) feet of a fireworks stand.

6. **Stand Construction.**

(1) Merchandise may be displayed in approved glass enclosed counters or showcases, or

(2) Merchandise may be displayed in stands constructed in the following manner:

(A) Walls and roof shall be of plywood at least one-fourth (1/4) inches thick or of an approved noncombustible material.

(B) The stand shall be provided with a roof.

(C) Walls shall extend to a minimum height of six (6) feet eight (8) inches, on at least three (3) sides. These three (3) sides shall be without openings, except for an exit door.

(D) An exit door with a minimum size of twenty-four (24) inches in width and six (6) feet in height, shall be provided in each stand. Exits shall be maintained clear and unobstructed at all times.

(E) The front wall of the stand shall provide a physical barrier not less than eighteen (18) inches in height between the public and the merchandise on display.

- (F) Approved "NO SMOKING" signs shall be prominently displayed in and on the stand.
- (G) Approved "NO SALES TO PERSONS UNDER THE AGE OF 18" signs shall be prominently displayed in the stand.
- (H) An approved fire extinguisher having a minimum U.L. classification of 2A shall be located in the stand, near the exit and readily accessible.
- (I) Sellers of fireworks shall comply with all rules and regulations of Title 19 of the California Code of Regulations and with the rules and regulations of the Fire Code Official.
- (J) Stands will be limited to twenty-four (24) feet by eight (8) feet or one hundred ninety-two (192) square feet in size. Pre-existing stands as identified by the fireworks suppliers shall retain the right to operate their oversized stands, without change, until said stand or organization forfeits or loses their operating permit. A copy of said list shall remain on file with the Fire Code Official.

7. Operation of Fireworks Stand Only by Permittee.

(1) It is unlawful for the permittee organization to allow any person or entity other than the permittee organization to operate the fireworks stand for which the permit is issued, whether by agreement, assignment or otherwise, or to otherwise participate in the profits of the operation of such fireworks stand. Violations will result in the immediate loss of the organization's permit

(2) It is unlawful for a non-profit organization to allow any person other than the individuals who are members of the permittee organization, their spouses or adult children, or volunteers to whom no compensation is paid, to sell or otherwise participate in the sale of fireworks at such fireworks stand.

(3) It is unlawful for a non-profit organization to pay any consideration to any person for selling or otherwise participating in the sale of fireworks at such fireworks stand, except the hiring of a night watchman or security officer.

3-1.225. REVOCATION OF PERMIT AND SEIZURE OF FIREWORKS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.6. Revocation of Fireworks Sales Permit. The Fire Code Official, or his/her designee, may revoke, immediately and without notice or hearing, the "Safe and Sane" fireworks sales permit of any location or organization when any of the provisions of Sections 3-1.223, 3-1.224, or 3-1.226 are violated. The Fire Code Official shall inform the permittee that permittee may seek review of the Fire Code Official's decision, by the City Manager, on the next business day. At the earliest opportunity on the next business day after revocation, the Fire Code Official shall provide the City Manager with written notice that a fireworks sales permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. If requested by the permittee, the City Manager, or his/her designee, shall meet with the permittee and the Fire Code Official, or his/her designee, that day to review the Fire Code Official's decision. The decision of the City Manager shall be final.

3308.6.1. Revocation of any sales permit will be effective for that calendar year.

3-1.226. FIREWORKS DISPLAYS INSURANCE REQUIRED.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the following:

3308.7. Insurance.

1. The permittee shall furnish a certificate of insurance for each policy required, executed by the company issuing such policy, and approved as to form by the Risk Manager. Such policies shall contain a provision which holds the City as an additional insured and declaring said insurance to be primary and

that no other insurance carried by an insured party shall be called upon for contribution. Notwithstanding any other provision of this section, the failure of the permittee to carry such insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance policy or policies. A payment of one hundred and two dollars (\$102.00) shall be made to the City before any such revoked permit may be reinstated.

2. The permittee/licensee shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

- (a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of five hundred thousand dollars (\$500,000).
- (b) General Liability insurance with a minimum limit of liability per occurrence of five million dollars (\$5,000,000) for bodily injury and five hundred thousand (\$500,000) for property damage. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent permittee/licensee's and subcontractors; products and completed operations; and professional liability.
- (c) Automobile Liability insurance with a minimum limit of liability per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand (\$100,000) for property damage or one million (\$1,000,000) combined single limit. This insurance shall cover any automobile for bodily injury and property damage. If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a

company issuing such policy shall be unsatisfactory to the City, the permittee/licensee shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the permittee/licensee to furnish, deliver or maintain such insurance and certificates as above provided, the permit/license is automatically revoked. Failure of the permittee/licensee to obtain and/or maintain any required insurance shall not relieve the permittee/licensee from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the permittee/licensee concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers. The permittee/licensee's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The permittee/licensee must deliver certificates evidencing existence of the insurance listed above to the Finance Director at the time the permit is granted.

Permittee/licensee shall provide City with separate endorsements evidencing proof of the City's additional insured status as to both the general liability and automobile liability insurance policies. In addition, permittee/licensee shall provide City with a Worker's Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to a permit, the permittee/licensees insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be

excess of the permittee/licensee's insurance and shall not contribute with it.

3. The permittee/licensee shall agree to hold the City of Modesto, its agents, officers, employees, and volunteers harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities, and from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney fees and all costs and expenses arising directly or indirectly out of any act or omission of permittee arising out of any activity authorized by the permit.

4. The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies with insurance companies approved by the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Finance Director of the City by registered mail, return receipt requested.

3-1.227. POSSESSION, SALE, USE OR DISCHARGE OF DANGEROUS FIREWORKS.

- (a) For purposes of this section, dangerous fireworks are those fireworks specified as such in the State Fireworks Law, Section 12505 of the California Health and Safety Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.
- (b) It shall be unlawful for any person to possess, sell, use or discharge dangerous fireworks, or a dangerous firework kit, unless a permit authorizing such possession, sale, use or discharge has been issued by the Fire Code Official to the person, as is defined in Section 1-6.207 of the Modesto Municipal Code, using, selling, discharging or found in possession of said fireworks or kits, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal. The Fire Code Official may establish reasonable rules and regulations for governing issuance of a firework permit and may issue the same subject to payment of a fee as established by the City Council from time to time.

- (c) The Fire Code Official, or designee, shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of dangerous fireworks offered or exposed for sale, stored, or held in violation of this chapter.

3-1.228. STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS IN TANKS.

Section 3404.2.9.5.1 of the 2007 California Fire Code is hereby amended to read as follows:

3404.2.9.5.1. Location Where Above Ground Tanks are Prohibited. Storage of Class I and II Liquids in aboveground tanks outside of buildings is prohibited, with the exception of protected tanks designed, installed and maintained in accordance with Chapter 34 of the 2007 California Fire Code. In addition, all above ground tanks shall be UL 2085 listed. The provisions of this section shall not apply to facilities for the production, generation, or transmission of electric energy that provide power to entities furnishing retail electrical services to the general public within the city of Modesto.

3-1.229. OPERATING HEATING, LIGHTING AND COOKING APPLIANCES PROHIBITED.

Section 3405.3.3 of the 2007 California Fire Code is hereby amended to read as follows:

3405.3.3. Heating, Lighting and Cooking Appliances. Heating, lighting, and cooking appliances which utilize flammable or combustible liquids shall not be operated within a building or structure

3-1.230. ABOVEGROUND TANK STORAGE AND DISPENSING OF FLAMMABLE AND COMBUSTIBLE LIQUIDS ON FARMS AND CONSTRUCTION SITES.

Section 3406.2.4 of the 2007 California Fire Code is hereby amended to read as follows:

3406.2.4. General. The capacity of temporary aboveground tanks containing Class I and Class II Liquids shall not exceed one thousand one hundred (1,100) gallons (4163.9 L). The capacity of permanent aboveground tanks containing Class I and II Liquids shall not exceed ten thousand (10,000) gallons (37,854 L). Temporary tanks of single-

compartment design shall be constructed in accordance with Section 3406; permanent tanks shall be constructed in accordance with Chapter 34 of the 2007 California Fire Code.

3-1.231. STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS.

Section 3406.2.4.4 of the 2007 California Fire Code is hereby amended to read as follows:

3406.2.4.4. Locations Where Above-Ground Tanks are Prohibited. The storage of Class I and II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited. All R-1, R-2 and R-3 zoning designations as identified in Title 10 of the Modesto Municipal Code.

3-1.232. BULK PLANTS STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS.

Section 3406.4 of the 2007 California Fire Code is hereby amended to read as follows:

3406.4. Bulk Plants. Portions of properties where flammable and combustible liquids are received by tank vessels, pipelines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles or containers shall be in accordance with Section 3406.4.1 through 3406.4.10.4 of the 2007 California Fire Code.

The construction of new bulk plants for storage of flammable or combustible liquids is restricted to areas of the city of Modesto zoned Heavy Industrial Zones (M-2). All existing nonconforming bulk plants for storage of flammable or combustible liquids which substantially comply with the requirements of this Code may be continued in use if a permit therefor shall be granted by the Fire Code Official.

3-1.233. BULK TRANSFER AND PROCESS TRANSFER OPERATIONS.

Section 3406.5 of the 2007 California Fire Code is hereby amended to read as follows:

3406.5. Bulk Transfer and Process Transfer Operations. Bulk transfer and process transfer operations shall be in approved locations. Tank cars shall be unloaded only on private sidings or railroad siding facilities

equipped for transferring flammable or combustible liquids. Tank vehicle and tank car transfer facilities shall be separated from buildings, aboveground tanks, combustible materials, property lines, streets, alleys or public ways by a distance of twenty (25) feet (7620 mm) for Class I liquids and fifteen (15) feet (4572 mm) for Class II and III liquids measured from the nearest position of any loading or unloading valve.

Tank vehicles and tank cars shall be unloaded as soon as possible after arrival at point of delivery and shall not be used as storage tanks. Unless otherwise approved, a tank car shall not be allowed to remain on a siding at the point of delivery for more than twenty-four (24) hours while connected for transfer operations.

3-1.234. PERMITS FOR LIQUIFIED PETROLEUM GASES.

Section 3801.2 of the 2007 California Fire Code is hereby amended to read as follows:

3801.2. Permits. Permit(s) shall be required as set forth in Appendix Chapter 1, Sections 105.6 and 105.7.

EXCEPTION:

1. Containers not exceeding five (5) gallon water capacity, used for "barbecue" cooking, when used and stored outside of buildings.
2. Approved containers not exceeding sixteen and four-tenths (16.4) ounces when displayed for sale in mercantile occupancies.
3. Factory installed containers for recreational vehicles not exceeding ten (10) gallon water capacity.
4. Factory installed tanks that are permanently attached to recreational vehicles.

Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Code Official.

3-1.235. USE OF LIQUIFIED PETROLEUM GAS CONTAINERS IN BUILDINGS.

Section 3803.2.1 of the 2007 California Fire Code is hereby amended to read as follows:

3803.2.1. Portable Containers. Portable LP-gas containers, as defined in NFPA 58 shall not be used in buildings except as specified in this section.

1. Areas undergoing construction.
 - A. Portable containers, not exceeding five (5) gallon water capacity, may be allowed in buildings or areas undergoing construction, when permitted by the Fire Code Official.
 - B. LP-gas containers shall not be used in a basement, pit, or similar location where heavier-than-air gas might collect. LP-gas containers not exceeding sixteen and four tenths (16.4) ounces may be used in an above-grade underfloor space or basement only when such space is provided with an approved means of ventilation.
2. In educational, business, and institutional occupancies when used for research and experimentation provided the individual capacity of any one container does not exceed sixteen and four-tenths (16.4) ounces and the aggregate capacity of all containers does not exceed two and one-half (2-1/2) gallons water capacity. When more than one such container is present in the same room, each container shall be separated by a distance of not less than ten (10) feet.
3. At demonstrations and public exhibitions for temporary use provided the individual capacity of any one container does not exceed sixteen and four-tenths (16.4) ounces and when more than one such container is present in the same room, each container shall be separated by a distance of not less than ten (10) feet.
4. With self-contained torch assemblies and similar appliances provided that the individual capacity does not exceed sixteen and four-tenths (16.4) ounces.

Such containers shall not be used for commercial or residential food preparation.

3-1.236. MAXIMUM CAPACITY OF LPG CONTAINERS.

Section 3804.2 of the 2007 California Fire Code is hereby amended to read as follows:

The outside storage of liquefied petroleum gas (LP-gas) shall conform to the provisions of City of Modesto zoning ordinances. The outside storage and use of liquefied petroleum gases is restricted as specified in this section.

The aggregate capacity of any one installation shall not exceed two thousand (2,000) gallons, except that in particular installations this capacity limit may be altered by the Fire Code Official, after consideration of special features such as topographical conditions, nature of occupancy, proximity of buildings, capacity of proposed tanks, degree of private fire protection to be provided, and facilities of the local Fire Department.

1. Storage and dispensing of LP-gas for resale purposes, into approved containers and vehicles, is restricted to those areas of the City zoned as Light Industrial (M-1), Heavy Industrial (M-2), and, in addition thereto, to other commercially zoned properties used as automotive service stations. Dispensing shall be performed only by qualified persons.
2. Dispensing of LP-gas for private use is restricted to those zones identified in subsection 1, and when approved by the Fire Code Official, may be permitted in those areas of the City zoned General Commercial (C-2). Dispensing shall be performed only by qualified persons.
3. For cooking, lighting, or heating in a building, only on a property that does not have natural gas service existing on a boundary line of said property or when prohibition of such storage would cause undue hardship.
4. For temporary use on construction sites, when authorized by the Fire Code Official.
5. For use as an alternative fuel supply for an emergency standby generator, when authorized by the Fire Code Official.

6. For use with certain mobile vending and certain commercial barbecue equipment and other specific uses when authorized by the Fire Code Official.

7. For use by artisans in pursuit of their trade, when authorized by the Fire Code Official.

8. Storage of portable containers awaiting exchange may be permitted in commercial zoned areas of the City, including those zoned Neighborhood Commercial (C-1), when approved by the Fire Code Official and stored in accordance with Section 3809. Such storage shall be located a minimum of twenty (20) feet from any fuel dispenser.

EXCEPTION:

1. Storage of LP-gas in accordance with Subsections 3, 4 and 5 shall be limited to one container not to exceed two hundred fifty (250) gallons water capacity.
2. The aggregate capacity of containers in storage and use in accordance with subsections 6 and 7 shall not exceed fifteen (15) gallons. Individual containers shall not exceed five (5) gallons water capacity, unless authorized by the Fire Code Official, and shall not be manifolded.

3-1.237. STORAGE OF PORTABLE LP-GAS CONTAINERS AWAITING USE, RESALE, OR EXCHANGE.

Section 3809.12 of the 2007 California Fire Code is hereby amended to read as follows:

3809.12. Separation from exits. Containers stored inside or outside buildings frequented by the public shall be located not less than ten (10) feet from any exit door or building opening, when only one (1) exit is provided from the building or area, and not less than five (5) feet from any exit door or building opening, when two (2) or more exits are provided from the building or area.

Table 3809.12 of the 2007 California Fire Code is hereby amended to read as follows:

Quantity of LP-Gas Stored (Pounds)	Distances to a Building or Group of Buildings, Public Way, or Line of Property that can be Built Upon (feet)
720 or less	0
721 to 2,500	10
2,501 to 6,000	15
6,001 to 10,000	20
Over 10,000	25

3-1.238. DELETIONS PERMIT REQUIRED FOR CERTAIN OPERATIONS.

2007 California Fire Code, Appendix Chapter 1 - Administration is hereby amended to read as follows:

Sections 103.2, 103.4, 103.4.1, 105.6.15, 105.6.19, 105.6.30 and 108 are hereby deleted.

3-1.239. PERMIT AMOUNTS FOR COMPRESSED GASES.

Appendix Chapter 1 Section Table 105.6.8 of the 2007 California Fire Code is amended to read as follows:

105.6.8. Compressed Gases. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed in Appendix Chapter 1, table 105.6.8.

EXCEPTION: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

Table 105.6.8-Permit Amounts for Compressed Gases¹

Type of Gas	Amount x 0.0283 for m ³
Corrosive	Any Amount
Flammable (except cryogenic fluids and liquefied petroleum gases)	200 cubic feet

Type of Gas	Amount x 0.0283 for m ³
Highly toxic	Any Amount
Inert and simple asphyxiant	200 cubic feet
Irritant	200 cubic feet
Other Health Hazards	200 cubic feet
Oxidizing (including oxygen)	200 cubic feet
Pyrophoric	Any Amount
Radioactive	Any Amount
Sensitizer	200 cubic feet
Toxic	Any Amount
Unstable (reactive)	Any Amount
Acutely hazardous (as listed in 40-CFR-355)	Threshold Planning Quantity or more.

¹See Chapter 30 of the 2007 California Fire Code for additional requirements and exceptions.

3-1.240. PERMIT AMOUNTS FOR CRYOGENS.

Appendix Chapter 1 Section Table 105.6.10 of the 2007 California Fire Code is amended to read as follows:

105.6.10. Cryogenic Fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed in Appendix Chapter 1, Table 105.6.10.

EXCEPTION: Permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.

Table 105.6.10--Permit Amounts for Cryogens¹

Type of Cryogenic Fluid	Inside Building	Outside Building
Corrosive	Over 1 gallon	Over 1 gallon

Type of Cryogenic Fluid	Inside Building	Outside Building
Flammable	Over 1 gallon	55 gallons
Highly Toxic	Over 1 gallon	Over 1 gallon
Nonflammable	55 gallons	55 gallons
Oxidizer (including oxygen)	50 gallons	50 gallons

See Appendix Chapter 1 of the 2007 California Fire Code.

ARTICLE 3. ADMINISTRATION

3-1.301. FEES.

- (a) **Permit Fee.** The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for any permit issued pursuant to the Fire Code.
- (b) **Plan Check Fee.** When the valuation of proposed construction exceeds one thousand dollars (\$1,000.00), or a plan is required to be submitted, a plan checking fee shall be paid at the time of submitting plans and specifications for checking.

Where plans are incomplete or changed so as to require an additional plan check, an additional plan check fee shall be charged. The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for plan checking.

3-1.302. APPEALS.

Applicant may appeal the decision of the Fire Code Official to the City Council within thirty (30) days from the date of the decision being appealed whenever the Fire Code Official:

1. Disapproves an application for use of alternate materials, methods and/or types of construction,
2. Disapproves an application for permit or refuses to grant a permit applied for,
3. When it is claimed that the provisions of the code do not apply, or

4. When it is claimed that the true intent and meaning of the code have been misconstrued or wrongly interpreted.

3-1.303. VIOLATIONS COMPLIANCE WITH ORDERS, NOTICES AND TAGS.

Section 109.3 of the 2007 California Fire Code, Appendix Chapter 1 - Administration is hereby amended to read as follows:

109.3. Criminal Violations. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provision of this code, any such violation constituting a misdemeanor under this code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this chapter, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this chapter, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250.00) and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500.00).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

3-1.304. ADMINISTRATIVE REMEDIES.

In addition to any other remedies set forth in this chapter, administrative penalties may be imposed against any person, as defined in Section 1-6.207 of the Modesto Municipal Code, for violating any of the requirements set forth in this chapter. Any administrative penalties assessed shall be as follows:

- (a) For violations of Section 3-1.227, possession, sale, use or discharge of dangerous fireworks, the administrative penalty shall be seven hundred

fifty dollars (\$750.00) for each specific act found to be in violation of that section.

- (b) For all violations of this chapter, other than Section 3-1.227, possession, sale, use or discharge of dangerous fireworks, the amount of the administrative penalty shall be two hundred fifty dollars (\$250.00) for the first violation, five hundred dollars (\$500.00) for a second violation within any twelve (12) month period, and seven hundred fifty dollars (\$750.00) for any subsequent violations within any twelve (12) month period.

SECTION 2. FINDING AND DECLARATION. As required by the 2007 California Fire Code Section 101.8, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2007 California Fire Code are reasonably necessary because of local climate and geographic conditions. This ordinance also prescribes local procedures to be used in the administration and enforcement of this Code; provides for local interpretations of this Code, and makes other changes in this Code consistent with local custom and practice as reflected in the prior local Fire Code.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for

such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3466-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3467-C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 1057-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 26-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING CERTAIN PROPERTY LOCATED THEREON. (WESTLAND INVESTMENT COMPANY)", (HENSLEY PROPERTIES, LP)

SECTION 1. AMENDMENT OF ORDINANCE NO. 1057-C.S. Section 2 of Ordinance No. 1057-C.S., is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(82) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. 73 for-sale air-space condominiums."

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and ordered printed and published by the following vote:

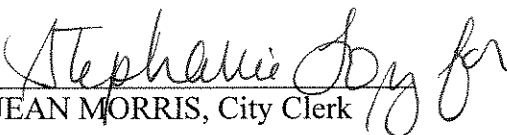
AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3467-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

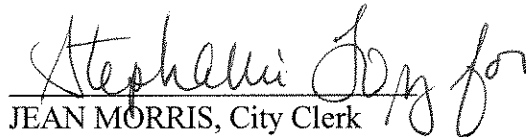
ABSENT: Councilmembers: O'Bryant

APPROVED: _____



MAYOR JIM RIDENOUR

ATTEST: _____



JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3468-C.S.

AN ORDINANCE ADDING CHAPTER 21 ENTITLED "JUNK DEALERS AND SCRAP METAL RECYCLERS" TO TITLE 4 OF THE MODESTO MUNICIPAL CODE.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 21 entitled "Junk Dealers and Scrap Metal Recyclers" is hereby added to Title 4 of the Modesto Municipal Code to read as follows:

CHAPTER 21. JUNK DEALERS AND SCRAP METAL RECYCLERS

4-21.01. AUTHORITY.

- (a) This chapter is adopted pursuant to the police power of the City of Modesto under Article XI, Section 7 of the California Constitution and in supplementation of Business and Professions Code Sections 21600 through 21609. This chapter is not intended to supersede the provisions of these statutes. Any conflict that may exist between this chapter and state law shall be resolved in favor of the latter. Nothing contained herein shall relieve any person or legal entity of obligations contained in the Business and Professions Code or other provisions of state or local law.

4-21.02. DEFINITIONS.

- (a) "Junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, but does not include secondhand and used furniture or pallets.
- (b) "Scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

- (c) "Junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.
- (d) "Junk yard" includes any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept.
- (e) "Recycler" means any processor, recycling center, or non-certified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk as defined herein.

4-21.03. EXEMPTIONS.

- (a) This chapter shall not apply to any of the following:
 - (1) Secondhand furniture merchants.
 - (2) Pawnbrokers.
 - (3) Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junkyard.
 - (4) Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.
 - (5) Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junkyard.
 - (6) Secondhand clothing merchants and rag pickers.
 - (7) A valid business to business transaction, in which the seller provides specified identifying information regarding their business and a copy of the driver's license for the individual delivering the material.
 - (a) specified identifying information:

- (i) valid business license of the business selling the material; and
 - (ii) authorization on business letterhead of the business selling the material, identifying the individual delivering the material; and
 - (iii) a contact person at the business selling the material to verify the information and authenticity of the authorization.
 - (b) business to business transactions apply only to those businesses selling material that is a direct by-product of the selling business operation.
- (8) Scrap metal purchased or received by the junk dealer or recycler directly from a governmental entity.

4-21.04. REPORTING.

- (a) Junk dealers or recyclers shall report to the Police Chief at the Modesto Police Department, every day before twelve o'clock noon, on a form provided by the Chief, a record of all sales and purchases of the previous twenty-four (24) hours. The report shall contain the information required by this chapter and any additional information required by the Chief as shown on the forms.
- (b) The report shall at a minimum contain the following information:
 - (1) The name, business name, business address, telephone number, facsimile number, and electronic mail address;
 - (2) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.
 - (3) The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

- (4) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.
- (5) A full and complete description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible, including a photograph of same.
- (6) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.
- (7) A photograph of the seller of the junk.

4-21.05. SELLER'S AGE LIMIT.

It is unlawful for any junk dealer or recycler to purchase, or otherwise acquire, any junk from any person known, or reasonably should be known by the junk dealer or recycler, to be under the age of eighteen (18) years.

4-21.06. HOURS.

It is unlawful for any junk dealer or recycler to conduct his or her business as a junk dealer within the City of Modesto between the hours of 7:00 p.m., of one day and 7:00 a.m., of the next day.

4-21.07. IMMEDIATE NOTICE OF CERTAIN TRANSACTIONS.

Every junk dealer or recycler shall immediately notify the Police Department by telephone, or other means likely to reach the Police Department without delay, of the following:

- (a) The sale or purchase, or attempted sale or purchase, of any junk which reasonably appears to be used only by governments, utilities, railroads, or for specific purposes, such as guardrails, manhole covers, high voltage transmission lines, historical markers, cemetery plaques, light poles, and bleachers.

4-21.08. PERMIT.

Permit—Required.

- (a) It is unlawful for any person to act as a junk dealer or recycler without first making a permit application for and receiving from the Police Department a Junk Dealers/Recyclers Permit to act as such junk dealer or recycler in the city of Modesto.

Permit—Application—Contents.

- (b) Any person desiring a permit, or to renew a permit, hereunder shall make permit application to the Police Department upon blanks furnished therefore. If the application is made by an individual, he or she shall affirm under penalty of perjury that the contents of the application are true, and the contents of the application shall include the name and age of applicant, his or her present address or addresses, and the name under which, and the place where, the applicant has conducted a similar business within twelve (12) months immediately preceding the date of the application. If the business is to be engaged in by a partnership, association or corporation, the application for a permit shall be made by the general manager thereof, or by one having the authority of a general manager. In such case, the application shall state the true name of the organization, the date of its organization, its type, the location of its principal place of business, the names and addresses of its officers, or, in the case of a co-partnership, the names and addresses of all the partners.
- (c) In accordance with California Business and Professions Code Sections 12703 and 12733, the applicant shall attach to the permit application documentation to the satisfaction of the Police Department that the applicant holds a current and active California Weighmaster License. A copy of the applicant's current Weighmaster License shall be displayed in a prominent location at each location where the applicant conducts business.
- (d) The applicant shall acknowledge having read Penal Code Section 496a, which shall be prominently set forth within the application in bold type.

Permit—Application—Employee Identification.

- (e) The applicant, at the request of the Police Chief, shall accompany the application with photographs and fingerprints of all the individuals who are to be actually engaged in the management of the business or in buying or otherwise acquiring junk for the business for which the permit is requested. In the event any other person, after the permit has been granted,

is engaged in the management of the business or in buying or otherwise acquiring such junk, the permit holder shall furnish to the Police Chief on request the photograph and fingerprints of such person. No permit shall be issued until any such demand has been complied with, and any permit that has been issued shall be suspended or revoked if the permit holder does not, within a reasonable time, comply with the provisions of this section.

Permit—Application— Investigation.

- (f) Upon submission of a complete application for permit under this chapter, the application shall be immediately referred to the Police Chief, or his/her designee, and to the Parks, Recreation and Neighborhoods Director, or his/her designee, for investigation concerning the applicant's business and character of the applicant. These departments shall, after investigation, file a report upon the application designating whether or not the applicant is a proper person to be granted the permit applied for. No permit applicant shall be reported as a proper person to be granted a permit under this chapter unless and until it appears that the applicant's conduct or proposed conduct of the business does and will comply with all applicable laws and ordinances, including but not limited to those relating to the public health and to zoning. The departments shall be allowed sixty (60) days from the date of receiving a completed application within which to file the report.

Permit—Fees.

- (g) The City Council may, by resolution adopted from time to time, fix a Junk Dealers/Recyclers Permit fee.

Permit—Term.

- (h) The permits provided for in this section shall be issued for a period of one (1) year from the date of issuance.

Permit—Denial Appeal.

- (i) In the event of the denial of an application for permit under this chapter, the applicant may, within ten (10) days after the date written notice of such adverse report is mailed, file with the City Council a notice of intention to appear before the City Council to appeal the denial of the application. Upon failure to file such notice within the ten (10) day period, the denial of the application shall be final and conclusive.

Permit— Suspension, Revocation or Conditioning of Permit.

- (j) The City Council may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any permit holder and may, after ten (10) days written notice to the permit holder and after a hearing before the City Council, suspend, revoke, or condition the permit of any permit holder who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this section. The grounds for such action shall be summarized in the notice. The notice provided for herein shall be given by registered or certified mail, postage prepaid, or in the manner required for the service of summons in civil actions. Pending the City Council's final decision regarding the permit, a permit holder may continue to engage in the business for the period of his or her permit.

Permit— Disciplinary Action Grounds.

- (k) It shall be a ground for disciplinary action if any permit holder, his or her agent or employee, or any person connected or associated with the permit holder as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permit holder has:
 - (1) Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed; or
 - (2) Violated any provision of this chapter or of any statute relating to his permitted activity; or
 - (3) Been convicted of a felony or any crime involving theft, embezzlement or moral turpitude; or
 - (4) Committed any act constituting dishonesty or fraud; or
 - (5) Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a permitted business; or
 - (6) Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a permitted business; or

- (7) Violated any rule or regulation adopted by the City Council relating to the permit holder's business; or
- (8) Conducted the permitted business in a manner contrary to the peace, health, safety, and general welfare or the public; or
- (9) Demonstrated that s/he is unfit to be trusted with the privileges granted by such permit; or
- (10) Failed to comply with the regulations of the city of Modesto.

Permit— Revocation Without Hearing Upon Conviction.

- (1) If any person holding a permit under this chapter is convicted in any court of the violation of any law relative to his operation of a permitted business, the City Council may revoke the permit forthwith without any further action thereon other than giving written notice of revocation to the permit holder.

4-21.09. PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of November, 2007, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Mayor Ridenour, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar, Hawn

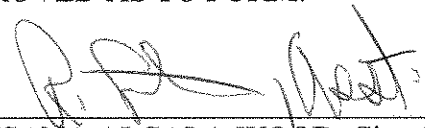
APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3468-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of December 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: January 3, 2008

ORDINANCE NO. 3469-C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 20, SUB-AREA B, OF THE VILLAGE ONE SPECIFIC PLAN TO REVISE LAND USE DESIGNATION FROM MULTI-FAMILY TO VILLAGE CENTER FOR PROPERTIES LOCATED ON THE EAST SIDE OF ROSELLE AVENUE, NORTH OF FLOYD AVENUE. (BEST DEVELOPMENT GROUP, LLC)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan is divided into 35 precise plan areas, and a precise plan is required prior to development in each area, and

WHEREAS, Ordinance No. 3299-C.S., which became effective on July 10, 2001, adopted a Precise Plan for Area 20, Sub-Area B, of the Village One Specific Plan, and

WHEREAS, an application has been filed by Best Development Group, LLC for an amendment to the Precise Plan for Area No. 20, Sub-Area B of the Village One Specific Plan, to change the land use designation for five parcels (APN No. 085-050-007, 085-050-008, 085-050-006, 085-050-005, 085-050-004) from Multi-Family Residential to Village Center, properties located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on November 5, 2007, in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 2007-52, recommended to the City Council approval of an amendment to the Precise Plan for Area No. 20 sub-area B of the Village One Specific Plan, to revise the land use designation from Multi-Family to Village Center, properties located east of Roselle Avenue and north of Floyd Avenue, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on December 12, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, a duly noticed public hearing to consider said recommendations of the Planning Commission was held at the date and time above mentioned, and

WHEREAS, the Council declared that said amendment to the Precise Plan for Area No. 20, Sub-Area B of the Village One Specific Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Village Residential (VR), designation for the site, which allows up to 4 percent of commercial development in the Specific Plan. This project does not exceed the threshold in the Village One Specific Plan Area.
2. The proposed amendment to allow commercial uses can be found to be compatible with surrounding residential land uses through conditions of approval that address compatibility issues such as noise, light and traffic,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF AMENDMENT TO THE PRECISE PLAN. That the City Council has reviewed and considered the amendment to the Precise Plan for Area No. 20, Sub-Area B of the Village One Specific Plan to revise the land use designation from Multi-Family to Village Center, properties located on the east side of Roselle Avenue, north of Floyd Avenue as recommended by the Planning Commission, and the Council does hereby approve said amendment to the Precise Plan for Area No. 20, Sub-Area B of the Village One Specific Plan. A copy of the amendment is attached hereto and incorporated by this reference.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.


SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December 2008, by Councilmember Dunbar, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3469-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of January 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: February 1, 2008

ORDINANCE NO. 3470-C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 3223-C.S. ENTITLED "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO GRANTING UNITED CABLE TELEVISION CORPORATION A RENEWAL OF ITS NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM WITHIN THE CITY OF MODESTO SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE FRANCHISE RENEWAL AGREEMENT" INCREASING THE CABLE FRANCHISE FEE FROM THREE PERCENT (3%) OF GROSS ANNUAL CABLE SERVICE REVENUE TO FIVE PERCENT (5%) OF GROSS ANNUAL CABLE SERVICE REVENUE.

SECTION 1. AMENDMENT OF ORDINANCE NO. 3223-C.S. Section 2

Ordinance No. 3223-C.S., is hereby amended to read as follows:

"SECTION 2. FRANCHISE FEE. Pursuant to Section 2.2 of the Franchise Renewal Agreement, the franchise fee shall be set at five percent (5%) of Gross Annual Cable Service Revenue until such time as the franchise fee is modified as permitted under Section 2.2."

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after sixty (60) days* after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

*MMC Section 11-4.15(a)

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

APPROVED: _____


JIM RIDENOUR, Mayor

ATTEST:

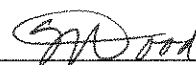
By: _____


STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____


SUSANA ALCALA WOOD, City Attorney

Ord. No. 3470-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: March 22, 2008

ORDINANCE NO. 3471-C.S.

AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 5 OF
THE MODESTO MUNICIPAL CODE RELATING TO SOLID
WASTE – UNAUTHORIZED ENTRY INTO WASTE
CONTAINERS

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 5 of Title 5 of the Modesto
Municipal Code is hereby amended to read as follows:

CHAPTER 5 - SOLID WASTE

ARTICLE 1. SOLID WASTE.

5-5.101. DECLARATION OF POLICY.

The accumulation, collection, removal and disposal of solid waste must be controlled by the City for the protection of the public health, safety and welfare. The Council finds that to give effect to this policy, a comprehensive system for the periodic collection, removal and disposal of solid waste from all premises in the City is essential and benefits all occupants of premises in the City, and, therefore, all such occupants are required to provide for removal or collection of solid waste from all premises in the City in accordance with the provisions of this chapter.

5-5.102. PENALTY PROVISIONS.

A violation of any provision of this chapter shall be punishable as an infraction as set forth in Section 1-2.01 of this Code, except where provisions of this chapter specifically make such violation a misdemeanor.

5-5.103. DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- (a) **"Annexation"** means the legal process of including new territory within the incorporated boundaries of the City.

- (b) "**Automated collection container**" means a standard container designed for automated collection.
- (c) "**Cannery or food processing waste**" means the solid residues resulting from canning/food processing operations, which is segregated by the generator and which is collected for reuse.
- (d) "**Collection**" means the collection and transport of solid waste.
- (e) "**Collection routes**" means streets or areas designated for collection on a particular day/schedule.
- (f) "**Collection vehicle**" means any vehicle used by the collector for the collection of solid waste.
- (g) "**Collector**" means a person or firm authorized by a valid service agreement with the City of Modesto to collect solid waste within the City limits.
- (h) "**Commercial**" means occurring in a business zone.
- (i) "**Construction and demolition sites**" means sites where construction or demolition activities are taking place.
- (j) "**Containerized yard waste**" means yard waste set out for collection in a standard container.
- (k) "**Customer**" shall mean any person, firm or corporation receiving service under the provisions of this chapter.
- (l) "**Designated recycling collection location**" means the location where an authorized recycling collector has agreed with a customer to pick up segregated recyclable materials as approved by the Parks, Recreation and Neighborhoods Director.
- (m) "**Detachable container**" means a container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one (1) cubic yard in capacity, as approved by the Parks, Recreation and Neighborhoods Director, and furnished by a collector.

- (n) **"Disposal"** means the final disposition of solid waste at a solid waste facility.
- (o) **"Drop box container"** means a metal box designed for loading upon a vehicle for transportation to a solid waste facility, with a minimum of twenty (20) cubic yards' capacity, of a design approved by the Parks, Recreation and Neighborhoods Director, and furnished by a collector.
- (p) **"Finance Director"** means the Finance Director of the City of Modesto or his/her duly authorized agent.
- (q) **"Garbage"** means putrescible kitchen and table food waste and animal, fish, food, fowl, fruit or vegetable matter, or any portion thereof, resulting from the storage, preparation, cooking, or handling of food stuffs, or any other material contaminated by or rendered useless because of contact with any putrescible matter, except that garbage shall not include cannery or food processing wastes as defined in Section 5-5.103(c), industrial garbage as defined in Section 5-5.103(w), or swill as defined in Section 5-5.103(ap).
- (r) **"Garbage/Recyclables"** means garbage and recyclables commingled in the same container. Garbage/recyclables shall also include rubbish when said rubbish is included in the same container.
- (s) **"Hazardous substance or hazardous wastes"** means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in the Health and Safety Codes or in future amendments to or recodifications of such statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act and all future amendments thereto.
- (t) **"Household hazardous waste"** means hazardous waste generated at a residential location within the City.
- (u) **"Health Officer"** means the Stanislaus County Department of Environmental Resources.
- (v) **"Industrial areas"** means areas which are zoned industrial by the City's Zoning Code.
- (w) **"Industrial garbage"** means garbage produced by any person, firm or corporation engaged in the business of processing or manufacturing

agricultural products, animals, poultry, goods, wares or other products or materials, who processes or manufactures the same for the purpose of wholesale in processed or manufactured form, and shall include cannery/food processing waste. Industrial garbage also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.

- (x) **"Industrial garbage collector"** means an agent or employee of the City, or any person, or the employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of industrial garbage.
- (y) **"Initial term and any extensions"** means the term of a service agreement and any extensions beyond that time period as established by the City Council.
- (z) **"Place" or "Premises"** means every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, hospital, office building, department store; manufacturing, processing or assembling shop or plant; warehouse; and every other property or building where any person resides or any business or activity is carried on or conducted within the City of Modesto.
- (aa) **"Property value"** means a worth to the extent that a person will collect the materials involved with compensation to the owner or producer, or at no cost to the owner or producer.
- (ab) **"Pruned refuse"** means tree trimmings and similar material not to exceed six (6) feet in length and six (6) inches in diameter, and no single piece shall weigh more than fifty (50) pounds.
- (ac) **"Parks, Recreation and Neighborhoods Director"** means the Parks, Recreation and Neighborhoods Director of the City of Modesto and his/her duly authorized agent.
- (ad) **"Recyclable materials"** means domestic, commercial or industrial by-products which may have an economic value if recycled, which may be source separated, set aside, handled, packaged or offered for collection by the residence/business. Recyclables include, but are not limited to, glass, newspaper, plastics, metal, bi-metal, aluminum, and other materials.

- (ae) **"Recyclables"** means recyclable materials.
- (af) **"Recycling"** means the process of collecting, sorting, cleansing, treating, reconstituting, and/or marketing recyclable materials which would otherwise be disposed of in a landfill. The collection, transport or disposal of solid waste which is not intended for, or capable of being, reused, shall not be construed to be recycling.
- (ag) **"Recycling collector"** means a person, firm, organization or company which the City has authorized to provide recycling service in the City.
- (ah) **"Recycling container"** means any container provided by an authorized recycling collector to a customer for the purpose of segregating recyclable materials for collection by collector. Recycling containers shall be clearly marked to indicate purpose and to warn that theft of the container, theft of its contents, or diversion for uses other than by the collector are punishable under this Code.
- (ai) **"Removal"** means transportation and disposal of solid waste by noncustomers in accordance with the provisions of this chapter.
- (aj) **"Residential premises"** means any dwelling unit the occupant of which places his/her solid waste in a standard container.
- (ak) **"Rubbish"** means nonputrescible, useless, unused, unwanted or discarded material or debris, either combustible or noncombustible, which by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.
- (al) **"Salvageable waste"** means matter and material which will be reused and which has a property value.
- (am) **"Service area"** means the area of the City to be served by a collector as described in the service agreement between City and collector.
- (an) **"Solid waste"** means all putrescible and nonputrescible solid, semi-solid and liquid waste accumulated or delivered for collection and disposal within the City and includes, but is not limited to, construction debris, demolition debris, bulky waste, and yard waste. Solid waste does not include hazardous waste or household hazardous waste, designated waste, infectious waste, recyclable materials when recycled, sewage, or abandoned automobiles.

- (ao) **"Standard container"** means a plastic container, watertight and with a close-fitting cover, of not less than sixty (60) nor more than ninety (90) gallons' net capacity of a design satisfactory to the Parks, Recreation and Neighborhoods Director or such other disposal unit approved by the Parks, Recreation and Neighborhoods Director, and supplied by the solid waste collector to its residential customers. The Parks, Recreation and Neighborhoods Director shall make the determination whether a residential customer receives a sixty- or a ninety-gallon container.
- (ap) **"Swill"** means all classes of putrescible, animal, fish, fowl, fruit or vegetable matter, and shall include matter or substances used in the preparation, cooking, dealing in or storage of meats, fowl, fish, fruits and vegetables that are subject to immediate decay and the attraction of flies or rodents, and having a property value.
- (aq) **"Swill collector"** means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of swill.
- (ar) **"Term"** means the length of an agreement entered under the terms of this chapter.
- (as) **"Yard waste"** means leaves, weeds, grass cuttings, vines, shrubbery, similar soft vegetative materials, and woody prunings from trees which are cut up into two (2) foot lengths no larger than six (6) inches in diameter for placement in a yard waste recycling container, except that yard waste shall not include pruned refuse or source separated leaves set out for collection between November 1 and December 31 of each year pursuant to Article 11 of Chapter 7 of Title 4 of this Code.
- (at) **"Yard waste recycling container"** means a dark green standard container to be used for the separate collection and recycling of yard waste. Yard waste recycling container shall also mean a detachable or other container as approved by the Parks, Recreation and Neighborhoods Director, used for the collection and recycling of yard waste from commercial or other customer classes.

5-5.104. SEGREGATION AND DISPOSITION OF SOLID WASTE MATERIALS.

Every producer of solid waste may segregate the same into garbage, recyclables, garbage/recyclables, containerized yard waste, industrial garbage, rubbish, and/or swill, and dispose of the same as provided in this chapter.

5-5.105. DEPOSITING OR BURYING SOLID WASTE.

No person shall throw, drop, leave, dump, bury, place, or otherwise dispose of any solid waste upon any property within the City limits of the City, either with or without intent to remove the same from such property; or upon any street, way, sidewalk, gutter, stream or creek or the banks thereof, or any public place or public property within the City limits of the City, except as otherwise approved by the Parks, Recreation and Neighborhoods Director, or at a permitted solid waste facility approved for such use.

5-5.106. ACCUMULATION OF GARBAGE GARBAGE/RECYCLABLES, YARD WASTE, OR RUBBISH.

Every person shall keep the premises occupied by that person, and every owner of any unoccupied premises or property and every owner of three (3) family dwellings, apartment houses and multiple-dwelling buildings shall keep the same in a clean and sanitary condition, and shall not cause, suffer, or permit any garbage, garbage/recyclables, or yard waste to accumulate on such premises or property for a period in excess of one (1) calendar week; or cause, suffer, or permit any rubbish to accumulate on their premises for a period in excess of one (1) calendar month; provided, however, that this provision shall not be construed to prohibit any person from keeping building materials on any premises or property during the period of active construction, reconstruction, or repair of a building or structure thereon under a current valid building permit; nor the neat storage of clean recyclables intended to be taken by the occupant to a recycling center, nor the keeping of wood, neatly piled, upon such premises for household use; nor the composting of grass or trimmings in a manner allowed pursuant to the Composting Regulations of the State of California.

5-5.107. GARBAGE, GARBAGE/RECYCLABLES, YARD WASTE, AND/OR SWILL COLLECTION.

Collection or removal of garbage, garbage/recyclables, and yard waste shall be made at least once a week, and collection of swill shall be made daily. Collectors shall transfer the contents of all containers into the collection vehicle provided therefor without spilling any contents.

5-5.108. CONTAINERS REQUIRED.

It shall be unlawful for any person occupying any premises within the City, or for any person owning, controlling or maintaining any premises within the City where solid waste is created, produced, or accumulated, to fail or neglect to provide a sufficient number of each approved type of standard containers for receiving and holding without leakage or escape of odors all solid waste produced, created, or accumulated upon such premises, except as hereinafter provided; and all such persons shall deposit all such solid waste in the correct containers, and all such containers shall be at all times kept in a good, usable and sanitary condition. Containers shall be kept continuously closed except when solid waste is being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents, and animals to the contents thereof. Garbage, rubbish and/or garbage/recyclables may be deposited in the same container. It shall be unlawful for any person to place garbage, garbage/recyclables, recyclables, or any other unapproved material in a yard waste recycling container. It shall further be unlawful for any person to place yard waste in any solid waste collection container, other than a container approved for yard waste. Containers shall not exceed one hundred (100) pounds in weight when filled for collection or removal, except when detachable or drop box containers are used.

5-5.109. NUMBER OF CONTAINERS REQUIRED.

All places or premises within the City shall have sufficient containers of the approved type to hold all garbage, garbage/recyclables, and yard waste generated, produced or accumulated on the place or premises during a one (1) week period, unless a more frequent collection schedule has been approved or directed pursuant to this chapter. In determining the sufficiency of the number of containers required, the following minimum standards shall apply.

- (a) One (1) family and two (2) family dwellings: Effective January 1, 1997, one (1) black standard container for garbage and garbage/recyclables, and one (1) dark green standard container for yard waste recycling per dwelling unit.
- (b) Three (3) family dwellings, apartment houses, and multiple-dwelling buildings: Effective January 1, 1998, one (1) standard container per dwelling unit for garbage and garbage/recyclables, unless a lesser number is authorized by the Parks, Recreation and Neighborhoods Director, and sufficient yard waste collection containers of a type approved by the Parks, Recreation and Neighborhoods Director.

- (c) Motel, hotel, trailer park, or mobile home park: One (1) standard container for garbage and garbage/recyclables per unit or space, unless a lesser number is authorized by the Parks, Recreation and Neighborhoods Director, and sufficient yard waste collection containers of a type approved by the Parks, Recreation and Neighborhoods Director.
- (d) Commercial place or premises: Effective January 1, 1998, not less than one (1) standard container for garbage or garbage/recyclables, and sufficient yard waste collection containers of a type approved by the Parks, Recreation and Neighborhoods Director.

Customers responsible for solid waste removal or collection services for apartment houses, multiple-dwelling buildings, commercial and industrial places or premises may arrange for the use of detachable containers and/or drop box containers instead of standard containers. These arrangements shall be made with the collector on the basis of charges established for this purpose.

Nothing herein shall be construed to prohibit the joint use of a detachable container or drop box container by two (2) or more customers upon approval of the Parks, Recreation and Neighborhoods Director.

5-5.110. PROHIBITED LOCATION OF CONTAINERS.

Solid waste, rubbish, swill, and industrial garbage containers shall not be placed or allowed to remain in or on any street right-of-way, except on solid waste pickup day or as otherwise authorized by the Parks, Recreation and Neighborhoods Director.

5-5.111. CONTAINER LOCATIONS.

- (a) On single-family and two (2) family premises, standard solid waste containers shall be placed by the customer on the premises and when subject to collection may be collected by the collector as follows:
 - (1) Where alleys exist, immediately adjacent to and accessible from the alley without the necessity of entering the premises.
 - (2) Where alleys do not exist, on the asphaltic portion of the street next to the curb, or the edge of the driveway apron, or such other location as approved by the Parks, Recreation and Neighborhoods Director.

- (3) All containers shall be placed no more than four (4) feet from an area where the collection vehicle can reasonably park. All residential containers set out for collection shall have the necessary clearance from obstructions on either side of the container as well as overhead clearance needed for the collection vehicle to empty contents of the container without causing damage to public or private property. In case of dispute, an acceptable residential container location shall be as determined by the Parks, Recreation and Neighborhoods Director.
 - (4) All containers shall be screened from public view, except on pickup day, in a manner approved by the Parks, Recreation and Neighborhoods Director.
- (b) Standard and detachable containers for solid waste service to multiple-dwelling buildings, apartments, commercial and industrial premises shall be placed in a location no greater than fifty (50) feet from the nearest point where the collector's vehicle can reasonably be parked. Drop box containers shall be located as agreed upon between the customer and the collector. In case of dispute, the location shall be as determined by the Parks, Recreation and Neighborhoods Director.
- (c) Containers for solid waste may be placed on premises at locations other than described in this section if the customer is handicapped or disabled and the location is approved by the Parks, Recreation and Neighborhoods Director.

5-5.112. EXPLOSIVES OR HAZARDOUS MATERIALS.

No person shall deposit in any container used for solid waste, any explosive, highly flammable, radioactive or otherwise hazardous material or substance. A violation of this section shall be punishable as a misdemeanor.

5-5.113. SPILLAGE OF SOLID WASTE.

All solid waste hauled by any person over public streets in the City shall be secured during the hauling thereof so as to prevent spillage or blowing.

5-5.114. FURNISHING OF DETACHABLE AND DROP BOX CONTAINERS.

Any agreement entered into by the City for garbage, garbage/recyclables, yard waste collection shall provide for the availability of approved detachable

containers and drop box containers by the collector on a rental basis. The collector shall be responsible for the general repair and upkeep of all detachable containers and drop box containers. The customer shall maintain all rented detachable containers and drop box containers in sanitary condition at all times.

5-5.115. HOURS OF COLLECTION.

- (a) No collections shall be made in residential districts, as shown on the Zoning Map of the City of Modesto, or at schools, churches, hospitals, offices or commercial establishments in or adjacent to said residential district except between the hours of 6:00 a.m. and 6:00 p.m. year-round.
- (b) No collections shall be made in commercial areas when in or adjacent to residential areas except between the hours of 6:00 a.m. and 9:00 p.m. Monday through Sunday.
- (c) No collection shall be made from premises in residential or commercial areas other than described in subsections (a) and (b) above except when prior approval has been given by the Parks, Recreation and Neighborhoods Director.

5-5.116. COLLECTION EQUIPMENT.

All collections shall be made with vehicles of a design approved by the Parks, Recreation and Neighborhoods Director. All collections shall be made as quietly as possible, and use of any unnecessarily noisy trucks or equipment is prohibited.

5-5.117. AGREEMENT TO COLLECT SOLID WASTE.

- (a) It shall be unlawful for any person to engage in the business of collecting solid waste within the City unless such person is an employee or agent of the City, or is a party to an agreement approved by the Council pursuant to this chapter, or is the employee of such a party.
- (b) It shall be unlawful for any person to interfere in any manner with the lawful operations of such a collector or their authorized agents or assignees.
- (c) The City may provide in any agreement pursuant to this chapter that the collector may assign a portion or portions of the solid waste collection services for which that person or entity is so contracted to one (1) or more

agents or assignees upon approval of the City Council. The collector shall be responsible for the operation and conduct of such agents or assignees.

5-5.118. REMOVAL OF SOLID WASTE BY PRODUCERS.

Notwithstanding the provisions of Section 5-5.117:

- (a) Any person may remove or may cause to be removed from premises occupied by that person or under their control, such solid waste as is created or produced on such premises in excess of the regular solid waste collection made by City's collector if the following conditions have been or will be complied with: Subsections (b)(1) and (b)(2) of this section.
- (b) Any person may remove or may cause to be removed from premises occupied by that person or under their control, all solid waste created or produced on such premises if all of the following conditions have been met or will be complied with:
 - (1) Such removal shall be made only by the owner or occupant personally, or by employees of such owner or occupant.
 - (2) All vehicles used in carrying out such removal shall be owned by or under the exclusive control of the owner or occupant, and such vehicles and activities shall meet all the requirements of this chapter and all other laws and ordinances of the State of California and the City relating to solid waste disposal.
 - (3) Persons removing solid waste in excess of normal annual residential volume (defined herein as three thousand (3,000) pounds per year) shall comply with the following additional requirements:
 - (i) No waste shall be permitted to leak, blow, litter or fall from any vehicle engaged in such removal.
 - (ii) All removal shall be done safely and quietly with due regard to the property of others.
 - (iii) No person shall remove solid waste from any location within two hundred (200) feet of a public or private elementary, junior high, or high school, where such school is shown on an official map of the City, as designated by

the Parks, Recreation and Neighborhoods Director, as said map shall be periodically updated, during the forty-five (45) minutes before the commencement of the regular school day and forty-five (45) minutes following the conclusion of the regular school day, where such locations are accessible to and used by children as routes to or from school.

- (iv) Persons engaged in solid waste removal pursuant to these requirements shall be responsible for any damage in excess of normal wear and tear to the City's driving surfaces, whether or not paved, resulting from the illegal weight of, or any leakage or spillage of oils, fluids or solids by vehicles used in such solid waste removal.
- (v) Vehicles used shall comply with CHP and D.O.T. regulations, and shall be thoroughly washed and disinfected inside the collection body following each use.
- (vi) No driver shall operate a vehicle as in subsection (b)(3)(v) of this section, without a valid and appropriate driver's license.
- (vii) All vehicles as in subsection (b)(3)(v) of this section shall be clearly identified with the name and local telephone number of its operator affixed thereto.
- (viii) Garbage shall be disposed of at a permitted transfer facility or at the Fink Road Sanitary Landfill. If disposed of outside of Stanislaus County, the county where disposal occurs shall have an export agreement with the City of Modesto.
- (ix) Yard waste shall be separated from garbage/recyclables and taken to a permitted composting facility or such other locations as directed by the Parks, Recreation and Neighborhoods Director.
- (x) Materials placed in blue, see-through recycling bags for the purpose of separating recyclables from other solid waste shall be recycled at a permitted recycling facility.

- (xi) Insurance requirements as specified from time to time by the City's Risk Manager shall be complied with.
- (4) A cash security deposit shall be deposited with the City in an amount set from time to time by Council resolution, to ensure prompt removal of solid waste in the event it is not removed from the premises on a regular weekly basis by a noncustomer owner or person in control of the premises. The security deposit shall be made for each separate residential property or business location owned or controlled by a noncustomer, based on the frequency and volume of past collection. Events requiring City to use a noncustomer's deposit for solid waste removal shall be treated as a public nuisance subject to immediate abatement and charged to such noncustomer. Conduct requiring City to expend noncustomer deposit monies shall constitute a misdemeanor.
- (5) Persons engaged in solid waste removal shall procure and retain a receipt from a permitted solid waste facility for each week they remain a noncustomer of a collector and display all such receipts for the preceding one-quarter calendar year upon reasonable request by appropriate City authority. Failure to show proof of solid waste disposal for each week that a person is a noncustomer shall constitute a public health and safety risk sufficient to permit City to administratively require such person to become a customer.
- (c) Any producer of industrial garbage or swill, or their employees, may transport the same upon or through any street or public place of the City for disposal at a permitted disposal facility or site.
- (d) It shall be unlawful for any person acting as an employee of a producer of industrial garbage or swill to collect or transport such industrial garbage or swill from more than one (1) industrial producer thereof.
- (e) Any person engaged in the business of gardening or tree trimming, or building demolition, or construction cleanup work, including both yards and building interiors, is authorized to remove and dispose of yard waste, rubbish or salvageable waste produced as an incident to such business.

5-5.119. RATE MAKING FOR SOLID WASTE COLLECTION SERVICES.

- (a) Charges for solid waste service shall be as determined by the collector for each customer class and shall not be subject to City review and mediation.
- (b) The City shall not engage in rate-making with respect to charges for solid waste collection service, except to set maximum rates as set forth in subsection (c) of this section.
- (c) Inasmuch as collectors granted exclusive service agreements will have no competition with respect to customers who do not wish to be noncustomers, the City Council reserves the right to set maximum rates that may be charged for any solid waste collection services offered by collectors having agreements with the City specifying that the collector has an exclusive Service Agreement with respect to such service or services. No collector may charge differing rates within the same class of solid waste customer.

5-5.120. FEE FOR COLLECTION OF SOLID WASTE AND INDUSTRIAL GARBAGE.

The privilege of engaging in the businesses of collecting solid waste, industrial garbage or swill is conditioned on entering into a contractual relationship with the City to provide some or all of these services.

5-5.121. FEE FOR COLLECTION OF SWILL.

The fee for the privilege of engaging in the business of collecting swill in the City shall be the sum of twenty-five dollars (\$25.00) per calendar quarter, or fraction thereof, payable in advance.

5-5.122. DELINQUENT FEES.

- (a) **Penalty.** To all fees not paid within thirty (30) days following the close of the preceding quarter there shall be added a penalty of five (5) percent of the amount of fees due per month or fraction thereof until paid; the maximum penalty imposed on any one (1) delinquency occurring heretofore or hereafter shall not exceed twenty-five (25) percent of the amount of service agreement fees due.
- (b) **Interest.** In addition to any penalties imposed by this section, delinquent service agreement fees heretofore or hereafter occurring shall be subject to interest at the rate of seven (7) percent per annum until paid.

5-5.123. COLLECTION AGREEMENT PROPOSALS.

Proposals to enter into a collection agreement with the City pursuant to this chapter shall be submitted in writing to the City Clerk. Each proposal shall contain the following information:

- (a) **Name and address of the proponent.** If the proponent is a firm or partnership, names of all owners and partners of all classes, limited and general, shall be listed. If the proponent is a corporation, the names and titles of each of the officers and directors shall be listed, and in addition the names of all stockholders owning, holding or controlling five (5) percent or more of corporate stock shall be listed.
- (b) The types of services offered.
- (c) The number, kind and capacity of the vehicles and other equipment to be used for such purposes.
- (d) A financial statement showing the proponent's financial status and their financial ability to conduct the collection operation proposed in their proposal.
- (e) Proposed consideration to the City if agreement is reached.

5-5.124. PROCEDURE TO ENTER INTO AGREEMENT.

Upon receipt of a proposal to enter into an agreement hereunder, the Council shall pass a resolution declaring its intention to consider the proposal, setting forth notice of the day, hour and place, when and where any and all persons may appear before the Council and be heard thereon. The time fixed for such hearing shall be not less than ten (10) days nor more than thirty (30) days after the date of the passage of said resolution.

5-5.125. PROTESTS MAY BE FILED.

At any time not later than the hour set for the hearing, any person interested may make written protest stating objections against the proposed agreement. Such protest must be signed by the protestant and delivered to the City Clerk.

5-5.126. HEARING.

At the time set for the hearing, the Council shall proceed to hear the matter, and all persons shall be given opportunity to be heard. The Council may adjourn said hearing from time to time.

5-5.127. COMPETITIVE BIDS.

The Council may in its discretion, in lieu of considering proposals for agreements, advertise for competitive bids for agreements specified by the City.

5-5.128. ENTERING AGREEMENTS.

Upon consideration of a proposal or bid for an agreement, the Council may refuse to agree, or may enter into an agreement with any proponent or bidder as may appear from a proposal or bid to be in its opinion best qualified to render proper and efficient collection service.

Every agreement entered into by the Council pursuant to the provisions of this chapter shall cover the following matters:

- (a) The name and address of the person, firm or corporation with whom the agreement is made.
- (b) The type of collection service authorized.
- (c) Whether the agreement is exclusive or nonexclusive; limited or unlimited.
- (d) The term of the agreement, which in no case shall be longer than ten (10) years.
- (e) Such other conditions as the Council may provide.

5-5.129. LIMIT ON NUMBER OF AGREEMENTS.

In order to preserve the health, safety and welfare of the people in the City, the Council hereby retains the authority to limit the number of agreements for the collection of solid waste, swill, and industrial garbage which will be made under this chapter.

5-5.130. INSURANCE.

Each collector engaging in the collection of solid waste and industrial garbage shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council and shall be the same for all collectors.

5-5.131. FAITHFUL PERFORMANCE BOND BY SOLID WASTE COLLECTORS.

Each party other than City to an agreement to collect solid waste pursuant to the provisions of this chapter shall file with the City Clerk a faithful performance bond or other form of security satisfactory to the City in an amount required by the agreement, and said amount shall be the same for all collectors. Said bond or security shall be conditioned upon the faithful performance of all of the terms and conditions of said agreement and the provisions of this chapter, insofar as they are applicable to said collector.

5-5.132. ASSIGNMENT OF AGREEMENTS.

No agreement entered into by the Council with a collector pursuant to the provisions of this chapter and no ownership interest in any party to such an agreement can be sold, gifted, transferred, leased, assigned, mortgaged, pledged, hypothecated, or otherwise encumbered or disposed of, in whole or in part, directly or indirectly, whether voluntarily or by operation of law, or through any stock transfer, transfer in trust, change in control, consolidation or merger of any company or corporation, without the prior written consent of the City Council granted after a public hearing in accordance with the procedures specified in Sections 5-5.123, 5-5.124, 5-5.125 and 5-5.126 of this chapter. The Council may grant or deny such a request, and may impose such conditions as it may deem to be in the public interest including, but not limited to, conditions requiring acceptance of amendments to this service agreement and the payment to City of a reasonable transfer fee in an amount to be determined by the City Council sufficient to cover the City's costs associated with the transfer. Any attempted disposition made without such consent shall be void.

- (a) **Proof of Financial Responsibility.** In the event of any assignment duly authorized by the Council, the assignee shall assume the liability and responsibilities of the collector. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale or similar document, a duly executed copy of which shall be filed in the office of the City Clerk with thirty (30) days after any such transfer or assignments. Consent of the Council may not be unreasonably refused; provided, the proposed assignee shall demonstrate to the City Council the financial responsibility as required by all the provisions of this chapter and the service agreement.

- (b) **Hypothecation.** Prior consent of the Council shall be required for a transfer in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness, when such indebtedness hypothecations shall equal or exceed fifty (50) percent of the independently appraised market value of the property used by collector in its operation. Such consent shall not be unreasonably withheld.
- (c) **Acquisitions of Interest.** In the event the collector is a corporation, it shall notify the Council when ownership of more than thirty (30) percent of the voting stock of the collector is acquired by a person or group of persons acting in concert, none of whom already own twenty (20) percent or more of the voting stock, singly or collectively. Any such acquisition shall require the approval of the Council which approval shall not be unreasonably withheld. Failure to comply with this provision shall be grounds for the termination of the service agreement pursuant to the provisions of this chapter and the service agreement.
- (d) **Bankruptcy.** In the event that collector should become insolvent or if proceedings in bankruptcy shall be instituted by or against collector, or if collector shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of collector shall be appointed in any suit or proceeding brought by or against collector, or if collector shall make an assignment for the benefit of creditors, and during the pendency of said proceeding the collector fails to maintain service levels as required herein or by any other applicable law, City may initiate termination of the service agreement.

5-5.133. TERMINATION OF AGREEMENTS.

Any agreement entered by the Council pursuant to the provisions of this chapter may be terminated by the Council, if after conducting a public hearing on said termination, the Council finds and determines that the person doing business by virtue of such agreement has failed to comply with any of its material terms, or this chapter, has failed to render satisfactory collection services, or without cause in accordance with the provisions of the agreement.

- (a) **Termination for Cause.** The City further reserves the right to terminate the service agreement or impose liquidated damages in the event of any of the following:
 - (1) If collector practices, or attempts to practice, any fraud or deceit upon the City.

- (2) If collector becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of collector in a bankruptcy proceeding.
 - (3) If collector fails to provide or maintain in full and in effect, any or all of the bonds and/or coverages required by its service agreement with the City.
 - (4) If collector willfully and materially violates any orders or rulings of any regulatory body having jurisdiction over collector relative to its service agreement with the City, provided that the collector may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the service agreement shall be deemed to have occurred.
 - (5) If collector ceases to provide collection services as required by the service agreement over all or a substantial portion of its service area for a period of seven (7) days or more, for any reason within the control of the collector.
 - (6) If the collector willfully fails and/or refuses to provide City with required information, reports, and/or test results related to vehicle incidents or other incidents where such tests are conducted as part of an investigation of an incident, in a timely manner as provided in its service agreement.
 - (7) Any other act or omission by the collector, which materially violates the terms, conditions, or requirements of its service agreement.
- (b) **Process for Imposing Damages for Termination.** The Solid Waste Program Manager, may file a complaint with the Parks, Recreation and Neighborhoods Director charging a failure of collector to comply with the provisions of this chapter or the service agreement.
- (1) Upon issuance of the Solid Waste Program Manager's complaint, the Director shall conduct a factual investigation thereof and render a decision relative to the justification for complaint, in writing, within ten (10) days following the decision.
 - (2) If the Director determines that the collector's performance pursuant to its service agreement with the City has not been in conformity

with the provisions of either the service agreement, the requirements of this chapter, or the requirements of the California Integrated Waste Management Board, including, but not limited to, the laws governing transfer, storage, or disposal of special wastes, the Director may advise collector in writing of such deficiencies. The Director may set a reasonable time within which correction of all such deficiencies is to be made. Unless otherwise specified, a reasonable time for correction shall be thirty (30) days from the receipt by the collector of such written notice. The Director shall review the collector's response and notify the collector of his/her decision, in writing.

- (3) A decision or order of the Director shall be final and binding on collector if the collector fails to file a "Notice of Appeal" with the City Manager within thirty (30) days of receipt of the Director's decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall either refer the appeal to the City Council for proceedings in accordance with subsection b(4) of this section, or refer the matter to a hearing officer.
 - (4) The City Council shall set the appeal on the matter referred by the City Manager for hearing within sixty (60) days from receipt by the City Manager of the appeal or referral. At the hearing, the City Council shall consider the report of the Parks, Recreation and Neighborhoods Director indicating the deficiencies, and shall give the collector, or its representatives and any other interested person, a reasonable opportunity to be heard.
 - (5) Based on the evidence presented at the public hearing, the Council shall determine whether the service agreement should be terminated, liquidated damages imposed, or both. The City Council may also find in favor of collector. The decision of the City Council shall be final and binding. Collector's performance under the service agreement is not excused during the period of time prior to the City Council's final determination as to whether such performance is deficient.
- (c) **Remedies: Liquidated Damages.** The City Council may, at its discretion, assess liquidated damages not to exceed the sum of five thousand dollars (\$5,000.00) per day, for each calendar day that service is not provided by collector in accordance with the service agreement for a period not to exceed forty-five (45) days.

- (d) **Additional Remedies.** In addition to liquidated damages, above, the City shall have the following rights:
- (1) **To rent or lease equipment from collector.** The City may rent or lease equipment from collector for the purpose of collecting, transporting, and disposing of solid waste which collector is obligated to collect, transport, and dispose of pursuant to its service agreement, for a period not to exceed six (6) months.
 - (2) **To contract with others to perform the services.** The City may contract others to perform the services otherwise to be performed by collector hereunder, or perform such services itself.
 - (3) **To obtain injunctive relief.** In the event of a breach under the terms of the service agreement by collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of the service agreement and to enjoin the breach thereof.
 - (4) **To reduce the service area.** If at the time of the annual review the total number of unresolved complaints exceeds two and one-half tenths (0.25) of one (1) percent of the total annual stops for the prior year, the City Council may determine whether it is appropriate to decrease the service area of collector because of poor performance and authorize another collector to provide services. The maximum reduction in service area for poor performance under this provision shall be ten (10) percent for each occurrence.
 - (5) **To invoke eminent domain.** Nothing set forth in a service agreement entered into between City and collector shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the collector, either by purchase or through the exercise of the right of eminent domain, at fair market value, or be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.
 - (6) **To collect and bill collector.** Should collector fail to provide collection services as stipulated in its service agreement, within twenty-four (24) hours of a request being communicated by the

City to collector to do so, the City may collect and dispose of same and collector shall be liable for all expenses incurred including, but not limited to, disposal, operating, administration, and legal costs. Reimbursement to City for such expenses will be paid by collector within thirty (30) days after date of invoice.

- (7) **To conduct inspections.** At all reasonable times during any normal business hours, the collector shall permit the City's authorized representatives to examine all property of the collector, and to examine and copy any and all records kept or maintained by the collector under its control which pertain to the service agreement.

- (e) **Force Majeure.** Collector shall not be in default under its service agreement in the event that any of the services provided by the collector under the terms of the agreement are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts, other labor disturbances or other catastrophic events which are beyond the reasonable control of collector. Other catastrophic events do not include the financial inability of the collector to perform or failure of the collector to obtain any necessary permits or licenses from other governmental agencies or the right to use the omissions of the collector. In the event a labor disturbance interrupts collection services as required by a service agreement, City may elect to exercise its rights under the service agreement.

5-5.134. CUSTOMER MAY CONTRACT FOR EXCESS COLLECTION.

Any owner or occupant of any premises may contract with a City collector, or their agents or assignees, for special haul services for the removal of solid waste or rubbish in excess of services provided by the collector under regular collection fees.

5-5.135. COLLECTION OF SOLID WASTE CHARGES.

Any agreement entered into by the Council pursuant to the provisions of this chapter for the collection of solid waste, except industrial garbage, shall specify that all charges for solid waste service shall be collected solely by the collector or by the City pursuant to contract with a collector. The City may contract with a collector to perform customer billing and collection services. Nevertheless, such

a contract shall not obligate the City to, and the City shall not, use its police power to collect bills remaining overdue or unpaid.

5-5.136. RECORDS REQUIRED.

Each collector pursuant to the provisions of this chapter shall maintain detailed records of all receipts and expenditures received or incurred in the operation of such business, including all fees collected for services rendered.

The City, its officers and employees shall be entitled to inspect, audit and copy such books and records upon notice at all reasonable times.

5-5.137. ANNUAL FINANCIAL REPORT BY SOLID WASTE COLLECTORS.

Each collector of solid waste or industrial garbage pursuant to the provisions of this chapter shall file each year with the Finance Director a detailed financial statement, including a balance sheet and profit and loss statement. Said statement shall be filed on or before the date set forth in said agreement for the fiscal or calendar year specified in said agreement. Any collector who fails to file said statement on or before said date shall pay a penalty of one hundred dollars (\$100.00) a day for each calendar day, or part thereof, until said statement is filed.

This section shall not apply to swill collectors.

5-5.138. INSPECTION AND ENFORCEMENT.

The Health Officer and the Parks, Recreation and Neighborhoods Director may, from time to time, inspect all premises within the City to determine compliance with and to enforce the provisions of this chapter.

5-5.139. APPLICATION OF OTHER PROVISIONS OF THIS CODE.

Except for the provisions of Article 3 thereof, the provisions of Chapter 1 of Title 6 of this Code shall not apply to collectors under the provisions of this chapter.

5-5.140. COLLECTION.

- (a) It shall be unlawful and punishable as an infraction for any person, other than an authorized curbside recycling collector, or its employees or agents, to remove salvageable waste which has been placed at a designated collection location. Placement of salvageable waste at a designated

collection location shall constitute consent to its collection by an authorized recycling collector.

- (b) Theft of recycling containers or diversion of said containers to uses other than their designated purpose shall be punishable as an infraction.

5-5.141. UNATTENDED NEWSPAPER RECYCLING RECEPTACLES PROHIBITED WITHOUT THE ISSUANCE OF A TEMPORARY PERMIT.

- (a) It shall be unlawful for any person, other than a collector authorized by a service agreement with City and as expressly permitted by the Parks, Recreation and Neighborhoods Director, to place, locate, establish, maintain, erect, leave, or otherwise make available any unattended newspaper recycling receptacle which is in public view, in the City of Modesto, for the purpose of collecting discarded newspaper as hereinafter defined; provided, however, that in the case of undertakings sponsored by and located on a site owned by a bona fide nonprofit organization, or religious organization, or public agency, the City Manager or his/her delagee shall be authorized to issue temporary permits for the location and use of newspaper recycling receptacles.
- (b) The City Manager shall promulgate, and from time to time amend rules and regulations for the issuance of temporary permits; and such rules and regulations as adopted or amended are hereby incorporated herein by reference as if fully set forth herein.
- (c) For the purposes of this section, the following words and phrases shall have the meanings set forth herein:
 - (1) **"Newspaper"** shall mean newspapers, magazines, or print material of like purpose.
 - (2) **"Newspaper recycling receptacle"** shall mean any unattended bin, box, container, structure or device, the purpose of which is to serve as a container for the collection of discarded newspaper as herein defined.
 - (3) **"Person"** shall mean any natural person, partnership, corporation, association, firm, company or entity, and shall include both male and female gender.

ARTICLE 2. UNAUTHORIZED ENTRY INTO WASTE CONTAINERS.

5-5.201. DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

- (a) “Waste container(s)” means any and all containers defined or identified in Article 1 of this Chapter, including but not limited to automated collection container, detachable container, drop box container, recycling container and standard container.

5-5.202. UNAUTHORIZED ENTRY INTO WASTE CONTAINERS.

- (a) The City Council recognizes that there is an increasing problem both nationally and locally involving persons who forage waste containers.

The City Council finds that there is risk to the public health and safety when:

- (1) waste is strewn about;
 - (2) waste containers are left open to animals;
 - (3) waste containers and lids are left in roadways or walkways.
- (b) The City Council further finds that entry into waste containers by unauthorized individuals may subject owners to public nuisance liabilities for which they have no remedy unless provided by an addition to the Modesto Municipal Code.
 - (c) The Council hereby finds that an ordinance is needed for the preservation of the public peace, health, safety and general welfare of the residents of the City of Modesto based upon the finding of facts declared by the City Council herein above stated.

5-5.203. UNLAWFUL SEARCH AND ENTRY: PENALTY.

- (a) It shall be unlawful for any person, except the owner or someone with the owner's consent or authorized City, County, State, or Federal personnel, or employees of the solid waste company that owns the waste container, in the performance of their duties, to rummage, explore, tamper with, move,

remove, tip, deface, destroy, scavenge or otherwise search a waste container or the contents thereof.

- (b) Any and each violation of Section 5-5.203(a) shall constitute a separate and distinct offense punishable as provided in Section 5-5.205 of this Chapter.

5-5.204. PUBLIC NUISANCE.

Rummaging, exploring, scavenging, or otherwise searching a waste container is a violation of the provisions of this Article and is hereby declared a public nuisance.

5-5.205. VIOLATION AND PENALTY.

- (a) Any person in violation of this Article shall be guilty of a misdemeanor and shall be punishable by a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment in the Stanislaus County jail for not more than six (6) months, or both.
- (b) Any person that continues in violation of this Article shall be guilty of a separate and distinct offense for each and every violation.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, by Councilmember Olsen, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating; O'Bryant

ABSENT: Councilmembers: None

APPROVED: 

JIM RIDENOUR, Mayor

ATTEST:

By: 

STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

Ord. No. 3471-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, Councilmember Olsen moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Lopez, Marsh, Olsen

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: Mayor Ridenour

APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: February 21, 2008

ORDINANCE NO. 3472-C.S.

AN ORDINANCE AMENDING SECTION 12-4.202 OF
ARTICLE 2 OF CHAPTER 4 OF TITLE 12 OF THE MODESTO
MUNICIPAL CODE RELATING TO REGULATIONS
GOVERNING USE OF PARKS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 12-4-202 of Article 2 of

Chapter 4 of Title 12 of the Modesto Municipal Code is hereby amended to read as follows:

12-4.202. GENERAL REGULATIONS GOVERNING USE OF PARKS.

- (a) Except as otherwise authorized by law, it shall be unlawful and an infraction for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.
- (1) To enter or trespass in any area, building or facility which is fenced and locked or enclosed and locked or is posted with a "No Trespassing" sign.
 - (2) To ride or bring any horse or other similar animal or to propel a vehicle in or upon any area of a park, except those areas specifically provided and designated for such purposes, unless prior written permission is obtained from the Director.
 - (3) To ride a bicycle unless on trails or pathways designated for bicycle use.
 - (4) To drive or operate any motor vehicle in any park in excess of fifteen (15) miles per hour.
 - (5) To park any automobile or other vehicle in any park at any place other than designated parking areas. Places where parking is permitted shall be designated by appropriate signs.
 - (6) To drive or operate any automobile, or other vehicle including gasoline or electric powered go-carts, motorcycles, motorized bicycles, or any motorized scooter or similar device used for

recreation as defined in California Vehicle Code Section 407.5(a), any model airplanes, boats or midget cars in any park except in designated areas or unless prior written permission is obtained from the Director. This section does not restrict the use of motorized devices, electric or assistive technology devices to aid persons with disabilities and/or mobility needs as defined under the Americans with Disabilities Act.

- (7) To clean, wash, polish or make other than emergency repairs upon any automobile, motorcycle or self-driven vehicle in any park.
- (8) To carry, bring into or ignite, fire or otherwise set off any firearms, air guns, slingshots, firecrackers or fireworks in any park except those fireworks which are part of organized and permitted special events for which prior written permission to use fireworks has been obtained from the Director.
- (9) To make a fire in any park other than in stoves, pits or braziers provided by the City unless prior written permission is obtained from the Director and a permit is obtained from the Air Pollution Control District for burning in open pits.
- (10) To bring into any park any material which will, if spilled or spread, be injurious to the turf or plant growth.
- (11) To cut or remove any wood, turf, rock, tree, flower, shrub, sand or gravel from any park unless prior written permission is obtained from the Director.
- (12) To throw or dispose of in any park any bottles, tin cans, broken glass, paper, clothes, cast iron, rubbish, soil, tree trimmings, garbage, ashes or other debris of any kind except in approved containers provided by the City.
- (13) To remove, damage or destroy any athletic equipment provided by the City, normal wear and tear excepted.
- (14) To move or remove from one (1) location to another any part or parts of field equipment.

- (15) To move or remove from one (1) location to another any equipment used for park maintenance.
- (16) To open or close any valve pertaining to the water mains or sprinkler system or to expose or interfere with any gas pipe, hydrant, stopcock, sewer, catch basin, backflow preventer, or other similar device in any park.
- (17) To cut, break or deface in any way buildings, equipment, grounds or other facilities of any park.
- (18) To wound, kill or catch any bird or other wild animal in any park.
- (19) To indulge in indecent or riotous conduct or language or to otherwise make noises in such a manner as to disturb any picnic, meeting, concert or exhibition in any park.
- (20) To operate a public address system without prior written permission of the Director. This prohibition shall not include the use of small portable radios used to receive regularly broadcasted programs, as long as such radios are operated at such a volume as not to disturb other persons present in the park.
- (21) To disturb or interfere with any employee of the City of Modesto acting within the scope of his/her employment, or to disturb or interfere with any spectator or participant in any event or activity conducted in any park, or to enter any park for the purpose of committing any such disturbance or interference.
- (22) To camp or lodge in or upon any park unless prior written permission is obtained from the Director.
- (23) To sell refreshments, foodstuffs or novelties in any park or on any street immediately adjacent thereto without the prior written permission of the Director or the City Council.
- (24) To practice, carry on, conduct or solicit for any trade, occupation, business or profession in any park without the prior written permission of the City Council.

- (25) To play or engage in any game or contest in any park except in such places as are specially provided or designated for that purpose.
- (26) To play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes.
- (27) To refuse to open any tennis court being used for singles play to doubles play at the end of the set being played when other persons are waiting, unless prior written permission is obtained from the Director.
- (28) To refuse to relinquish any tennis court being used for doubles play at the end of the set being played when other persons are waiting unless prior written permission is obtained from the Director.
- (29) To use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Director or the City Council.
- (30) To play or engage in the hitting of golf balls in any park, except on driving ranges and golf courses.
- (31) To ride bicycles through any children's playground area.
- (32) To use tobacco products of any kind, including, but not limited to, chewing tobacco, cigars and cigarettes, within fifty (50) feet of children's play areas (playgrounds/tot lots, wading pools, skate parks) installed and/or built for public use by children and/or to discard lighted or unlighted cigars or cigarettes in said areas.
- (33) To wade or swim in any pool in any park except when supervised.
- (34) To use any park facility for which a charge is now or hereafter made without first having paid the fee requested and having received the required permit.

- (35) To enter any park facility for which a charge is made without first paying the full legal charge made for such entrance unless such entrance is by the consent or permission of the person or persons in charge.
 - (36) To use any park facility or equipment which has been reserved or which is indicated by an authorized or official sign to have been reserved without first having received the written permission of the Director.
 - (37) To remove any authorized or official sign indicating that any park facility or equipment is reserved.
 - (38) For any male person to resort to any toilet set apart for women, and for any female person to resort to any toilet set apart for men, provided that this prohibition shall not apply to children accompanied by their father, mother or guardian.
 - (39) It shall be unlawful to climb onto any building or structure in a park not designated for such activity.
 - (40) To possess any container made of glass in any park or to bring, carry or transport any container made of glass into any park except that the sponsor of an organized event may obtain permission from the Department to possess glass containers.
 - (41) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above subsections.
 - (42) It shall be unlawful for any person to consume alcoholic beverages within fifteen (15) feet of an abutting edge of any public parking lot that directly abuts a City park, unless approved in advance in writing by the Director.
- (b) Except as otherwise authorized by law, it shall be unlawful and a misdemeanor for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.
- (1) It shall be unlawful for any person to consume alcoholic beverages without a permit in any City-owned or operated park

which has been conspicuously posted with signs alerting the public to this prohibition.

- (2) No person shall remain in any park between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- (3) The prohibitions contained in subsection (b)(2) of this section will not apply to:
 - (i) Special use facilities, as may be posted by the Department extending use hours;
 - (ii) Any person attending a meeting, entertainment event, recreation activity, dance or similar activity in such park, provided such activity is sponsored or co-sponsored by the Department or permit therefor, has been issued by the Department and/or City;
 - (iii) Any person exiting such park immediately after the conclusion of any activity set forth in subsection (b)(3)(ii) of this section;
 - (iv) Any peace officer or employee of the City while engaged in the performance of his/her duties.
- (c) The City of Modesto hereby designates all of its public parks as drug-free zones pursuant to and within the meaning of Health & Safety Code Section 11380.5.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3472-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: February 21, 2008

ORDINANCE NO. 3473-C.S.

AN ORDINANCE AMENDING SECTION 8-3.102 OF ARTICLE 1 OF CHAPTER 3 OF TITLE 8 OF THE MODESTO MUNICIPAL CODE RELATING TO CITY CONTRACTS - CONTRACTING AUTHORITY.

The City Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 8-1.102 of Article 1 of Chapter 3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-3.102. CONTRACTING AUTHORITY.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the total amount of fifty thousand dollars (\$50,000.00) or less. Except as noted below, no contract involving an expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized, approved or executed without City Council approval. The fifty thousand dollars (\$50,000.00) limit set forth in the preceding sentences does not apply to the following:

- (a) Contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of District Facility Taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of three hundred thousand dollars

(\$300,000.00) or less.

- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
- (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
- (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than four hundred thousand dollars (\$400,000.00) in City funds.
- (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
- (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or

less.

- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million five hundred thousand dollars (\$2,500,000) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000) or less annually.
- (k) Contracts for paving and landscaping work to be done by City forces at the City's Traffic Operations Facility located at 117 Elm Street in the amount of one hundred thousand dollars (\$100,000) or less.
- (l) Contracts for public works projects consisting of the design, purchase and installation of water lines and associated equipment used to blend down contaminants at water well sites in the amount of one million five hundred thousand dollars (\$1,500,000) per project.
- (m) Contracts for public works projects consisting of additions and/or expansion of facilities and structures at John Thurman Field not to exceed two million four hundred thousand dollars (\$2,400,000) per project.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of articles 2 and 4 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved

as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

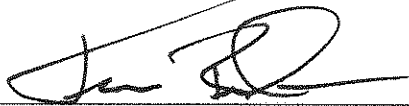
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3473-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: March 13, 2008

ORDINANCE NO. 3474 -C.S.

AN ORDINANCE AMENDING SECTIONS 1-6.403 AND 1-6.404 OF ARTICLE 4 CHAPTER 6 OF TITLE 1 OF THE MODESTO MUNICIPAL RELATING TO ADMINISTRATIVE CITATIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 1-6.403 and 1-6.404 of

Article 4 of Chapter 6 of Title 1 of the Modesto Municipal Code are hereby amended to read as follows:

1-6.403. CONTENTS OF ADMINISTRATIVE CITATION.

Any administrative citation that is issued shall contain all of the following information:

- (a) The date and location of the violation(s) and the approximate time the violation(s) were observed;
- (b) The Code section(s) violated and a brief description of how the section(s) were violated;
- (c) Where appropriate, the action(s) required to correct the violation(s);
- (d) Where appropriate, set forth a deadline by which violation(s) must be corrected and the consequences of failing to comply;
- (e) The aggregate amount of penalties imposed for each violation cited, if any;
- (f) An explanation as to how the penalty(ies) shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty; and
- (g) Identify all rights and procedures of appeal.
- (h) A statement that a failure to appeal shall constitute a failure to exhaust administrative remedies and results in the citation becoming a final administrative enforcement order, subject to criminal prosecution pursuant

to Section 1-6.508.

1-6.404. ADMINISTRATIVE CITATION PENALTIES.

- (a) If the responsible party fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the penalty(ies) shall increase at a rate specified in subsection (b) of this section.
- (b) The penalties assessed for each violation cited shall be as follows:
 - (1) First administrative citation - one hundred dollars (\$100.00) for each violation cited.
 - (2) Second administrative citation within a twelve (12) month period - two hundred and fifty dollars (\$250.00) for each violation cited.
 - (3) Third or subsequent administrative citation within a twelve (12) month period - five hundred dollars (\$500.00) for each violation cited.
- (c) Payment of the penalty(ies) shall not excuse the failure to correct the violation(s) nor shall it bar further enforcement action by the City.
- (d) All penalties assessed shall be payable to the City of Modesto unless otherwise directed on the citation. An administrative citation may be issued for multiple violations. Each violation constitutes a separate offense for which a separate penalty may be imposed. The aggregate amount of penalties imposed for each violation cited will be set forth on the administrative citation.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the

places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3474-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, Acting City Clerk

Effective Date: March 13, 2008

ORDINANCE NO. 3475-C.S.

AN ORDINANCE AMENDING SECTION 25-3-8 OF THE ZONING MAP OF THE CITY OF MODESTO TO PREZONE TO PREZONED LOW DENSITY RESIDENTIAL ZONE, (P-R-1), PROPERTY LOCATED ON THE NORTHEAST CORNER OF TEMPERATE AND MERCY AVENUES (OWNER INITIATED – UNINHABITED)

WHEREAS, pursuant to Modesto Municipal Code Section 10-2.2604, the City of Modesto proposes to initiate a rezoning to Prezoned Low Density Residential Zone, (P-R-1), approximately 1.87 acres of property located on the northeast corner of Temperate and Mercy Avenues, and

WHEREAS, Government Code Section 56375 requires that the City prezone any area which it proposes to annex, and

WHEREAS, any rezoning designation shall remain in effect until at least two years after completion of the annexation unless the City Council, after a public hearing, determines that a substantial change in circumstances has occurred that necessitates a departure from the rezoning, and

WHEREAS, after a public hearing held on June 4, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission that rezoning to Prezoned Low Density Residential Zone, (P-R-1), approximately 1.87 acres of property located on the northeast corner of Temperate and Mercy Avenues, as requested is in accordance with Government Code Section 65855 for the following reasons:

1. Staff has received a written request signed by the property owners to annex their properties to the City of Modesto.
2. The proposed annexation is within the existing Sphere of Influence and is consistent with the Modesto Urban Area General Plan and can be most efficiently served by City services.
3. The proposed annexation will result in the public improvements necessary to bring Mercy Avenue into conformance with City Standards.
2. The proposed annexation will result in orderly planning and use of land resources because future residential development on the site will be consistent with the existing residential uses in the area.

WHEREAS, by Resolution No. 2007-21, adopted on June 4, 2007, the Planning Commission recommended to the City Council an amendment to Section 25-3-8 of the Zoning Map to prezone the hereafter described property to Prezoned Low Density Residential Zone, (P-R-1), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 12, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on February 12, 2008, this Council finds and determines that the requested pre zoning is in accordance with the General Plan, and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth above.

SECTION 2. ZONING CHANGE. Section 25-3-8 of the Zoning Map is hereby amended to prezone the following described property to Prezoned Low Density Residential Zone, (P-R-1):

Lot 3 in Block 6 of Pleasant Homes, as shown on the map thereof recorded on August 17th, 1922 in Volume 9 of Maps, page 67, Stanislaus County Records.

SECTION 3. ZONING MAP. Section 25-3-8 of the Zoning Map of the City of Modesto is hereby amended to appear as set forth on the map attached hereto and which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.


SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryan, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:


By 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department – Planning Division

Ord. No. 3475-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

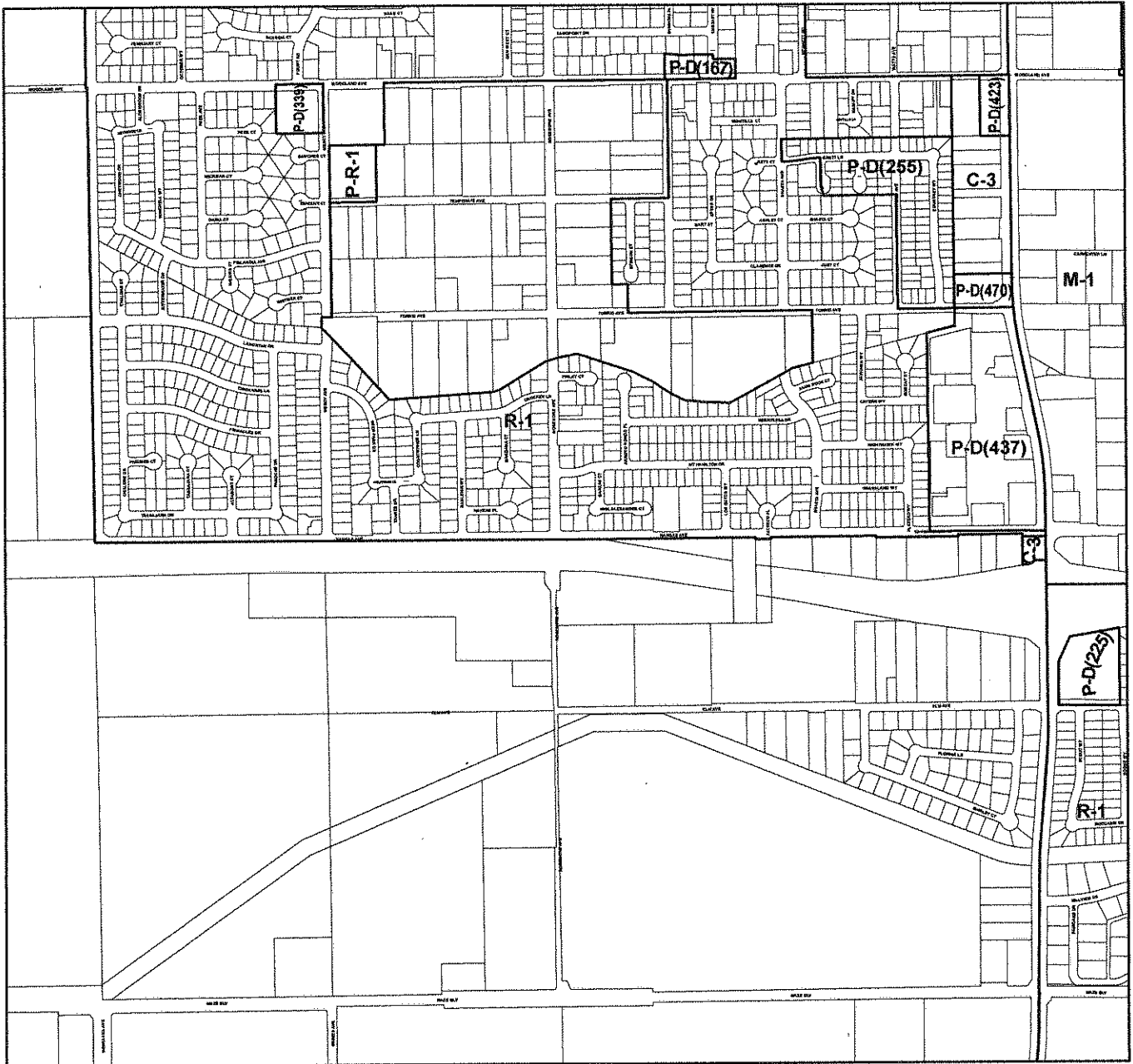
APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: March 27, 2008



March 3, 2008

City of Modesto Zoning Map 25-3-8

ORDINANCE NO. 3476-C.S.

AN ORDINANCE AMENDING SECTION 5-4.200 OF ARTICLE
2 OF CHAPTER 4 OF TITLE 5 OF THE MODESTO
MUNICIPAL CODE RELATING TO PENALTY PROVISIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 5-4.200 of Article 2 of
Chapter 4 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

5-4.200. PENALTY PROVISIONS.

A violation of any provision of this article shall be punishable as an infraction, except Section 5-4.212 which shall be punishable as a misdemeanor, or as provided under any remedy available at law.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

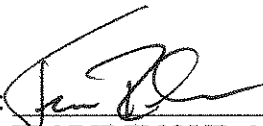
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3476-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: March 27, 2008

ORDINANCE NO. 3477-C.S.

AN ORDINANCE AMENDING SECTION 2-1.11 OF CHAPTER
1 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE
RELATING TO CITY COUNCIL ORGANIZATION AND
PROCEDURE -ADDRESSING THE COUNCIL

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 2-1.11 of Chapter 1 of Title 2
of the Modesto Municipal Code is hereby amended to read as follows:

2-1.11. ADDRESSING THE COUNCIL.

Any person desiring to address the Council at a meeting shall first secure the permission of the Presiding Officer so to do; provided, however, that under the following headings of business, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the Presiding Officer:

- (a) **Written Communications.** Interested persons or their authorized representatives may address the Council by written communications on any matters concerning the City's business, or any matters over which the Council has control. Such written communications shall be delivered to the City Clerk no later than 5:00 p.m. of the Wednesday immediately preceding the regular Council meeting the agenda for which such written communications are intended.
- (b) **Submission of Written Material for Council Consideration.** Written material to be submitted to the City Council regarding any item on the Council agenda, including items for which a public hearing is required, must be submitted to the City Clerk no later than 5:00 p.m. of the Wednesday immediately preceding the regular Council meeting at which such item will be considered. If the material is not received by that time, the City Council may exercise its discretion to either continue the item in order that the written material can be considered at a future meeting or, alternatively, consider the item without reference to the written material in which case the written material will not be made part of the administrative record.
- (c) **Submission of Council Reports and Comments to the City Clerk.** Councilmembers who desire discussion or action on any matter brought

before the Council under the “Council Comments and Reports” portion of the agenda shall notify the City Clerk of any subjects they wish to be listed under the “Council Comments and Reports” portion of the agenda no later than 5:00 p.m. of the Wednesday immediately preceding the regular Council meeting at which said items are to be discussed so that these matters can be properly noticed on the agenda.

- (d) **Public Comment Period.** Interested persons in the audience or their authorized representatives may address the Council orally on any matters concerning the City’s business or any matters over which the Council has control under the “Public Comment Period” portion of the regular Council agenda.

- (e) **Procedures for Persons Addressing the Council.** The following procedures shall be applicable to persons addressing the Council whether during the “Public Comment Period” portion of the agenda or at any other time:
 - (1) Persons shall not address the Council on matters over which the Council has no jurisdiction.

 - (2) During public hearings and discussions of other matters where numerous persons wish to address the same or similar point of view, the Mayor may request that one (1) or more spokespersons be selected to speak for all of said persons. The spokesperson(s) may ask for a show of hands to indicate others in the audience who support the point of view of the spokesperson(s).

 - (3) The Mayor may, “by order of the chair,” limit the total amount of time that will be allocated for persons who wish to speak at a public hearing or discussion of an issue being considered by the Council. The Mayor may also, “by order of the chair,” limit the total amount of time that individual speakers may use while speaking at a public hearing or discussion of an issue being considered by the Council. The amount(s) of time set by the Mayor shall take into account the number of persons who want to speak on the issue, the complexity of the issue, the length of the Council’s agenda, the hour at which the issue is being heard and other relevant considerations.

 - (4) Persons addressing the Council during public hearings and discussions of other matters shall be allowed to address the

Council only once during the hearing or discussion unless the Mayor allows them to speak more than once; provided, however, that spokespersons shall be allowed to address the Council twice during the hearing or discussion, once to initially address the issue(s) under consideration and a second time to address issues raised by other speakers. When unusual circumstances exist, the Mayor may allow persons to speak additional times during a public hearing or discussions of other matters.

- (5) The Mayor may, “by order of the chair,” limit the total amount of time that persons addressing the Council under “written communications” may use while speaking on the issue(s) raised by the written communications.
- (6) Persons addressing the Council under the “Public Comment Period” may speak only once and shall speak no longer than a total of three (3) minutes.
- (7) During the discussion of any matter under consideration by the Council, the amount of time spent answering questions asked by members of the Council or when directed by the Mayor to answer questions asked by other persons shall not be counted against such person(s) under the provisions of the above listed procedures.
- (8) The Council may, by four (4) affirmative votes, modify any “order of the chair” made by the Mayor under the provisions of the above-listed procedures.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By: _____



STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____



SUSANA ALCALA WOOD, City Attorney

Ord. No. 3477-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of March, 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED: _____
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, Acting City Clerk

Effective Date: April 3, 2008

ORDINANCE NO. 3478-C.S.

AN ORDINANCE AMENDING SECTION 8-6.103 OF ARTICLE 1 OF CHAPTER 6 TITLE 8 OF THE MODESTO MUNICIPAL CODE RELATING TO WASTEWATER TREATMENT FACILITIES REVENUE BOND LAW - DEFINITIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS. The Council of the City of Modesto finds as follows:

1. The City of Modesto is a municipal corporation and charter city of the State of California duly organized and existing under its charter (the "Charter") and authorized to make and enforce all laws and regulations in respect of municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter of the City.
2. The City Council of the City of Modesto has heretofore adopted Ordinance No. 2290-C.S., effective on November 1, 1984, adding Chapter 6 entitled "City of Modesto Wastewater Treatment Facilities Revenue Bond Law" to Title VIII of the Modesto Municipal Code, in order to authorize and establish the procedures for, the sale and issuance of revenue bonds by the City for the purpose of providing financing for wastewater treatment facilities serving residents of the City of Modesto.
3. The City has heretofore, and expects in the future, to issue revenue bonds pursuant to the provisions of Article 1 of Chapter 6 of Title 8 of the Modesto Municipal Code.
4. Article 1 of Chapter 6 of Title 8 of the Modesto Municipal Code was adopted prior to the enactment of the Internal Revenue Code of 1986, which substantially revised the federal tax law governing municipal bonds, and as such Article 1 of Chapter 6 of Title 8 of the Modesto Municipal Code, contains certain references to the Internal Revenue Code of 1954, as amended (the "1954 Code"), the provisions of which are no longer applicable and create ambiguity in said Chapter 6.
5. The City of Modesto now desires to amend Section 8-6.103 of Article 1 of Chapter 6 of Title 8 of the Modesto Municipal Code, to eliminate such reference to the 1954 Code and clarify the provisions of said Chapter 6.

SECTION 2. AMENDMENT OF CODE. Section 8-6.103 of Article 1 of

Chapter 6 Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-6.103. DEFINITIONS.

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

“Acquisition” and its variants means acquisition, construction, improvement, furnishing, equipping, remodeling, repair, reconstruction or rehabilitation.

“Bonds” means any bonds, notes, interim certificates, debentures or other obligations issued by the City pursuant to this chapter, which are payable exclusively from revenues and other funds permitted by this chapter.

“Chapter” means this Chapter 6 of Title VIII of the Modesto Municipal Code, as amended from time to time in accordance herewith.

“Charter” means the Charter of the City, as amended from time to time.

“City” means the City of Modesto, California, a Charter City in the State existing under and exercising powers pursuant to the Charter and the Constitution of the State.

“City Council” means the City Council of the City.

“Costs” means, with reference to a project, any or all of the following costs incurred for the acquisition thereof:

- (1) Obligations of the City incurred for labor and materials in connection with the acquisition of the project;
- (2) The cost of acquisition of any property, whether real or personal and improved or unimproved, including franchise rights and other intangible property, and any interests therein, required for the acquisition of the project;
- (3) The cost of demolishing, removing or relocating any building or structure, and the cost of making relocation assistance payments required by law;

- (4) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition of the project;
- (5) All costs of engineering, legal and consultant services, including the costs of the City for surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper acquisition of the project;
- (6) All costs incurred in connection with proceedings by the City necessary to comply with the California Environmental Quality Act of 1970, as amended;
- (7) All amounts required to fund any reserve funds for bonds and any interest on bonds becoming due and payable during a period not exceeding the period of acquisition of the project and twelve (12) months thereafter;
- (8) All costs of issuance of the bonds;
- (9) All costs which the City shall be required to pay, under the terms of any contract or contracts, for the acquisition of the project;
- (10) The refinancing of any existing indebtedness secured by an interest in any real property comprising any portion of the project, so long as and to the extent that such refinancing does not cause interest on the bonds to become taxable under Section 103 of the Internal Revenue Code of 1954, as amended; and
- (11) Any sums required to reimburse the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the project.

“Enterprise” means any and all facilities of the City for the disposal or reuse of wastewater, including sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, treatment, purification or disposal of sewage, and any necessary lands, rights-of-way and other real or personal property useful in connection therewith.

“Revenues” means all gross income and revenue received by the City from the ownership and operation of the enterprise, including all fees and charges received by the City for the services of the enterprise and all other income and revenue howsoever derived by the City from the ownership and operation of the enterprise

or arising from the enterprise, and including all receipts derived from the investment of such income or revenues, including moneys deposited in a sinking, redemption or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of or interest on the bonds and such other moneys as the City Council may in its discretion make available therefor. With respect to any grant anticipation notes issued pursuant to Section 8-6.210 of this chapter, the term "revenues" shall also include the revenues derived from the proceeds of any Federal or State grant with respect to the enterprise.

"State" means the State of California.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3478-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED: _____


MAYOR JIM RIDENOUR

ATTEST: _____

STEPHANIE LOPEZ, Acting City Clerk

Effective Date: April 3, 2008

ORDINANCE NO. 3479-C.S.

AN ORDINANCE APPROVING THE TIVOLI SPECIFIC PLAN FOR THE DEVELOPMENT OF APPROXIMATELY 454 ACRES LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE (DAVID ROMANO, NEWMAN ~ ROMANO LLC)

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt Specific Plans for the systematic implementation of the General Plan and to provide for greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, the Modesto Urban Area General Plan includes a policy that requires the preparation of a comprehensive plan for all Comprehensive Planning Districts, and

WHEREAS, the Modesto Urban Area General Plan allows the implementation of a comprehensive plan through specific plans, as defined by Government Code Section 65450 et. seq., and

WHEREAS, the Tivoli Specific Plan is located in the southwest portion of the Roselle/Claribel Comprehensive Planning District that consists of a total of 1,700 acres, and

WHEREAS, the Tivoli Specific Plan (“Project”) application was filed by David Romano (“Applicant”) of Newman-Romano, LLC, to allow for the development of approximately 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue (“Property”), and

WHEREAS, the proposed Tivoli Specific Plan includes approximately 286 acres of residential land use of varying density with a buildout potential of between 1,800 to 3,200 dwelling units, 14 acres of neighborhood-serving commercial, 6 acres of general

commercial, 67 acres of regional-serving commercial, 2 acres of professional office space, a 14-acre elementary school site, 30 acres of parks and open space, 4 acres of public infrastructure, and 31 acres of interior collector roadways, and

WHEREAS, a Final Environmental Impact Report was prepared for the Tivoli Specific Plan (SCH No. 2005072125) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on January 28, 2008, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed Tivoli Specific Plan was considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2008-05, recommending to the City Council an approval of the Tivoli Specific Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 26, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed Tivoli Specific Plan, and

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on February 26, 2008, this Council finds and determines:

1. The proposed Tivoli Specific Plan is consistent with the Modesto Urban Area General Plan as amended by the proposed amendment to the General Plan for the Tivoli Specific Plan project, because:
 - a. The proposed specific plan complies with the requirement to prepare a comprehensive plan for Comprehensive Planning Districts; and
 - b. The proposed development of the Property is consistent with the Village Residential and Regional Commercial designations; and
 - c. The location of the Property immediately adjacent to the existing City limits and within the Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services."
2. The proposed Tivoli Specific Plan is consistent with the Final Environmental Impact Report for the Tivoli Specific Plan Project (SCH No. 2005072125) and has been adequately analyzed by the EIR.

SECTION 2. COUNCIL ACTION. The City Council of the City of Modesto hereby approves the Tivoli Specific Plan on file in the office of the Community and Economic Development Department and incorporated herein by reference.

SECTION 3. CLERK AUTHORIZATION. The City Clerk is hereby authorized and directed to send certified copies of this ordinance and said Tivoli Specific Plan to the Board of Supervisors of the County of Stanislaus.

SECTION 4. INDEMNIFICATION. The project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the specific plan (File No. P-SPL-04-003).

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ACALA WOOD, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANJE LOPEZ, Acting City Clerk

Effective Date: April 3, 2008

ORDINANCE NO. 3480-C.S.

AN ORDINANCE AMENDING SECTIONS 1-3-9, 2-3-9, 11-3-9, AND 12-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO PREZONE TO PREZONE SPECIFIC PLAN ZONE, (P-SP), PROPERTY LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE (DAVID ROMANO - NEWMAN-ROMANO LLC)

WHEREAS, a verified application for an amendment to Sections 1-3-9, 2-3-9, 11-3-9, and 12-3-9 of the Zoning Map was filed by David Romano of Newman-Romano, LLC, to prezone to Prezone Specific Plan Zone, (P-SP), property located north of Sylvan Avenue, south of future Claratina Avenue, east of Oakdale Road, west of Roselle Avenue, and

WHEREAS, Government Code Section 56375 requires that the City prezone any area which it proposes to annex, and

WHEREAS, any rezoning designation shall remain in effect until at least two years after completion of the annexation unless the City Council, after a public hearing, determines that a substantial change in circumstances has occurred that necessitates a departure from the rezoning, and

WHEREAS, after a public hearing held on January 28, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission that rezoning to Prezone Specific Plan Zone, (P-SP), property located north of Sylvan Avenue, south of future Claratina Avenue, east of Oakdale Road, west of Roselle Avenue, as requested is in accordance with Government Code Section 65855 for the following reasons:

1. The proposed prezone is required by public convenience and necessity and will result in an orderly planned use of land resources because Section 10-2.1902 of the Modesto Municipal Code requires the area to be zoned to Specific Plan Zone in conjunction with the adoption of a Specific Plan.
2. The proposed prezone is consistent with the Modesto Urban Area General Plan as amended by the proposed amendment to the General Plan for the Tivoli Specific Plan project because:
 - a. The proposed development of the Property is consistent with the Village Residential and Regional Commercial designations.
 - b. The location of the Property immediately adjacent to the existing City limits and within the Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services.
3. The proposed prezone is consistent with the proposed Tivoli Specific Plan.
4. The proposed prezone is consistent with the Final Environmental Impact Report (SCH No. 2005072125) and has been adequately analyzed by the EIR.

WHEREAS, by Resolution No. 2008-06, adopted on January 28, 2008, the Planning Commission recommended to the City Council an amendment to Sections 1-3-9, 2-3-9, 11-3-9, and 12-3-9 of the Zoning Map to prezone the hereafter described property to Prezone Specific Plan Zone, (P-SP), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 26, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on February 26, 2008, this Council finds and determines that the requested rezoning is in accordance with the General Plan, and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth above.

SECTION 2. ZONING CHANGE. Sections 1-3-9, 2-3-9, 11-3-9 and 12-3-9 of the Zoning Map are hereby amended to prezone the following described property to Prezone Specific Plan Zone, (P-SP):

All those portions of the north half of Sections 11 and 12 and the south half of the south half of Sections 1 and 2, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

Beginning at the northwest corner of the Village One High School Reorganization to the City of Modesto recorded March 19, 1999 at I.N. 99-002897, Stanislaus County Records; thence along the existing city limits line the following (34) courses;

1. thence along the west line of said Village One High School Reorganization
Course [1] South 00°22'14" East 652.25 feet;
2. Course [2] North 89°47'14" West 20.00 feet;
3. Course [3] South 00°22'14" East 329.50 feet;
4. Course [4] South 89°48'16" East 20.00 feet;
5. Course [5] South 00°22'14" East 329.50 feet;
6. Course [6] South 89°49'15" East 5.00 feet;
7. Course [7] South 00°22'14" East 630.27 feet to the north line Village One Reorganization to the City of Modesto recorded June 1, 1992, Stanislaus County Records, said north line being course # 32 as shown on that plat of said Village One Reorganization to the City of Modesto; thence along said north line
8. Course [8] North 89°55'53" West 46.75 feet;
9. Course [9] North 89°40'23" West 214.15 feet;
10. Course [10] South 00°37'39" East 30.00 feet;

11. Course [11] North 89°40'23" West 385.05 feet;
12. Course [12] North 00°37'39" West 30.00 feet;
13. Course [13] North 89°40'23" West 326.05 feet;
14. Course [14] South 00°37'39" East 6.80 feet;
15. Course [15] North 89°40'23" West 30.00 feet;
16. Course [16] North 00°37'39" West 6.80 feet;
17. Course [17] North 89°40'23" West 326.05 feet;
18. Course [18] South 00°37'39" East 30.00 feet;
19. Course [19] North 89°40'23" West 1303.21 feet;
20. Course [20] North 00°19'36" East 10.00 feet;
21. Course [21] North 89°40'24" West 970.35 feet;
22. Course [22] South 00°13'39" East 15.00 feet;
23. Course [23] North 89°40'24" West 164.16 feet;
24. Course [24] North 00°13'39" West 15.00 feet;
25. Course [25] North 89°40'24" West 172.30 feet;
26. Course [26] South 00°31'30" East 10.00 feet;
27. Course [27] North 89°40'24" West 637.69 feet;
28. Course [28] North 00°31'30" West 10.00 feet;
29. Course [29] North 89°40'24" West 396.34 feet;
30. Course [30] North 00°31'30" West 10.00 feet;
31. Course [31] North 89°40'24" West 264.57 feet to the east line of the Oakdale-Sylvan Addition Reorganization to the City of Modesto recorded November 11, 1976 at I.N. 23706, Stanislaus County Records;
32. thence along said east line Course [32] North 00°25'44" West 2582.66 feet to the south line of the North Beyer Park Reorganization to the City of Modesto recorded June 30, 1995, Stanislaus County Records;
33. thence along said south line Course [33] North 89°48'45" East 20.00 feet to the southeast corner of said North Beyer Park Reorganization;
34. thence along the east line of said North Beyer Park Reorganization Course [34] North 00°34'27" West 1341.87 feet to the northwest corner of Parcel A, said point being on the north line of the south half of the southwest quarter of Section 2 as shown on that Parcel Map filed for record at Book 25 of Parcel maps at Page 76, Stanislaus County Records;

thence along said quarter quarter section line Course [35] South 89°43'09" East 2615.63 feet to the west line of Lot 11 as shown on that Map filed for record at Volume 9 of Maps at Page 76, Stanislaus County Records; thence along said west line Course [36] North 00°25'45" West 4.35 feet to the northwest corner of said Lot 11; thence along the north line of said Lot 11 Course [37] South 89°39'52" East 1305.53 feet to the northeast corner of said Lot 11; thence along the west line of Lot 6 as shown on said Map Course [38] North 00°23'43" West 1.38 feet to the

north west corner of said Lot 6; thence along the north line of said Lot 6 Course [39] South 89°34'38" East 1379.73 feet to the east line of the 50.00 foot half width of Roselle Avenue; thence parallel with and 50.00 feet easterly of the east line of said Section 2 Course [40] South 00°16'57" East 1324.34 feet; thence parallel with and 50.00 feet easterly of the east line of said Section 11 Course [41] South 00°22'14" East 653.10 feet to the existing city limits line and being the north line of said Village One High School Reorganization; thence along said north line Course [42] South 89°47'27" West 80.00 feet to the Point of Beginning.

EXCEPTING THEREFROM that 5.10 Acre Parcel as shown on Well Site No.4 Reorganization to the City of Modesto recorded August 22, 2000, Stanislaus County Records.

All as shown on attached exhibit "TIVOLI PREZONE to Specific Plan (P-SP)" made a part here of and containing 471.15 acres more or less.

SECTION 3. ZONING MAP. Sections 1-3-9, 2-3-9, 11-3-9 and 12-3-9 of the Zoning Map of the City of Modesto are hereby amended to appear as set forth on the map attached hereto and which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



JIM RIDENOUR, Mayor

ATTEST:

By:


STEPHANIE LOPEZ, Acting City Clerk

(SEAL)


APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By:


Community & Economic Development
Department – Planning Division

Ord. No. 3480-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: Olsen

APPROVED:

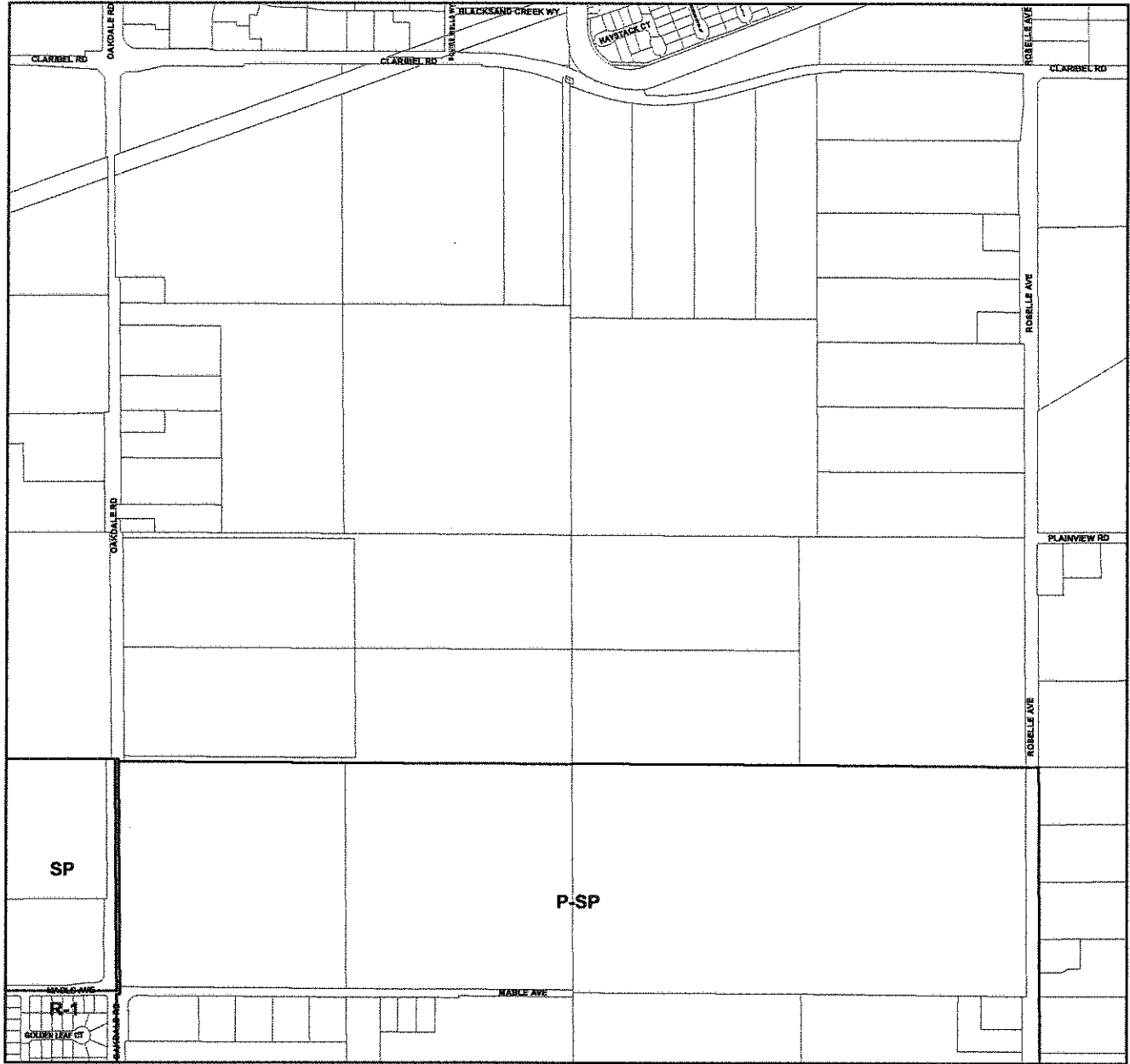


MAYOR JIM RIDENOUR

ATTEST:

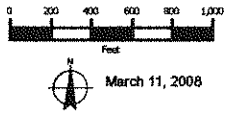
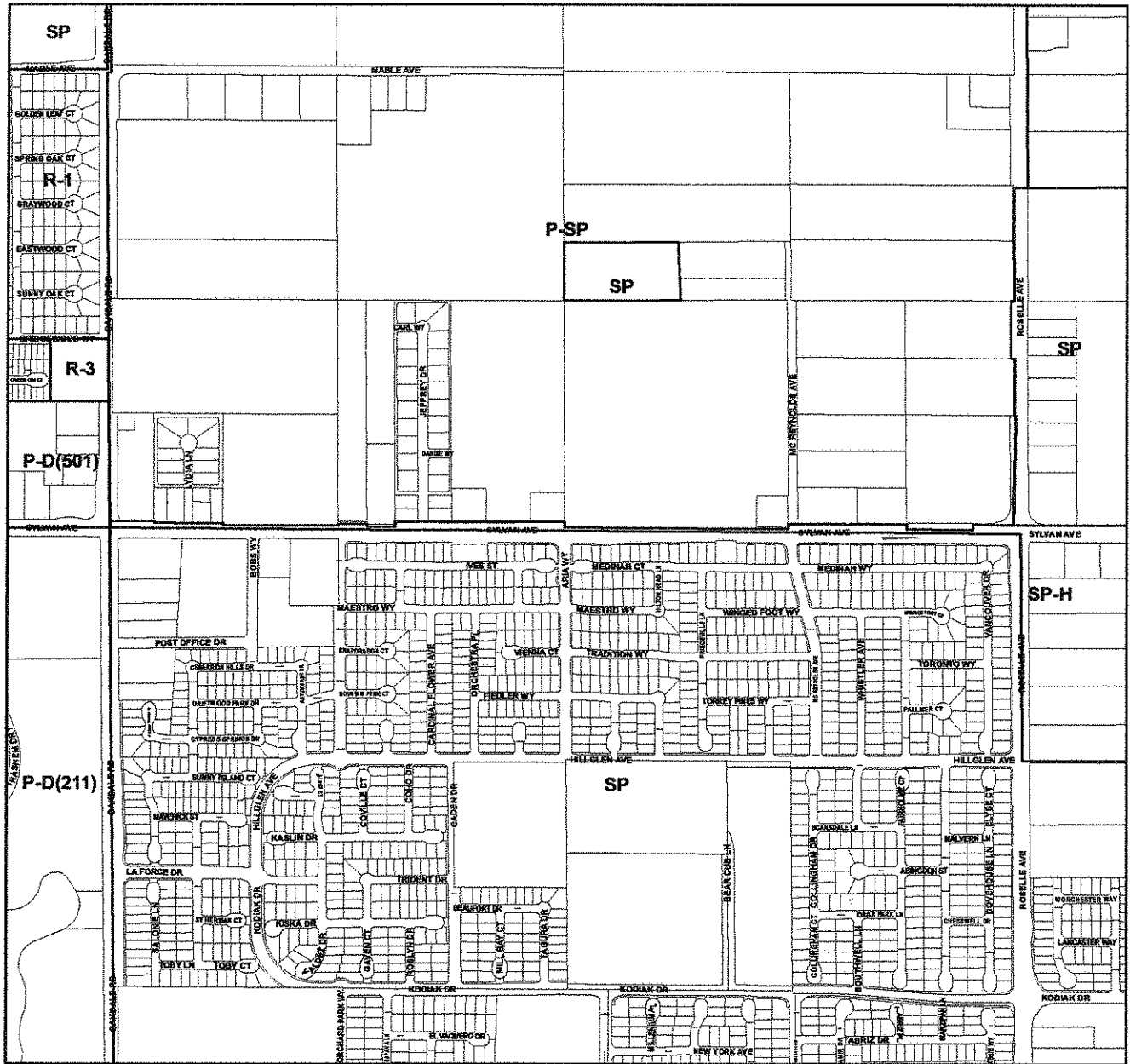

STEPHANIE LOPEZ, Acting City Clerk

Effective Date: April 3, 2008

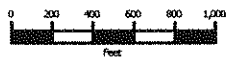
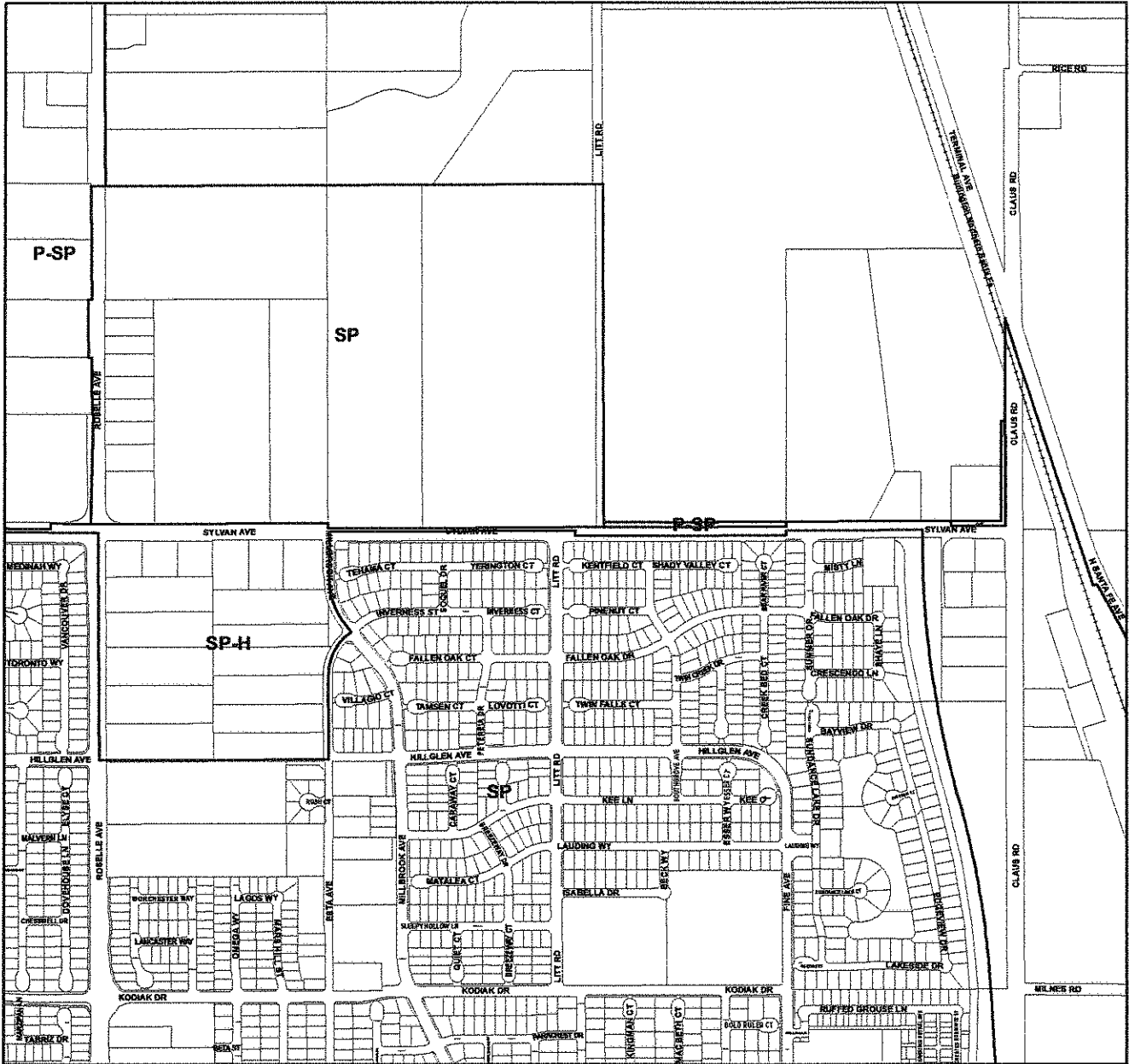


March 11, 2008

City of Modesto Zoning Map 2-3-9



City of Modesto Zoning Map 11-3-9



March 11, 2008

City of Modesto Zoning Map 12-3-9

ORDINANCE NO. 3481-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.902, 10-2.905, 10-2.908, 10-2.1002, 10-2.1008, 10-2.1102, 10-2.1108, 10-2.1202, 10-2.1205, 10-2.1207, 10-2.1302, 10-2.1304, 10-2.1308, 10-2.1402, 10-2.1404, 10-2.1407, 10-2.1502, 10-2.1507, 10-2.1602 AND 10-2.1607 OF CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE; ADDING SECTIONS 10-2.912, 10-2.1010, 10-2.1110, 10-2.1209, 10-2.1310, 10-2.1409, 10-2.1509 AND 10-2.1611 THERETO; ADDING ARTICLE 30 THERETO; AND REPEALING SECTION 10-2.903 THEREOF RELATING TO ZONING REGULATIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 10-2.902, 10-2.905, 10-2.908, 10-2.1002, 10-2.1008, 10-2.1102, 10-2.1108, 10-2.1202, 10-2.1205, 10-2.1207, 10-2.1302, 10-2.1304, 10-2.1308, 10-2.1402, 10-2.1404, 10-2.1407, 10-2.1502, 10-2.1507, 10-2.1602 and 10-2.1607 of Chapter 2 of Title 10 of the Modesto Municipal Code are hereby amended to read as follows:

10-2.902. PERMITTED USES.

The following are permitted uses subject to Development Plan Review by the Director:

- (a) Business office (including government office, insurance sales and services, real estate sales and services, stockbroker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions).
- (b) Medical and dental office or laboratory, chiropractor, chiropodist, optometrist.
- (c) Pharmacy (excluding manufacture or distribution of pharmaceuticals) only when accessory to a medical office or clinic.
- (d) Professional office (including accountant, architect, attorney, engineer,

- surveyor).
- (e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and/or the same site as a church or governmental use.
- (f) A parking area for an immediately adjacent commercial use in a commercial zone.

10-2.905. CONDITIONAL USES.

The following uses are allowed upon securing a conditional use permit from the Board:

- (a) Ambulance service.
- (b) Buildings, facilities and grounds of a utility which are not a permitted use.
- (c) Child day care center.
- (d) Church.
- (e) Hospital supply sales.
- (f) Not-for-profit educational or scientific agency.
- (g) Storm drainage basins and related facilities.
- (h) Substance abuse clinic/facility.
- (i) Twenty-four-hour care for seven (7) or more persons.
- (j) Veterinary hospital (small animal).
- (k) Vocational school.

10-2.908. SIDE AND REAR YARDS.

- (a) Every building and parking area shall have a minimum side and rear yard of five (5) feet except where the side or rear of a lot is adjacent to property zoned R-1, R-2, R-3, or residential P-D in the City or R-1, R-2, R-3 or residential P-D in the County. When this occurs, the following regulations apply:

- (1) Every building shall have a minimum side and rear yard of ten (10) feet for any single-story portion, and twenty (20) feet for any second-story portion. Every parking area shall have a minimum side and rear yard of ten (10) feet.
- (b) On corner lots the minimum side street side yard shall be fifteen (15) feet for buildings and ten (10) feet for parking, except for lots legally existing or shown on a tentative subdivision map approved prior to July 5, 1955, in which case it shall be a minimum of seven and one-half (7.5) feet.
- (c) Side street side yards shall be unobstructed except that walls and fences outside the clear vision triangle are permitted a maximum of forty-two (42) inches in height.
- (d) If a legally existing lot has less than the required lot width, the side yards shall each be a minimum of ten (10) percent of the lot width, except that for lots adjacent to residentially zoned property as noted above, the minimum yard for any second-story portion shall be twenty (20) feet. In no case shall an interior lot side yard be less than three (3) feet and a side street side yard be less than seven and one-half (7.5) feet.
- (e) Side and rear yards shall be landscaped unless otherwise approved by the Board.

10-2.1002. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted use in the P-O Zone other than dwellings.
- (b) Antique store.
- (c) Apparel store.
- (d) Art supply store.
- (e) Art studio, art gallery.
- (f) Autograph and philatelist store.

- (g) Automobile lubrication.
- (h) Automobile tune-up.
- (i) Bank, savings and loan, credit union.
- (j) Bakery (retail).
- (k) Barbershop, beauty shop.
- (l) Bookstore, newsstand.
- (m) Business services (duplicating, addressing, mailing, blueprinting, photostating, stenographic).
- (n) Camera store.
- (o) Child and adult day care.
- (p) Computer store (sales and repair).
- (q) Drugstore, pharmacy.
- (r) Fabric store (including upholstery material).
- (s) Florist, plant nursery.
- (t) Food store.
- (u) Frozen food lockers (individual retail rental).
- (v) Furniture store.
- (w) Gift, novelty or souvenir store.
- (x) Gunsmith shop.
- (y) Hardware store (limited to household and garden).
- (z) Housewares and small appliance store (including pictures, frames, lamps, shades, window shades, draperies, curtains, microwaves, irons, toasters).

- (aa) Instruction in arts, athletics, self defense (such as art, music, drama, dance, gymnastics, judo, karate).
- (ab) Interior decorating service.
- (ac) Jewelry, watch or clock store (sales and repair).
- (ad) Laundry and dry cleaning store.
- (ae) Library.
- (af) Liquor store (off-premise consumption).
- (ag) Luggage and leather good store (sales and repair)
- (ah) Motel, hotel.
- (ai) Museum.
- (aj) Musical instruments and record store.
- (ak) Office supply and stationery store.
- (al) Paint and wallpaper store.
- (am) Parks owned and operated by a governmental agency.
- (an) Parking lot or garage.
- (ao) Parts store (excluding tires) for automobiles, motorboats, motorcycles, and trailers (sales only, no repair, service, rebuilding or installation).
- (ap) Pet store.
- (aq) Photographic studio, film processing.
- (ar) Radio, television and electronic device store (sales and repair).
- (as) Repair shop (such as bicycle, camera, lawn mower and saw sharpening, knife and tool, musical instrument, key duplication, small appliance, handyman repair service).

- (at) Restaurant (Alcoholic beverages may be served only in conjunction with meals. No separate bar or cocktail lounge is allowed. Music may be provided, but no dancing or entertainment is permitted).
- (au) Reverse vending machines or unattended containers for the donations of recyclable paper or beverage containers, occupying no more than fifty (50) square feet, in conjunction with and on the same site as any other permitted or conditional use.
- (av) Service station.
- (aw) Shoe store (sales and repair).
- (ax) Sporting goods store.
- (ay) Tailor and seamstress shop.
- (az) Tobacco store.
- (ba) Toy or hobby store.
- (bb) Travel agency.
- (bc) Vocational school.

10-2.1008. SIDE AND REAR YARDS.

- (a) No building or structure need have a side or rear yard except when the side or rear of a lot is adjacent to property zoned R-1, R-2, R-3 or residential P-D in the City or R-1, R-2, R-3 or residential P-D in the County. When this occurs the following regulations apply, even if the properties are separated by an alley:
 - (1) Every building shall have yards a minimum of ten (10) feet for the first story and twenty (20) feet for the second story, or ten (10) percent of lot width (for side yard) or lot depth (for rear yard), whichever is greater, up to a maximum of forty (40) feet. Uncovered parking spaces are exempt from this setback except along a side street.
 - (2) An eight (8) foot high masonry wall shall be constructed along the property line.

- (3) If a public alley separates C-1 property from the residential zones listed above, the alley width may be counted as part of the setback, but no parking or driveways shall be permitted off the alley.
- (b) The above side and rear yard requirements are applicable to new buildings and additions to existing buildings.
- (c) Every building shall have a minimum side street side yard of ten (10) feet except when the property is adjacent to an alley. All side street side yards, required or not, shall be landscaped.

10-2.1102. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted use in the C-1 Zone.
- (b) Appliance store.
- (c) Armored car service.
- (d) Automobile and recreational vehicle dealer.
- (e) Automobile repair (excluding painting, body and fender work, machining and tire rebuilding, except that incidental to general repair).
- (f) Bar, cocktail lounge.
- (g) Broadcasting studio (radio or television).
- (h) Carnival.
- (i) Circus.
- (j) Department store.
- (k) Electric motor shop.
- (l) Exterminating service.

- (m) Farm supply store.
- (n) Floor covering store.
- (o) Fortune-telling.
- (p) Janitorial service.
- (q) Laboratory (research and testing).
- (r) Locksmith shop.
- (s) Medical and orthopedic supply store.
- (t) Printing shop.
- (u) Recreation services (bowling alley, ice or roller skating rink, racquetball club or similar indoor uses).
- (v) Security agency.
- (w) Sign painting shop.
- (x) Taxicab office, repair and storage (excluding painting and body and fender work, except that incidental to general repair).
- (y) Taxidermist shop.
- (z) Tire, battery and vehicle accessory store (excluding tire rebuilding, recapping and retreading).
- (aa) Upholstery and furniture repair shop.

10-2.1108. SIDE AND REAR YARDS.

Side and rear yards are as required in the C-1 Zone, except that when the side or rear of a lot is adjacent to property zoned R-1, R-2, R-3 or residential P-D in the City or R-1, R-2, R-3 or residential P-D in the County, all third and higher stories shall have a minimum setback of fifty (50) feet.

10-2.1202. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted use in the C-2 zone.

10-2.1205. CONDITIONAL USES.

The following uses are allowed in any development for which a conditional use permit has been granted by the Board:

- (a) Any conditional use in the C-2 zone.
- (b) Building materials store (excluding lumberyard).
- (c) Campground, recreational vehicle overnight park.
- (d) Farm machinery store.
- (e) Package delivery service, express office.
- (f) Truck, truck trailer and mobile home dealer.
- (g) Warehousing, storage.

10-2.1207. STANDARDS.

The following standards are guidelines in determining appropriate conditions to apply to any conditional use permit, or development plan approval:

- (a) Nuisances. No operation shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration or electrical interference detectable off the premises.
- (b) Front Yard. Every building shall have a minimum landscaped front yard of fifteen (15) feet. Every parking area shall have a minimum landscaped front yard of ten (10) feet.
- (c) Commercial Side and Rear Yards. No building or structure need have a side or rear yard except as follows:
 - (1) On a side street a landscaped yard not less than fifteen (15) feet for buildings and ten (10) feet for parking shall be provided.

- (2) Whenever the side or rear of a lot is adjacent to property zoned for or developed with residential uses, compatibility between uses shall be maintained. Conditions on setbacks, landscaping, building height, noise baffling or similar measures may be utilized to maintain compatibility. Such side or rear yard shall be a minimum of forty (40) feet.
- (d) Residential Side and Rear Yards. Residential developments shall have side and rear yards as required in the R-2 and R-3 zones.
- (e) Screening. A solid decorative masonry wall eight (8) feet in height shall be constructed along the boundary separating C-3 commercial uses from adjoining residential or agricultural uses or zones. On the C-3 side of the wall a minimum ten-foot planting strip with screen landscaping shall be required. Along a side street boundary, the wall shall be at the side street setback line.
- (f) Driveways and Accessways.
 - (1) Where a wall is required on the side street of a corner lot, no driveway shall be permitted.
 - (2) Joint use of driveways and accessways, one parcel to another, shall be encouraged to limit driveways on the major street.
- (g) Height. No structure shall exceed a height of two (2) stories or thirty-five (35) feet, whichever is the lesser height, except when permitted by a conditional use permit.

10-2.1302. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted or conditional use in the C-3 Zone (except for residential uses).
- (b) Automobile body and fender works.
- (c) Automobile dismantling and used parts storage.

- (d) Automobile painting shop.
- (e) Automobile steam cleaning shop.
- (f) Blacksmith shop.
- (g) Boat manufacture.
- (h) Bottling plant (soft drinks).
- (i) Building materials store (including lumber, roofing, insulation, awnings, glass, weatherstripping, doors).
- (j) Cabinet shop.
- (k) Carpet cleaning plant.
- (l) Contracting business (including equipment and materials yard).
- (m) Dairy products processing.
- (n) Equipment rental yard.
- (o) Ice dealer.
- (p) Laundry and dry cleaning plant.
- (q) Linen supply and service.
- (r) Machine shop, electric motor shop.
- (s) Moving and storage service.
- (t) Plating and anodizing shop.
- (u) Radiator shop.
- (v) One dish-type satellite antenna per use not to exceed thirteen (13) feet in diameter and which is either:
 - (1) Ground-mounted so as not to exceed fifteen (15) feet at the highest point of the antenna, and located to the rear of the building

excepting the ten (10) feet of any rear setback area that may exist adjacent to the rear property line, or

- (2) Mounted so that it is more than fifteen (15) feet, but not more than thirty-five (35) feet at its highest point, located so as to have a rear-of-building orientation as approved by the Director.
- (w) Sheet metal shop, heating and plumbing equipment dealer.
- (x) Tire rebuilding, recapping, retreading.
- (y) Truck, truck trailer, mobile home repair.
- (z) Veterinary hospital (large animals).
- (aa) Welding shop.
- (ab) Wholesale business.

10-2.1304. CONDITIONAL USES.

The following use is permitted upon securing a conditional use permit from the Board: homeless shelters.

10-2.1308. SIDE AND REAR YARDS.

Side and rear yards are as required in the C-2 Zone.

10-2.1402. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted or conditional use in the C-M Zone.
- (b) Battery rebuilding.
- (c) Brewery.
- (d) Bulk fuel storage of Class II flammable liquids for the power needs of food processing plants.

- (e) Distributing, freighting or trucking yard.
- (f) Food and kindred products processing and storage.
- (g) Hatchery.
- (h) Ice plant.
- (i) Light recycling processing facility.
- (j) Manufacture, fabrication, processing, packaging or treatment of:
 - (1) Apparel.
 - (2) Commercial advertising signs or structures.
 - (3) Small ceramic products (such as figurines, stoneware, porcelain, wall and floor tile).
 - (4) Cosmetics, perfumes, toiletries.
 - (5) Electronic and business machines.
 - (6) Furniture and fixtures.
 - (7) Leather products.
 - (8) Lumber and wood products (excluding burning operations).
 - (9) Musical instruments.
 - (10) Paper products (excluding pulp and paper mills).
 - (11) Pharmaceuticals.
 - (12) Photographic equipment.
 - (13) Plastics and plastic products.
 - (14) Rubber and rubber products.
 - (15) Seeds.

- (16) Textiles.
- (17) Tobacco.
- (k) Manufacture, fabrication, processing, packaging or treatment of products from the following previously prepared materials: bone, cellophane, cork, feathers, fiber, fur, glass, hair, horn, precious or semiprecious metals or stones, shell, straw.
- (l) Meat packing plant.
- (m) Massage and bath establishments and schools of massage.
- (n) Poultry and rabbit slaughter (including custom dressing).
- (o) Sand, gravel, brick and building block dealer (excluding concrete mixing, manufacture or rock crushing).
- (p) Transit and transportation equipment storage yard.

10-2.1404. CONDITIONAL USES.

The following use is allowed upon securing a conditional use permit from the Board: homeless shelters.

10-2.1407. SIDE AND REAR YARDS.

Side and rear yards are as required in the C-2 Zone.

10-2.1502. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Any permitted and conditional use in the M-1 Zone.
- (b) Manufacture, fabrication, processing and treatment of:
 - (1) Large ceramic products (such as bricks or tile).
 - (2) Glass, clay, concrete, stone and related products, excluding rock crushing.

- (3) Metals and metal products.
 - (4) Natural gas and gas products.
 - (5) Petroleum and petroleum products.
 - (6) Stone monuments and tombstones.
- (c) Railroad repair shop, classification yard.
- (d) Winery.

10-2.1507. SIDE AND REAR YARDS.

Side and rear yards are as required in the C-2 Zone.

10-2.1602. PERMITTED USES.

The following are permitted uses, subject to Development Plan Review by the Director:

- (a) Employment-intensive offices: Office buildings designed for one hundred (100) or more employees. This use shall include, but not be limited to, offices devoted to word processing and information processing, regional insurance offices, corporate headquarters, and records processing centers.
- (b) Light industrial uses: Involving the manufacture, fabrication, processing, packaging, or treatment of:
 - (1) Apparel and other finished products made from fabrics and similar materials.
 - (2) Furniture, fixtures and cabinetry.
 - (3) Leather products, excluding leather trimming and finishing.
 - (4) Products made from purchased glass.
 - (5) Pottery and related products.
 - (6) Cut stone products.

- (7) Electrical and electronic machinery, equipment and supplies, excluding manufacture and fabrication of primary or storage batteries.
 - (8) Precision goods: Measuring, analytical, and controlling instruments; photographic, medical and optical goods, watches and clocks.
 - (9) Fabricated rubber products.
 - (10) Fabricated plastic products.
 - (11) Jewelry, silverware and plated ware.
 - (12) Musical instruments.
 - (13) Toys and amusement, sporting, and athletic goods.
 - (14) Pens, pencils, and other office and artists materials.
 - (15) Costume jewelry, buttons, and notions.
- (c) Printing and publishing.
 - (d) Wholesale and retail sales of goods produced on the premises, as an adjunct to manufacture subject to the following conditions:
 - (1) Not more than twenty-five (25) percent of the gross building area may be used for these purposes.
 - (2) Wholesale and retail sales shall be limited to goods produced on the premises.
 - (e) Reverse vending machines or unattended containers for the donations of recyclable paper or beverage containers, occupying no more than fifty (50) square feet, in conjunction with and on the same site as any other permitted or conditional use.

10-2.1607. SIDE AND REAR YARDS.

No building or structure need have a side or rear yard except as follows:

- (a) When the side or rear of a lot is adjacent to property zoned for or

developed with residential uses, the following regulations apply:

- (1) Every building shall have yards a minimum of ten (10) feet for the first story, twenty (20) feet for the second story, and fifty (50) feet for the third or higher stories, or ten (10) percent of lot width (for side yard) or lot depth (for rear yard), whichever is greater, up to a maximum of forty (40) feet for the first and second stories. Uncovered parking spaces shall be set back ten (10) feet.
 - (2) An eight-foot high masonry wall shall be constructed along the property line. Along a side street boundary, the masonry wall shall be set back a minimum of ten (10) feet. On the B-P side of the wall a minimum ten-foot planting strip with screen landscaping shall be required.
- (b) On a side street, a landscaped yard not less than fifteen (15) feet for buildings or parking shall be provided.

SECTION 2. AMENDMENT OF CODE. Sections 10-2.912, 10-2.1010, 10-2.1110, 10-2.1209, 10-2.1310, 10-2.1409, 10-2.1509, and 10-2.1611 are hereby added to Chapter 2 of Title 10 of the Modesto Municipal Code to read as follows:

10-2.912. DESIGN.

When considering any building permit or administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1010. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1110. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning

Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1209. DESIGN.

When considering any administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1310. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1409. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1509. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

10-2.1611. DESIGN.

When considering any building permit, administrative approval, plot plan, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted Design Review Guidelines to the proposed project.

SECTION 3. AMENDMENT OF CODE. Article 30 is hereby added to Chapter

2 of Title 10 of the Modesto Municipal Code to read as follows:

ARTICLE 30. DEVELOPMENT PLAN REVIEW

10-2.3001. PURPOSE AND INTENT.

Where provisions of this chapter require development plan review by the Director or designee ("Director"), the requirements and procedures of this article shall apply. The purposes and intent of development plan review are to:

- (a) ensure that new development or expansions of existing uses or structures occurs in a manner consistent with the overall objectives of the General Plan, the objectives of the Zoning Code and with the neighborhood or area in which the development is proposed to be located;
- (b) ensure that all new development is consistent with the development standards contained in the Zoning Code and with City of Modesto standard specifications, and;
- (c) ensure that all new development is consistent with applicable design guidelines.

10-2.3002. APPLICABILITY.

- (a) The following specific regulations shall apply to all Development Plan Reviews. Where conflict in regulation occurs with other provisions of this chapter, the regulations in this article shall apply.
- (b) The following development projects are subject to Development Plan Review:
 - (1) All projects in the P-O, C-1, C-2, or C-3 zones which do not otherwise require a Plot Plan Review or Conditional Use Permit.
 - (2) All projects in the C-M, M-1, M-2, or B-P zone which do not otherwise require a Plot Plan Review or Conditional Use Permit.
 - (3) In the P-D zone, for all Commercial and Industrial uses, changes in development plan pursuant to Section 10-2.1709 (c).
 - (4) The following types of projects are exempt from Development Plan Review:
 - (i) Alterations which meet both of the following criteria: roofline is unchanged, and existing materials and styles are maintained.

- (ii) Parking lot resurfacing or restriping provided that no change or alteration is made to trees, landscaping, or access points
- (iii) Tenant improvements affecting only the building interior

10-2.3003. SCOPE OF REVIEW.

Where Development Plan Review is required for a use or structure under the provisions of this article, the following aspects of the project are to be reviewed by the Director:

- (a) Conformance of the proposed project to applicable development standards as established by this Title and the Standard Specifications Conformance of the proposed development with adopted Design Review Guidelines applicable to the zone and development.
- (b) The location of the site and structures in relation to buildings on adjoining sites, with particular attention to privacy.

10-2.3004. REVIEW PROCEDURE.

- (a) Upon filing of any Development Plan subject to review under this article, the Planning staff shall, within ten (10) working days, make a determination as to completeness of the application and associated information. The Planning Division, Community & Economic Development Department, may refer the application and all accompanying maps, drawings, plans, elevations, tabulations and other information to various City departments for review and comment.
- (b) Following a determination that the application is complete, the Director shall review the application and shall, following completion of such review, announce an administrative decision, which may include conditions and corrections required to establish conformance with regulations as described above. A copy of this decision shall be mailed to the applicant.
- (c) At the discretion of the Director, a Development Plan subject to review under this article may be referred to the Planning Commission for decision.
- (d) The administrative decision shall be final and effective fifteen (15) days

after the date of approval or denial unless the decision is appealed in writing to the Planning Commission within the 15 day period.

10-2.3005. APPEALS.

Any person disagreeing with an administrative decision made pursuant to this article, may appeal the decision to the Planning Commission (“Commission”). A written appeal shall be filed with the Director within fifteen (15) days of the decision. Filing of an appeal within this period shall stay the effective date of the decision until the Commission has acted on the appeal. The written appeal shall clearly state the decision excepted to and the grounds for the appeal. Appeals shall be filed and considered by the Commission in accordance with the following procedure:

- (a) Upon the filing of an appeal in the proper form and with a fee as established by the Council, the Director shall set the matter for consideration by the Commission within thirty (30) days after the date of the filing of said appeal with the Director. Written notice of the date and time of consideration shall be given to the appellant and any other persons requesting notice not less than ten (10) days prior to Commission consideration.
- (b) No more than twenty (20) days after the closing of consideration, the Commission shall announce its findings and decision by resolution. Its decision shall be final unless an appeal to the Council is filed in accordance with Section 1-4.01 et seq. of the Municipal Code.
- (c) Written notice shall be considered as having been given whenever it has either been personally delivered or deposited in the United States mail, postage prepaid, and addressed to the person entitled to receive the notice.

10-2.3006. EXPIRATION OF DEVELOPMENT PLAN REVIEW APPROVALS.

Approvals under this Article shall be in effect for two (2) years following the effective date of such approval in accordance with Section 10-2.2324 of this Title. The Director, upon written request received prior to the date of expiration, may grant a single, one (1) year extension.

SECTION 4. AMENDMENT OF CODE. Section 10-2.903 of Chapter 2 of Title

10 of the Modesto Municipal Code is hereby repealed.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh

NOES: Councilmembers: O'Bryant, Olsen

ABSENT: Councilmembers: Mayor Ridenour

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3481-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

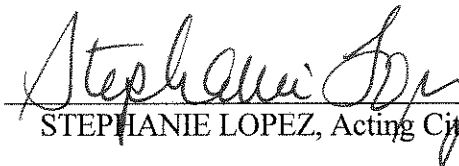
ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:



STEPHANIE LOPEZ, Acting City Clerk

Effective Date: May 1, 2008

ORDINANCE NO. 3482-C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, AND GENERAL COMMERCIAL ZONE, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(584), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MCHENRY AVENUE AND ROSEBURG AVENUE (HORIZON CONSULTING/JEFFREY AND MARLENE COWAN)

The Council of the City of Modesto does ordain as follows:

SECTION 1. ZONING CHANGE: Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property, from Neighborhood Commercial Zone, C-1, and General Commercial Zone, C-2, to Planned Development Zone, P-D(584):

C-1 to P-D(584)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the northwest quarter of the southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

The east 80 feet of the northerly 118 feet of the west 267 feet of Lot 1 as shown on the Map of Miles Colony filed May 14, 1906 in the Office of the County Recorder of Stanislaus County, California, in Volume 2 of Maps, at Page 26.

C-2 to P-D(584)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the northwest quarter of the southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Parcel A as shown on that Parcel Map filed June 16, 1970 in the Office of the County Recorder of Stanislaus County, California, in Volume 9 of Parcel Maps, at Page 20;

Also including the southerly half of Roseburg Avenue and the easterly half of McHenry Avenue all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(584) Zone, if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Retail flooring and home furnishings business with office and retail sales space of up to but not to exceed 7,900 square feet and warehouse inventory storage area of up to but not to exceed 6,900 square feet.

SECTION 3. ZONING MAP. Section 21-3-9 of the Zoning Map of the City of Modesto is hereby amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

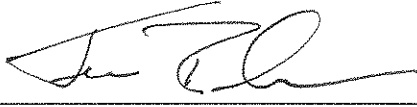
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

JIM RIDENOUR, Mayor

ATTEST:

By: 

STEPHANIE LOPEZ, City Clerk


(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By: 

Community & Economic Development
Department – Planning Division

Ord. No. 3482-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

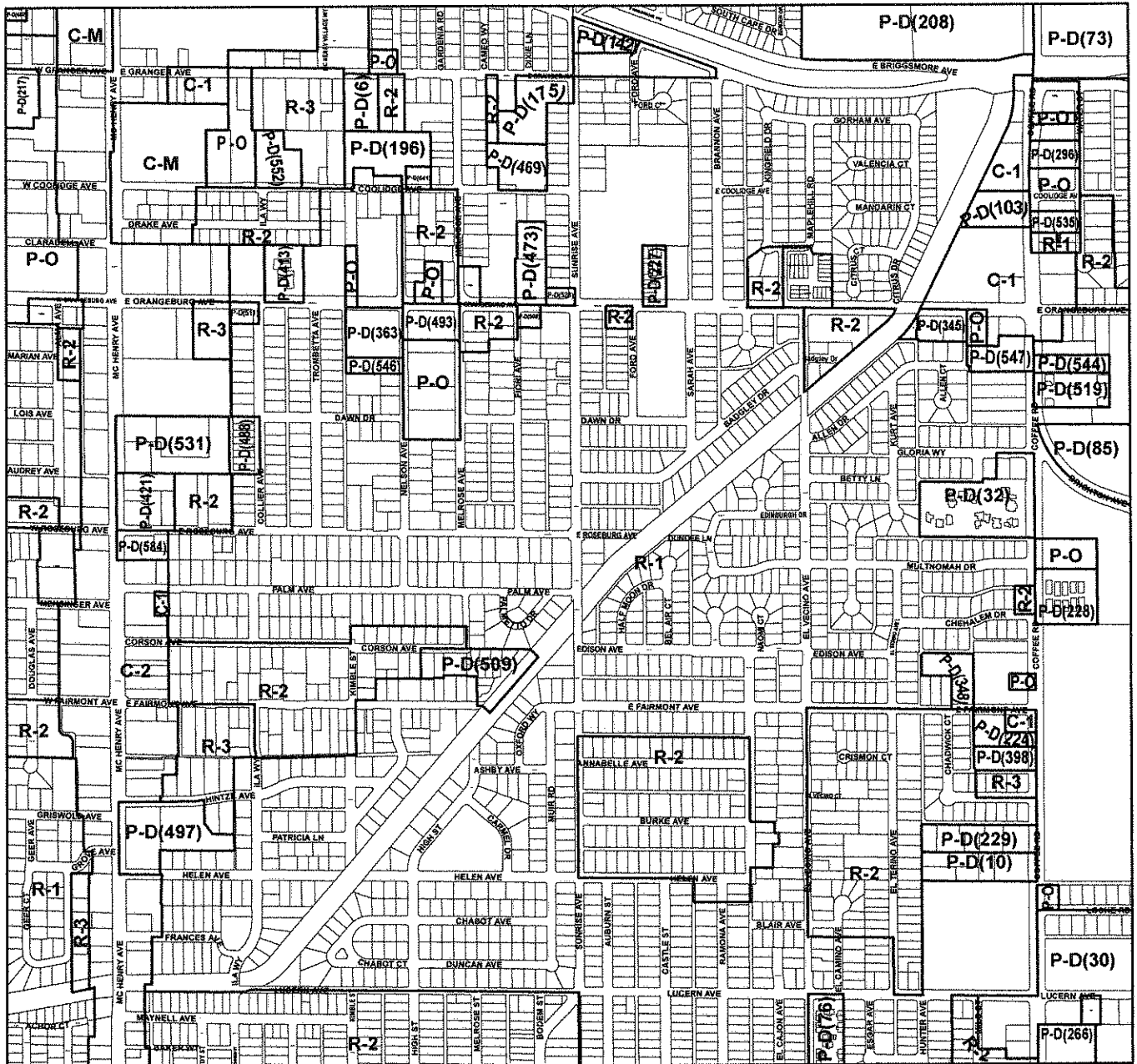
APPROVED: _____


MAYOR JIM RIDENOUR

ATTEST: _____


STEPHANIE LOPEZ, City Clerk

Effective Date: May 8, 2008



April 22, 2008

City of Modesto Zoning Map 21-3-9

ORDINANCE NO. 3483-C.S.

AN ORDINANCE AMENDING SECTION 26-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(585), PROPERTY LOCATED ON THE NORTHSIDE OF POPPYPATCH DRIVE, WEST OF LINCOLN AVENUE AT 421 LINCOLN AVENUE (STANCO)

The Council of the City of Modesto does ordain as follows:

SECTION 1. ZONING CHANGE: Section 26-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(585),

R-2 TO P-D(585)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southeast quarter of Section 26, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lot 6 in Block 2472 as shown on that Map of Lincoln Square, as filed March 29, 1973 in Volume 24 of Maps, Page 36, Stanislaus County Records;

also including the westerly half of Lincoln Avenue, all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(585) Zone, if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. An 18-unit senior housing development.

SECTION 3. ZONING MAP. Section 26-3-9 of the Zoning Map of the City of Modesto is hereby amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:


By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department – Planning Division

Ord. No. 3483-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

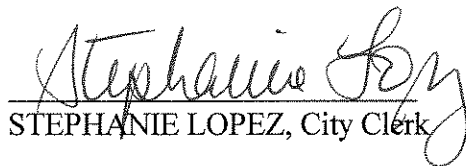
ABSENT: Councilmembers: None

APPROVED:



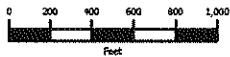
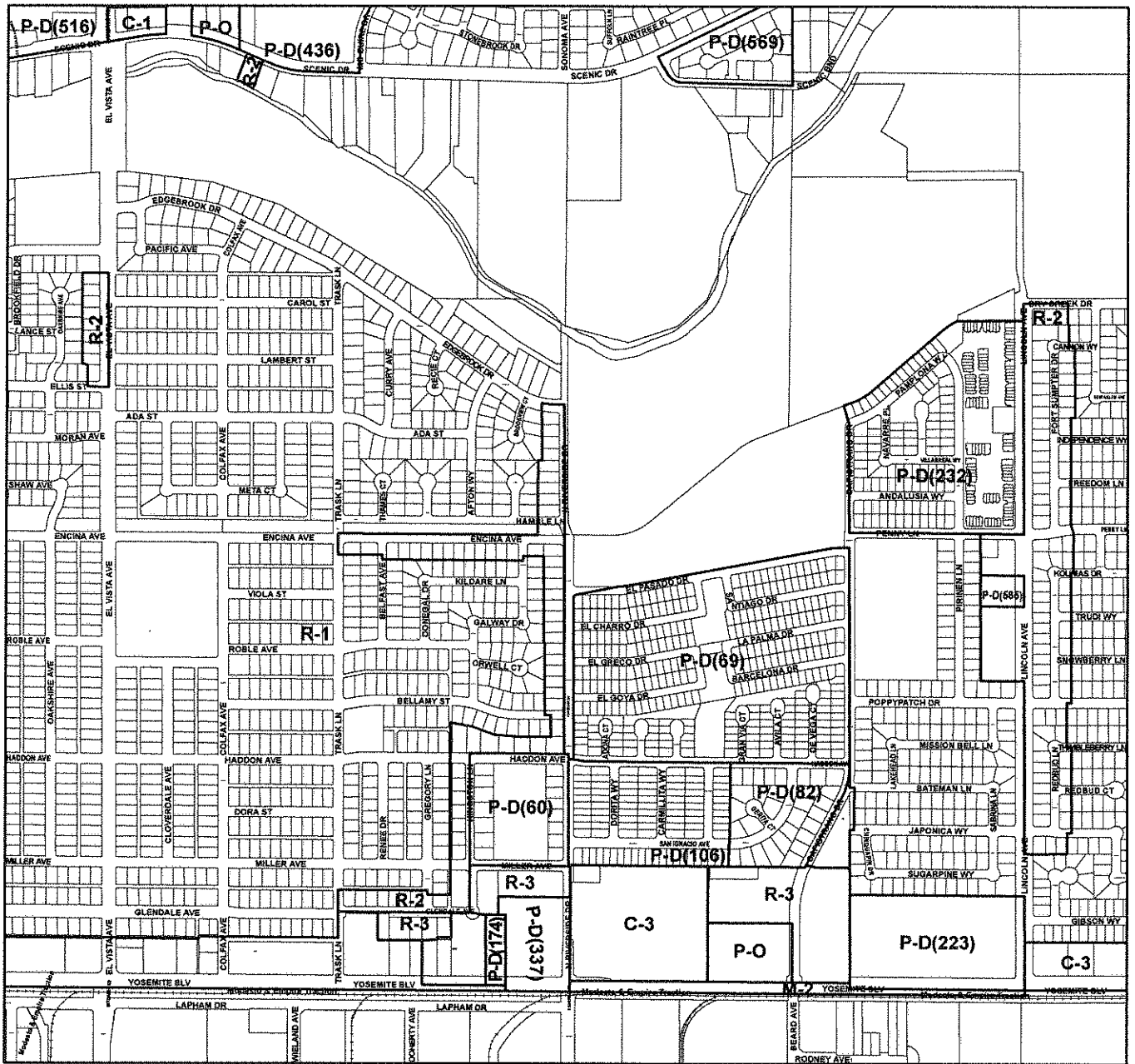
MAYOR JIM RIDENOUR

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: May 8, 2008



April 22, 2008

City of Modesto Zoning Map 26-3-9

ORDINANCE NO. 3484-C.S.

AN ORDINANCE AMENDING SECTION 3-2.803.1 OF ARTICLE 8 OF CHAPTER 2 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE RELATING TO OPERATION OF ELECTRIC CARTS BY DISABLED PERSONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 3-2.803.1 of Article 8 of Chapter 2 of Title 3 of the Modesto Municipal Code are hereby amended to read as follows:

3-2.803.1. OPERATION OF ELECTRIC CARTS BY DISABLED PERSONS, PERSONS 50 YEARS OF AGE OR OLDER, BY EMPLOYEES OF THE UNITED STATES POSTAL SERVICE, STATE AND LOCAL GOVERNMENT AGENCIES, OR UTILITY COMPANIES.

Notwithstanding the provisions of Section 3-2.803 of this chapter, an electric cart may be operated upon a public sidewalk by a physically disabled person, by a person 50 years of age or older, or, while in the course of their employment, by employees of the United States Postal Service, state and local government agencies, or utility companies. However, any disabled person or person 50 years of age or older who owns or leases an electric cart must first apply to the Police Chief for a permit and an identification sticker to so operate the cart, and such person is required to affix such identification sticker to the cart in order to operate it on the sidewalk.

The permit and sticker shall become invalid if the person ceases to operate, own, or lease the cart.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the

places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3484-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2007, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: May 22, 2008

ORDINANCE NO. 3485-C.S.

AN ORDINANCE AMENDING SECTION 4-6.307 OF
CHAPTER 6 OF TITLE 4 OF THE MODESTO MUNICIPAL
CODE RELATING TO TAXICAB RATES.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 4-6.307 of Chapter 6 of Title 4
of the Modesto Municipal Code is hereby amended to read as follows:

4-6.307. RATES.

No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab
than in accordance with the following rates:

- (a) **Mileage Rates:** Four dollars and fifty cents (\$4.50) for the first one-
eighth (1/8) mile or fraction thereof; thirty-seven and a half cents (\$.375)
for each additional one-eighth (1/8) mile or fraction thereof;
- (b) **Waiting Time:** Twenty-five dollars (\$25.00) for each hour of waiting
time or fraction thereof;
- (c) **Baggage:** Fifty cents (\$0.50) for each piece of baggage in excess of fifty
(50) pounds; and
- (d) **Extra Passengers:** No charge shall be made for extra passengers. This
applies only to those passengers whose point of pickup and point of
destination are the same.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in
full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption,
copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in
the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the
City of Modesto, setting forth the title of this ordinance, the date of its introduction and the

places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3485-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: May 22, 2008

AN ORDINANCE AMENDING CHAPTER 16 OF TITLE 4 OF
THE MODESTO MUNICIPAL CODE RELATING TO
SHOPPING CART REGULATIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 16 of Title 4 of the Modesto
Municipal Code is hereby amended to read as follows:

CHAPTER 16. SHOPPING CART REGULATIONS

ARTICLE 1. IN GENERAL

4-16.101. DECLARATION OF PURPOSE.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public and interfere with pedestrian and vehicular traffic as well as emergency services within the City of Modesto. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values, promote blight and deterioration within the City's neighborhoods.

The purpose of this chapter is to provide regulations pertaining to abandoned shopping carts, unmarked shopping carts, and to provide a requirement for a mandatory plan to prevent cart removal. This chapter is not intended to duplicate State law or regulate any matters pertaining to shopping carts which are the subject of State law. To the extent any provision of this chapter is determined to be preempted by State law, it shall be deemed severed from all other provisions of this chapter and such other provisions shall remain in full force and effect.

4-16.102. DEFINITIONS.

- (a) **Abandoned, lost or stolen shopping cart.** Any cart either removed from a business establishment's premises without written permission of the owner and located on either public or private property or left unattended, discarded or abandoned upon any private or public property other than the premises of the business establishment from which such shopping cart was removed, regardless of whether the shopping cart was removed with permission or consent of the owner.

- (b) **Business establishment.** Any business location within the city of Modesto that offers or provides shopping carts for its customers. This includes any business advertised or operated as a retail or wholesale business, a business with multiple outlets regardless of whether such business is open to the general public, or in a private club or business, or is a membership store.
- (c) **Shopping cart retrieval business.** A business that searches for, gathers, collects, retrieves and restores possession to the owner, or an agent thereof, for compensation or in expectation of compensation of shopping carts located anywhere outside the premises or parking area of a business establishment.
- (d) **Owner.** Any person or entity, including manager or designated agent, who in connection with the conduct of a business, makes shopping carts available to customers.
- (e) **Parking area.** A parking lot or other property provided by a business establishment for use by a customer for parking an automobile or other vehicle.
- (f) **Premises.** The entire area owned, occupied, rented, leased, or utilized by an owner, including any parking lot, areas or other property areas provided by or on behalf of an owner for customer parking or use.
- (g) **Shopping cart.** A basket which is mounted on wheels or a similar device generally used in a business establishment by a customer for the purpose of transporting goods of any kind. This includes, but is not limited to, laundry, grocery or shopping carts.
- (h) **Unmarked cart.** Shall mean any cart as defined by this chapter that is not identified and marked pursuant to California Business and Professions Code Section 22435.1 and this Chapter.

4-16.103. ENFORCEMENT AUTHORITY.

The City Manager and Directors and their designees, including designated code enforcement officers shall have the authority and powers necessary to determine whether a violation of this chapter exists and to take appropriate action to gain compliance with the provisions of this chapter and applicable State codes. These powers include the authority to impound the shopping carts, issue administrative

citations, inspect public and private property, impose civil penalties for any violation of this chapter or pursue criminal actions.

4-16.104. RULES AND REGULATIONS, ENFORCEMENT.

- (a) The provisions of this chapter shall be administered and enforced by the City Manager and Directors, and their designees. The City Manager is hereby authorized and directed to promulgate and implement rules, regulations and procedures necessary or appropriate for enforcement of this chapter, which rules are to be approved by resolution of the City Council. The City Manager shall designate, maintain and advertise a public “hotline” for the intake of information concerning abandoned shopping carts.
- (b) At the end of each business day, the City shall fax a list of reported abandoned carts to the appropriate cart retrieval service, as registered with the City, as well as to the businesses from which the carts originated, if requested.
- (c) Whenever possible, all City field employees are to report the location of abandoned shopping carts as they find them.
- (d) In addition to the provisions and requirements of this chapter, the City Council may, from time to time, by resolution, establish additional rules and regulations concerning programs, practices and regulations pertaining to shopping cart storage and retrieval.
- (e) In addition to inspection authority set forth in Section 1-6.104, the Director is hereby authorized to enter into, on or upon any public property to examine a shopping cart or parts thereof, or to obtain information as to the identity of the owner of any shopping cart, or to retrieve shopping carts in accordance with the provisions of this part. As used herein, “public property” includes the outdoor common area of any building, business premises, apartment building or complex, or other premises or portion thereof which is adjacent to public property, open to the public, and which contains a shopping cart or shopping carts visible at street or ground level from the adjacent public property.

ARTICLE 2. REQUIREMENTS

4-16.201. SHOPPING CART SIGN REQUIREMENTS.

Every shopping cart owned or provided by a business establishment in the City of

Modesto must have a sign permanently affixed to the cart that contains all of the following information:

- (a) The name of the business establishment that owns the cart. ;
- (b) The procedure to be used for authorized removal of a shopping cart from the establishment's premises, including, but not limited to, cart rental and obtaining owner consent for removal;
- (c) A statement that the unauthorized removal of a shopping cart from the premises is a misdemeanor and a violation of State law.
- (d) Lists a valid telephone number or address for returning the shopping cart removed from the premises or parking area to the owner or retailer, and the City "hotline" telephone number.

There shall be posted by the owner, prominently and conspicuously, at all public entrances and exits to the business, a notice in substantially the following form:
REMOVAL OF SHOPPING CARTS IS PROHIBITED BY LAW AND SHALL
SUBJECT THE VIOLATOR TO A MINIMUM FINE OF \$100.00.

It is unlawful and a public nuisance to provide or offer to customers any shopping cart that does not have such information permanently affixed to it.

4-16.202. ADMINISTRATIVE PENALTIES.

- (a) In addition to any other remedies set forth in this chapter, administrative penalties may be imposed against any person, as defined in Section 1-6.207 of this Code, for violating any of the requirements set forth in this chapter.
- (b) Administrative Penalties for the violations of this section shall be assessed as follows:
 - (1) One hundred dollars (\$100.00) for the first violation;
 - (2) Two hundred fifty dollars (\$250.00) for a second violation within a twelve (12) month period; and
 - (3) Five hundred dollars (\$500.00) for any subsequent violation within a twelve (12) month period.

4-16.203. PROHIBITION.

- (a) It is unlawful for any person, either temporarily or permanently, to do any of the following acts, if a shopping cart has been properly marked in conformity with this chapter:
 - (1) Remove a cart from the premises of the owner of such cart, or to be in possession of a cart that has been removed from the premises of the owner of such shopping cart, without the written consent of the owner.

This section shall not apply to carts removed from the premises, with the consent of the owner, for the purposes of repair, maintenance or disposal.
 - (2) To be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
 - (3) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

- (b) It is unlawful and an infraction for any person, either temporarily or permanently to do any of the following acts, if a shopping cart has been properly marked in conformity with this Chapter.
 - (1) To cause or permit any cart to be abandoned on or upon any sidewalk, street or other public area, or upon any private property, other than the premises of the owner of such cart.
 - (2) To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a business establishment, without the written consent of the owner.

ARTICLE 3. RETRIEVAL OF SHOPPING CARTS BY CITY

4-16.301. AUTHORITY TO IMPOUND.

- (a) The City of Modesto may impound a shopping cart when the following conditions exist:

- (1) The shopping cart is located on a public right-of-way;
- (2) In instances where the location of a shopping cart will impede emergency services, the City is authorized to immediately retrieve the shopping cart from public or private property; and
- (3) Except as provided in Section 4-16.302, the shopping cart is not retrieved within three (3) business days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the City of the shopping cart's discovery and location on private property; and
 - (i) The shopping cart is located outside the premises or parking area of a business establishment. The parking area of a business establishment located in a multistore complex or shopping center shall include the entire parking area used by the complex or center; and
 - (ii) The shopping cart has a sign affixed to it as required by Section 4-16.201 of this Code.
- (b) Any shopping cart that is impounded by the City pursuant to Section 4-16.301 shall be held at a location that is both:
 - (1) Reasonably convenient to the owner of the shopping cart; and
 - (2) Open for business at least six (6) hours of each business day.
- (c) Any shopping cart not reclaimed from the City within thirty (30) days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the City.
- (d) In addition to any other remedy available by law, the City may impose an administrative penalty on the owner of a shopping cart in an amount not to exceed fifty dollars (\$50.00) for each occurrence in excess of three (3) during a specified six (6) month period for failure to retrieve shopping carts in accordance with this section. An occurrence includes all shopping carts impounded in accordance with this section in a one (1) day period.
- (e) The City is authorized to recover actual costs incurred for impounding a shopping cart under the authority provided in subsections (a) and (b)

above.

4-16.302. REQUIREMENTS; IMPOUND FEE AFTER THREE (3) DAYS.

Notwithstanding Section 4-16.301(a)(4), the City may impound a shopping cart that otherwise meets the criteria set forth in Sections 4-16.301(a)(1) and/or, 4-16.301(a)(2) without complying with the three (3) day advance notice requirement provided that:

- (a) The owner of the shopping cart, or his or her agent, is provided actual notice within twenty-four (24) hours following the impound and that the notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.
- (b) Any shopping cart so impounded shall be held at a location in compliance with Section 4-16.301.
- (c) Any shopping cart reclaimed by the owner, or his or her agent, within three (3) business days following the date of actual notice shall be released and surrendered to the owner or agent without charge. Thereafter, if a cart is not retrieved within three (3) business days of notification by the City then an impound fee as established by the City Council, shall be imposed. Any cart reclaimed within the three (3) business day period shall not be deemed an occurrence for purposes of Section 4-16.401 4-16.301(d).
- (d) Any shopping cart not reclaimed by the owner, or his or her agent, within three (3) business days following the date of actual notice shall be, in addition to payment of an impound fee, required to pay a storage fee commencing on the fourth (4th) business day following the date of the notice, as established by the City Council.
- (e) Any shopping cart not reclaimed by the owner, or his or her agent, within thirty (30) days of receipt following the date of actual notice may be sold or disposed of as provided for in Section 4-16.301(c). The proceeds shall be applied against the impound and storage fees due. In the event there are excess proceeds, the City shall refund the amount to the owner. If the proceeds are not sufficient to cover the costs, the City shall bill the owner for the remainder.

4-16.303. REPEAT OFFENDERS; IMPOSITION OF ADDITIONAL MEASURES TO PREVENT CART REMOVAL.

Specific physical measures may be required by the City to prevent cart removal from the business premises if the business has had more than three (3) carts impounded in any six (6) month period. These measures may include, but are not limited to: ordering the business to immediately install disabling devices on all of their shopping carts, requiring the posting of a security guard to deter and stop customers who attempt to remove carts from the premises, installation of bollards, chains or similar devices around the premises to prevent cart removal, requiring a security deposit of customers for the use of all carts, or requiring that the business provide for the rental or sale of carts that can be temporarily or permanently used by customers for transport of purchases to a location outside the premises.

ARTICLE 4. SHOPPING CART RETRIEVAL REQUIREMENTS.

4.16.401. SHOPPING CART RETRIEVAL SERVICES REQUIRED; FILING OF NOTIFICATION WITH CITY.

- (a) Every business in the City of Modesto that uses shopping carts must contract with a cart retrieval service and notify the City as to with whom they are contracted. The cart retrieval services must pick up the carts that have been reported to them within three (3) business days of receipt of notice from the City.
- (b) All retrieval service companies that have contracts with businesses located in the City of Modesto must register with the City in accordance with Section 4-6.501.
- (c) Within 60 days of the effective date of this ordinance, every business establishment must file a Notification form with the City, on a form established by the City, setting forth the name of the cart retrieval service to be used by that establishment. In the event that there is a change in the listed cart retrieval service used, a business establishment shall file a new Notification form with the city within ten days of the effective date of the change.
- (d) As set forth in this chapter, there will be no charge to the business owner if a cart impounded at the corporation yard is picked up within three (3) business days after being notified by the City. If the shopping carts are not retrieved, then all applicable impound fees shall apply.

ARTICLE 5. SHOPPING CART RETRIEVAL BUSINESSES

4-16.501. REGISTRATION REQUIRED; RECORDS REQUIRED.

Any person who engages in the business of shopping cart retrieval must be registered with the city so as to provide contact names and phone numbers to enforcement staff. The City Manager shall issue a registry number, in accordance with the procedures set forth in the Rules and Regulations.

Each shopping cart retrieval business shall retain records showing written authorization from the shopping cart owner, or any agent thereof, to retrieve the cart or carts and to be in possession of the cart or carts retrieved. A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart retrieval and presented to enforcement personnel upon request.

4-16.502. SIGN REQUIRED.

Each vehicle employed for the retrieval of shopping carts shall display a sign that clearly identifies the retrieval service, and prominently displays the registry number issued by the City.

4-16.503. VIOLATIONS AS MISDEMEANORS; PENALTY.

- (a) Any person who violates the provisions of this article is guilty of a misdemeanor, with the exception of the items specified under Section 4-16.203(b), which are an infraction. In addition to any other remedies available to it the City may use the administrative enforcement remedies set forth in Chapter 6, Title 1 of this Code.
- (b) In the event Administrative Penalties are used, they shall be assessed as follows:
 - (1) One hundred dollars (\$100.00) for the first violation;
 - (2) Two hundred fifty dollars (\$250.00) for a second violation ; and
 - (3) Five hundred dollars (\$500.00) for any third and subsequent violation.

4-16.504. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted

such section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, by Councilmember Olsen, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

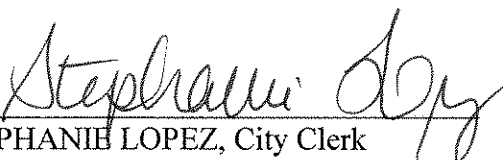
AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3486-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, Councilmember Marsh moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: O'Bryant

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: June 5, 2008

ORDINANCE NO. 3487-C.S.

**AN ORDINANCE ADDING SECTIONS 2-1.24, 2-1.25, 2-1.26
AND 2-1.27 TO CHAPTER 1 OF TITLE 2 OF THE
MODESTO MUNICIPAL CODE RELATING TO CITY
COUNCIL ORGANIZATION AND PROCEDURE - CITY
COUNCIL COMPENSATION.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT TO CODE: Sections 2-1.24, 2-1.25, 2-1.26 and 2-1.27 are hereby added to Chapter 1 of Title 2 of the Modesto Municipal Code to read as follows:

2-1.24. COMPENSATION OF MAYOR.

The annual salary of the Mayor shall be Forty-Three Thousand Two Hundred Dollars (\$43,200.00), pursuant to the recommendation of the Citizens' Salary Setting Commission. In accordance with Section 703 of the Charter, the Mayor's compensation and appropriate benefits shall be reviewed by the Citizens' Salary Setting Commission biannually, and a recommendation made to the City Council as to the appropriate compensation. The annual salary shall be payable from and after the operative date of the ordinance at the same time and in the same manner as the salaries are paid to other officers and employees of the City.

2-1.25. BENEFITS OF MAYOR.

The Mayor shall receive those benefits as recommended by the Citizens' Salary Setting Commission, and adopted by ordinance of the City Council after a duly noticed public hearing, pursuant to Section 703 of the Charter.

The Mayor shall also receive reimbursement for expenses incurred while performing official duties of the Mayor's Office only so long as evidence of such expenses incurred is presented to the City pursuant to the Administrative Directive on Reimbursement of Conference and Business Expenses.

2-1.26. COMPENSATION OF CITY COUNCILMEMBERS.

The annual salary of each member of the City Council, except the Mayor, shall be Twenty-Four Thousand Dollars (\$24,000.00). In accordance with Section 703 of the Charter, the Councilmember's compensation and appropriate benefits shall be reviewed by the Citizens' Salary Setting Commission biannually, and a

recommendation made to the City Council as to the appropriate compensation. The annual salary shall be payable from and after the operative date of the ordinance at the same time and in the same manner as the salaries are paid to other officers and employees of the City.

2-1.27. BENEFITS OF CITY COUNCILMEMBERS.

Members of the City Council shall receive those benefits as recommended by the Citizens' Salary Setting Commission, and adopted by ordinance of the City Council after a duly noticed public hearing, pursuant to Section 703 of the Charter.

The members of the City Council shall also receive reimbursement for expenses incurred while performing official duties of their office only so long as evidence of such expenses incurred is presented to the City pursuant to the Administrative Directive on Reimbursement of Conference and Business Expenses.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation on and after July 1, 2008.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

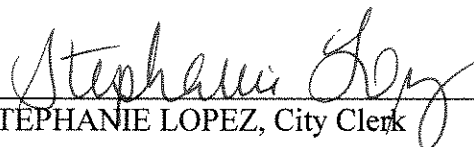
AYES: Councilmembers: Lopez, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: Hawn, Keating, Marsh

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3487-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, Councilmember O'Bryant moved its final adoption, which motion being duly seconded by Mayor Ridenour, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lopez, O'Bryant, Olsen, Mayor Ridenour


NOES: Councilmembers: Hawn, Keating, Marsh

ABSENT: Councilmembers: None

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST:


STEPHANIE LOPEZ, Acting City Clerk

Effective Date: June 26, 2008

ORDINANCE NO. 3488-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.2112 AND 10-2.2114 OF CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 10-2.2112 and 10-2.2114 of Chapter 2 of Title 10 of the Modesto Municipal Code are hereby amended to read as follows:

10-2.2112. SIGN REQUIREMENTS BY ZONE.

Only the signs listed this in section are permitted in the applicable zoning districts.

- (a) **Residential zones.** Any sign installed within the R-1, R-2, or R-3 zoning districts shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-1.
- (b) **Professional Office (P-O) zone.** Any sign installed within the P-O zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-2.
- (c) **Commercial and industrial zones, other than C-3.** Any sign installed within the C-1, C-2, C-M, M-1, and M-2 zoning districts shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-3.
- (d) **Highway Commercial (C-3) zone.** Any sign installed within the C-3 zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-4. Freestanding business identification signs are allowed within the C-3 zone as follows.
 - (1) **Permit requirement.** Administrative approval by Director is required.
 - (2) **Type of signs allowed.** All freestanding business identification signs within the C-3 zone shall be monument signs.

- (3) **Maximum number of signs and required site characteristics.** The following provisions shall apply to each parcel or, where multiple parcels constitute a shopping center, to each center:
- (i) For sites with up to one hundred (100) feet of frontage on any single street, one sign with a maximum area of twenty-four (24) square feet (plus four (4) square feet for a street address), not to exceed six (6) feet in height.
 - (ii) For sites with from one hundred (100) feet to two hundred (200) feet of frontage on any single street, one sign with a maximum area of forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.
 - (iii) For sites exceeding two hundred (200) feet in frontage along a single street, one sign with a maximum area of seventy-two (72) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height. If the total frontage on any single street exceeds four hundred (400) feet, the site shall be allowed one additional sign for each additional two hundred (200) feet of frontage beyond the first two hundred (200) feet of frontage, each limited to no greater than forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.
 - (iv) For sites having frontage on more than one street, the number and size of signs on each street shall be in accordance with that allowed for the length of each frontage as if considered individually, except that in no case shall any site be allowed more than one sign greater than forty-eight (48) square feet (plus four (4) square feet for a street address), not to exceed eight (8) feet in height.
- (4) **Removal of directional signs required.** A freestanding business identification sign may be permitted only where any existing nonconforming, exterior directional signs for all businesses on the site are first removed.

- (e) **Business Park (B-P) zone.** Any sign installed within the B-P zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional requirements shown in Table 21-5.
- (f) **Planned Development (P-D) zone.** Any sign installed within the P-D zoning district shall comply with the maximum sign area and height, number of signs allowed, and additional sign requirements established as a condition of the applicable P-D zone, which shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the specific P-D zone.

**TABLE 21-1
SIGNS PERMITTED IN RESIDENTIAL ZONES (R-1, R-2, R-3)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Residential uses	Resident/dwelling name plate	1 per dwelling unit	1 sf	Height of wall	None
	Gateway	1 on each side of a drive-way serving 5 or more dwellings	12 sf each	36 in	Sign copy shall be limited to housing project name and logo, street name and address, and/or for sale, rent, or lease.
Identification - Conditional uses (1)	Freestanding, identification or bulletin board	1 per site	25 sf, plus 4 sf for required street address	6 ft	None
	Freestanding identification, high school or college having a minimum campus area of 20 acres		72 sf	20 ft	None
	Freestanding identification, all other school or church identification		72 sf	20 ft	CUP required.
	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of wall	35 ft	Shall be externally illuminated only.

**TABLE 21-1
SIGNS PERMITTED IN RESIDENTIAL ZONES (R-1, R-2, R-3)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Nonconforming uses (2)	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of any wall facing a public street	35 ft	Shall face a public street; and shall be externally illuminated only.
	Window		No limitation on area	Height of window	Shall face a public street; and shall be externally illuminated only, except for neon signs inside of windows.
Directional (Continues)	Freestanding, exterior	1 per driveway or pedestrian walkway serving 5 or more dwellings	12 sf	Freestanding sign: 6 ft Wall sign: 12 ft	Sign copy shall be limited to street name and address, housing project name and logo, and/or for sale, rent, or lease.
	Freestanding, interior	No limitation on number	6 sf each	6 ft	None
Directional (continued)	Garage sale	2 per garage sale	3 sf each	5 ft	Shall be: unlighted; displayed only when sale is actually being conducted; and only installed on private property with the consent of the owner. These signs shall not be placed on street trees, utility poles, or otherwise within public rights-of-way.

**TABLE 21-1
SIGNS PERMITTED IN RESIDENTIAL ZONES (R-1, R-2, R-3)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Real estate	Freestanding or wall - For sale or rent	1 per street frontage	8 sf each	6 ft	Shall be unlighted.
	Freestanding - Open house	5 for each house or group of houses offered by the same realtor at the same location	3 sf each	42 in	Shall be unlighted and in place during daylight hours only. Message shall be limited to real estate office name. The signs shall only be installed on private property with the consent of the owner.
	Freestanding - Subdivision sales	See Section 10-2.2114(m)			
Construction	Freestanding or wall	1 per site	64 sf	10 ft	Shall be removed within 30 days after completion of construction.
Political	Freestanding - On parcels with a residential structure	No limitation on number	6 sf each, and a maximum combined total of 60 sf	6 ft	Signs shall be unlighted. Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election.
	Freestanding - On parcels with no residential structure		32 sf each, and a maximum combined total of 100 sf	10 ft	

Notes:

- (1) These signs are allowed only for uses that are required by Chapter 2 of Title 10 of the Municipal Code (Zoning Regulations) to have conditional use permit approval in the applicable zoning district.

- (2) Allowed only for the purpose of replacing one nonconforming use with another nonconforming use, in compliance with Article 22 of Chapter 2 of Title 10 of the Municipal Code (Nonconforming Uses).

**TABLE 21-2
SIGNS PERMITTED IN THE P-O ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Residential uses	Resident/dwelling name plate	1 per dwelling unit	1 sf	Height of wall	Shall be wall mounted and unlighted.
Identification - Non-residential uses	Freestanding	1 per street frontage	16 sf, plus 4 sf for required street address	8 ft	The sign facing the street which provides the street address of the site shall include a street address. See 10-2.2114.L.
	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of wall	35 ft	None
Identification - For uses also allowed in the R-3 zone with CUP approval (1)	Freestanding, identification or bulletin board	1 per site, in addition to the signs for nonresidential uses above	25 sf, plus 4 sf for required street address	6 ft	None
	Freestanding, school or church identification	1 per site	72 sf	20 ft	Conditional Use Permit approval required for sign.

**TABLE 21-2
SIGNS PERMITTED IN THE P-O ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification - Nonconforming uses (2)	Canopy and wall	No limitation on number	0.5 sf in combined area for each linear foot of any wall facing a public street	35 ft	Shall face a public street; and shall be externally illuminated only.
(Continues)	Window		No limitation on area	Height of window	Shall face a public street; and shall be externally illuminated only, except for neon signs inside of windows.

Directional	Freestanding, exterior	1 per driveway or pedestrian walkway serving 5 or more dwellings	12 sf	Freestanding sign: 6 ft Wall sign: 12 ft	Sign copy shall be limited to street name and address, housing project name and logo, and/or for sale, rent, or lease.
	Freestanding, interior	No limitation on number	6 sf each	6 ft	None
	Garage sale	2 per garage sale	3 sf each	5 ft each	Shall be: unlighted; displayed only when sale is actually being conducted; and only installed on private property with the consent of the owner. These signs shall not be placed on street trees, utility poles, or otherwise within public rights-of-way.
Real estate	Freestanding or wall - For sale or rent	1 per street frontage	8 sf each	6 ft	Shall be unlighted
	Freestanding - Open house	5 for each house or group of houses offered by the same realtor at the same location	3 sf each	42 in	Shall be unlighted and in place during daylight hours only. Message shall be limited to real estate office name. The signs shall only be installed on private property with the consent of the owner.

Construction	Freestanding or wall	1 per site	64 sf	10 ft	Shall be removed within 30 days after completion of construction.
Political	Freestanding - On parcels with a residential structure	No limitation on number	16 sf each, and a maximum combined total of 60 sf	6 ft	Signs shall be unlighted. Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election.
	Freestanding - On parcels with no residential structure		32 sf each, and a maximum combined total of 100 sf	10 ft	

Notes:

- (1) These signs are allowed only for land uses that are also allowed in the R-3 zone with conditional use permit approval.
- (2) Allowed only for the purpose of replacing one nonconforming use with another nonconforming use, in compliance with Article 22 of Chapter 2 of Title 10 of this Code (Nonconforming Uses).

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding, or	1 freestanding, or 1 projecting, or 1 marquee per use, except in shopping	Freestanding: 72 sf, plus 4 sf for a street address, as required by 10-2.2114(1).	20 ft	

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
	Projecting, or Marquee	centers (see 10-2.2114(k), and "Shopping Center Identification Signs" below). A second marquee sign is allowed if the 2 signs are single-faced, parallel, and placed on opposite ends of the marquee. A pylon/pole sign that existed on 3/1/77 which extends above the ridgeline may remain as a nonconforming sign in addition to one of the allowed signs.	Projecting: 72 sf; 48 sf, if any portion of the sign projects over a street or alley right-of-way. Marquee: 48 sf	35 ft or the height of the ridgeline, whichever is less	None

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
(Continues)	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-10.2110(c).	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in compliance with 10-2.2110(c).
	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft		

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification (continued)	Window	No limitation on number	No limitation	No limitation	None
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g)			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Shopping center identification	Freestanding	1 for each street frontage of the center.	72 sf, plus 4 sf for a street address, as required by 10-2.2114	20 ft	See 10-2.2114(k)
	Freeway-oriented	See Section 10-2.2114(g)			

**TABLE 21-3
SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONES (C-1, C-2, C-M, M-1, AND M-2)**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Directional (Continues)	Freestanding, exterior	1 per use for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
	Restaurant and car wash menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants and car washes only

Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None
Political	Freestanding	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frames, banners, flags, etc	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones				

**TABLE 21-4
SIGNS PERMITTED IN THE C-3 COMMERCIAL ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding - See Section 10-2.2112(d).	See Section 10-2.2112(d).	See Section 10-2.2112(d).		See Section 10-2.2112(d).

**TABLE 21-4
SIGNS PERMITTED IN THE C-3 COMMERCIAL ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
(Continues)	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-10.2110(c).	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in compliance with 10-2.2110(c).
	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft		

Identification (continued)	Window	No limitation on number	No limitation	No limitation	None
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g)			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Shopping center identification	Freeway-oriented	See Section 10-2.2114(g)			
Directional (Continues)	Freestanding, exterior See Section 10-2.2112(d).	1 for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No Business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
	Restaurant and car wash menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants and car washes only

Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None
Political	Freestanding or wall	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frames, banners, flags, etc	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones				

**TABLE 21-5
SIGNS PERMITTED IN THE B-P (BUSINESS PARK) ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
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**TABLE 21-5
SIGNS PERMITTED IN THE B-P (BUSINESS PARK) ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Identification	Freestanding - Individual business identification	1 sign per site	72 sf, plus 4 sf for required street address	20 ft	Sign shall include street address per 10-2.2114(1).
	Freestanding - Business park identification	1 sign for business park	72 sf	6 ft	BZA approval of plot plan required. Sign copy shall be limited to business park name and logo.
	Canopy, marquee, and wall, on the <i>primary</i> building frontage	No limitation on number	<u>All signs on primary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 1 sf per linear foot of building frontage for each foot over 100 ft	35 ft or the height of the ridgeline, whichever is less. Wall signs may be approved at a greater height in compliance with 2-	Signs shall be located on the portion of the building where the use is conducted, except for signs approved in

**TABLE 21-5
SIGNS PERMITTED IN THE B-P (BUSINESS PARK) ZONE**

Sign Class	Allowed Sign Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
(Continues)	Canopy, marquee, and wall, on the <i>secondary</i> building frontage		<u>All signs on secondary frontage:</u> 4 sf per linear foot of building frontage for first 50 ft of frontage, plus 2 sf per linear foot of building frontage for next 50 ft of frontage, plus 0.50 sf per linear foot of building frontage for each foot over 100 ft	10.2110(c).	compliance with 10-2.2110(c).

Identification (continued)	Window	No limitation on number	No limitation	No limitation	None
	Suspended	1 per use	6 sf per side; 12 sf total	Under the marquee, 8 ft minimum above sidewalk	None
	Freeway-oriented	See Section 10-2.2114(g).			
	Freestanding - Use without structures	1 per use	32 sf for pumpkin and Christmas tree lots; 72 sf for other uses (e.g., a parking lot, etc.)	12 ft for pumpkin and Christmas tree lots; 72 sf for other uses	None
Directional (Continues)	Freestanding, exterior	1 for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No Business identification, monument type only
	Freestanding, interior	No limitation on number	6 sf	6 ft	None
	Restaurant menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants only
Real estate	Freestanding or wall	1 per site	64 sf	10 ft	None
Construction	Freestanding	1 per site	64 sf	10 ft	None

Political	Freestanding or wall	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Temporary	A-frame signs, banners, flags, etc.	See Section 10-2.2114(a), (b), and (f).			
Outdoor advertising	Prohibited in all zones, except in compliance with Section 10-2.2114(i).				

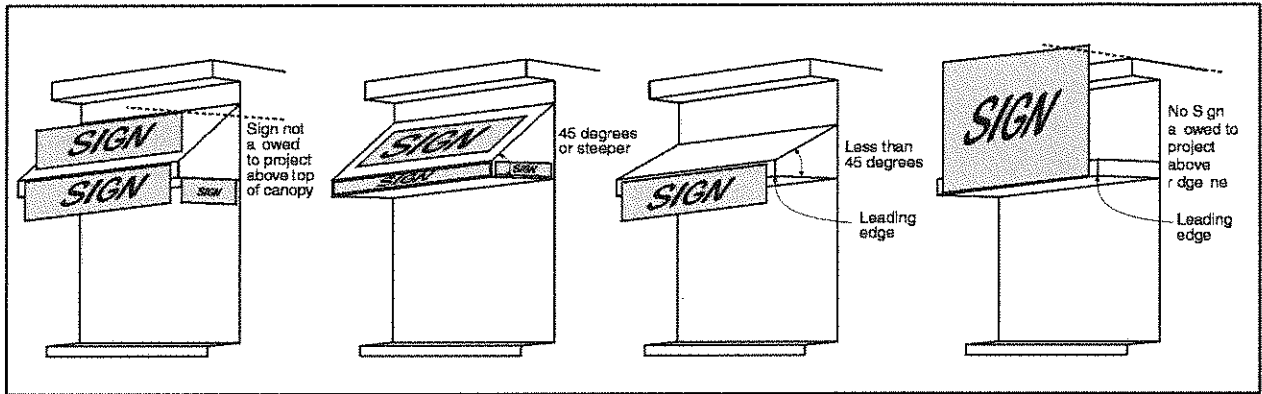
10-2.2114. STANDARDS FOR SPECIFIC TYPES OF SIGNS AND LAND USES.

The specific types of signs covered by this section shall comply with the following provisions, in addition to the standards of Section 10-2.2110, 10-2.2112. These signs shall also comply with the sign permit requirements of Section 10-2.2108, except where this section establishes other permit requirements.

- (a) **A-frame signs for business identification.** A-frame (sandwich board) signs are allowed only in compliance with the requirements of this subsection, and subject to the approval of a sign permit. A-frame signs are intended to be allowable only when the review authority determines that a property owner has taken advantage of all permanent signs allowed by this article, and individual business visibility remains seriously impaired.
 - (1) **Where allowed.** A-frame signs may be approved within the commercial zoning districts, only on sites where the review authority determines that street visibility of the business to be served by the sign is seriously impaired, as follows:
 - (aa) The business is within a structure that is located more than thirty (30) feet from a public street frontage, the site is developed with all other signs allowed by this section, and the business entry and the other exterior signs allowed for the business by this article are not visible from the public street; or
 - (ab) The space occupied by the business within a building has no exterior wall adjacent to or visible from a public street, and any exterior walls of the building that are adjacent to a public street are occupied by the signs of other businesses, at the maximum number and area of signs allowed by this article.
 - (2) **Sign standards.** An approved A-frame sign shall comply with all the following requirements.
 - (aa) **Size limitations.** Each panel of the A-frame sign shall not exceed a width of twenty-four (24) inches and a height of thirty-six (36) inches. The total height of the sign shall not exceed forty-eight (48) inches when the A-frame panels are in place, including the message panels and any legs or other supports.

- (ab) **Design and construction standards.** The review authority shall approve an A-frame sign only when it first determines that the design and appearance of the sign, including any graphics and/or text, will reflect attractive, professional design, and that the sign will be durable and stable when in place.
 - (ac) **Placement requirements.** An approved A-frame sign shall be placed only on private property, at the single location specified by the sign permit. The permit shall specify an approved location for the sign that will maintain a walkway with an adequate and safe width for pedestrians. The location specified by the permit shall also be selected to prevent the undue concentration of A-frame signs in the vicinity.
- (b) **Banners and promotional decorations.** Banners and promotional decorations are allowed only as provided by this subsection. The use of inflatable advertising devices and outdoor merchandise display are not regulated by this section, but are instead subject to Section 10-2.1009 of the Zoning Ordinance. (See also subsection (f) regarding flags and streamers.)
 - (1) **Time limits.** Except where other time limits are established by this section, the placement of banners and promotional decorations shall be limited to a total of twelve (12) times per year, for a maximum of ten (10) days for each occasion. The resulting 120-day total may be divided at the discretion of the applicant into any increment that would be a multiple of ten (10) days, where the specific increments are requested in the sign permit application and noted on the issued permit. (For example, the total allowed one hundred twenty (120) days could be divided into two (2) periods of sixty (60) days each, four (4) periods of thirty (30) days each, etc.)
 - (2) **Banners.**
 - (aa) **Where allowed.** Banners may be permitted in any commercial zoning district; banners may be permitted in residential zoning districts only for churches, schools, and for model home complexes and apartment projects with vacancies.
 - (ab) **Maximum number.** One (1) banner may be permitted for each street frontage of the business.

- (ac) **Size limitations.** Each banner shall not exceed seventy-two (72) square feet in area, and thirty-five (35) feet in height, or the ridgeline of the roof of the building, whichever is lower. A banner placed on a freestanding structure shall not exceed twenty (20) feet in height.
- (3) **Promotional decorations.**
 - (aa) **Where allowed.** Promotional decorations shall be permitted only within the commercial zoning districts for land uses which are authorized by this Code to display merchandise outdoors.
 - (ab) **Limitation on type of decorations allowed.** The promotional decorations that may be allowed in compliance with this section shall be limited to balloons. The use of strings of pennants, fringe, and/or promotional decorations other than balloons shall be prohibited.
 - (ac) **Placement requirements.** No promotional decoration shall extend above the roof line of any building on the site.
- (c) **Canopy signs.** Canopy signs shall comply with the following requirements (see Figure 21-9):
 - (1) The sign shall be mounted in a vertical plane;
 - (2) The sign shall be mounted parallel to the leading edge of a canopy, except for a suspended sign which may be mounted at an angle to the leading edge of a canopy;
 - (3) The sign shall not project above the top of a canopy with a slope of forty-five (45) degrees (one (1) horizontal to one (1) vertical) or steeper, but may be mounted anywhere on the slope of the canopy;
 - (4) The sign shall not project above the leading edge of a canopy with a slope flatter than forty-five (45) degrees; and
 - (5) The sign may project above the top of a flat (no slope) canopy, but shall not project higher than the wall of the building to which the canopy is attached.



**FIGURE 21-9
CANOPY SIGN REQUIREMENTS**

- (d) **Church signs.** Churches are allowed the following temporary placard signs in addition to those allowed by Section 10-2.2112.
- (1) **Temporary identification signs.** The following placard signs are allowed for churches conducting services in temporary locations, without limitation on number. These signs are exempt from sign permit requirements, provided that the signs:
 - (aa) Are in place on weekends only, no longer than from 5:00 p.m. on Friday, to 12:00 a.m. on Monday;
 - (ab) Are placed on the church site, outside of a public right-of-way, with the permission of the property owner;
 - (ac) Do not exceed six (6) square feet in area or a height of thirty-six (36) inches; and
 - (ad) Are completely removed when not in use, including all stakes and any other mounting materials.
 - (2) **Banners.** Banners are allowed in compliance with subsection (b) of this section, except that their use shall be limited to a maximum of six (6) times per year, for a maximum of ten (10) days for each time of use.
- (e) **Electronic message boards.** Electronic message boards are allowed only in compliance with this subsection.
- (1) Retail uses: Electronic message boards may be permitted only for the following uses: automobile dealers, convention centers,

theaters, and shopping centers with a gross floor area of 250,000 square feet or more, subject to the following provisions:

- (aa) Conditional Use Permit by the Board of Zoning Adjustment is required.
 - (ab) An electronic message board may be used as one of the signs permitted by Section 10-2.2112 and shall comply with the sign area and height limitations of that Section.
 - (ac) Electronic message boards permitted by this subsection shall be programmed to change copy no more frequently than five (5) second intervals.
- (2) Schools: Electronic message boards are permitted in conjunction with high schools and colleges having a minimum campus of twenty (20) acres, subject to the following provisions:
- (aa) An electronic message board may be used as a part of one of the signs permitted by Section 10-2.2112. The area devoted to the electronic message board shall be limited to a maximum of forty-eight (48) square feet. The sign bearing the electronic message board shall be oriented to an arterial street or expressway.
 - (ab) Electronic message boards permitted by this subsection shall be programmed to change copy no more frequently than five (5) second intervals.
- (f) **Flags and streamers.**
- (1) **Where allowed.** Flags and streamers may be permitted within any zoning district, in compliance with the requirements of this subsection.
 - (2) **Corporate flags.** One corporate flag is allowed per use or occupancy in nonresidential zoning districts, and is exempt from sign permit requirements. The flag shall not exceed a maximum area of twenty-four (24) square feet, and its dimensions shall not exceed a ratio of 2:1. The flag shall be flown only from a flagstaff or flagpole.
 - (3) **Decorative flags and streamers.** Decorative flags and streamers without advertising copy or corporate or product identification are allowed as follows:

- (aa) **Residential zoning districts.** One (1) decorative flag or streamer is allowed per parcel, and is exempt from sign permit requirements.
- (ab) **Nonresidential zoning districts.** Six (6) decorative flags or streamers are allowed per business, and are exempt from sign permit requirements. Additional flags and streamers may be allowed with a sign permit, in compliance with the time limits established by subsection (b)(1), above.
- (4) **National and state flags.** Flags of nations or states are allowed without limitation on their number or size, and are exempt from sign permit requirements.
- (g) **Freeway-oriented signs.** A freeway-oriented sign may be approved in compliance with the following provisions.
 - (1) **Where allowed.** A freeway-oriented sign may be authorized for a:
 - (aa) Hotel, motel, or restaurant, as a freestanding use;
 - (ab) Service station; or
 - (ac) Shopping center with a gross floor area of two hundred fifty thousand (250,000) square feet or more, when located within six hundred (600) feet of the Freeway 99 right-of-way.
 - (2) **Permit requirement.** A sign permit is required for a freeway-oriented shopping center identification sign; conditional use permit approval by the BZA shall be required for all other freeway-oriented signs, and for any freeway-oriented sign with a height greater than thirty-five (35) feet.
 - (3) **Required findings.** The approval of a conditional use permit for a freeway-oriented sign for a hotel, motel, restaurant, or service station shall require that the BZA first find that:
 - (aa) The use or occupancy (except a service station) is a freestanding use; and
 - (ab) The use or occupancy cannot be adequately identified by other signs permitted within the applicable zone.

- (4) **Approval of additional height.** The BZA may grant a conditional use permit authorizing a freeway-oriented sign higher than thirty-five (35) feet, as follows.
- (aa) **Criteria for approval.** A sign with a height greater than thirty-five (35) feet may be approved if the BZA determines that the applicant has demonstrated that an overcrossing of Freeway 99, or its ramps, or trees or vegetation will obstruct the visibility of the proposed sign from the northbound or southbound lanes of Freeway 99.
- (ab) **Procedure for determining allowed height.** The BZA shall approve a sign in compliance with subsection (g)(4)(aa) above, at a height no more than the minimum necessary to clear the identified visual obstruction. The determination of maximum height by the BZA shall be based on the following procedure, which shall occur prior to the BZA public hearing.
- (i) The applicant shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
- (ii) On the BZA field trip, the BZA will go to the site, pick up the applicant or applicant's representative, and drive Freeway 99 north and south of the target on the site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear the visual obstruction.
- (iii) At the public hearing and in their deliberations, the BZA shall consider the visual observations from the field trip to be the primary testimony.
- (h) **Historic signs.** A historic sign may be approved in any zone subject to the following requirements:
- (1) **Permit requirement.** Conditional use permit approval by the BZA shall be required in compliance with Article 25 of Chapter 2 of Title 10 of this Code.
- (2) **Permit review considerations.** Any deviation from the sign regulations of the zone applicable to the site of a proposed historic

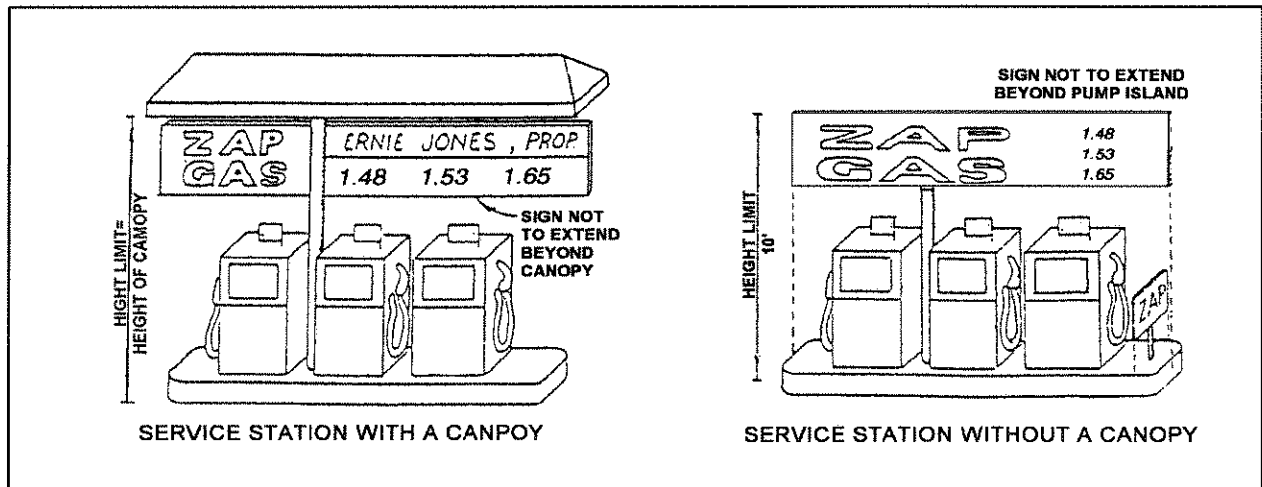
sign should be noted in the BZA agenda report. The BZA should determine if each deviation is insignificant to the compatibility with other uses in the area and deny or impose conditions deemed necessary for any deviations that are not compatible.

- (3) **Criteria for approval.** The BZA may approve a conditional use permit for a historic sign which deviates from the sign standards of the applicable zone only where:
 - (aa) The BZA determines that the existence of the sign at the given site fifty (50) or more years ago has been adequately proven;
 - (ab) The BZA determines that the design of the sign is historically authentic, based on adequate proof of authenticity provided by photographs or plans furnished by the applicant; and
 - (ac) The Landmark Preservation Committee has reviewed the proposed sign and has provided findings that the sign meets the above two (2) criteria.

- (i) **Outdoor advertising signs.** Outdoor advertising signs shall comply with the following provisions:
 - (1) **C-2, C-M, M-1 and M-2 zones.** Only the following outdoor advertising signs may be permitted in the C-2, C-M, M-1 and M-2 zones.
 - (aa) A directional outdoor advertising sign may be authorized with conditional use permit approval for hotels, motels, and restaurants only, provided that the sign does not exceed seventy-two (72) square feet in area and twenty (20) feet in height. The BZA may grant the conditional use permit only after first finding that:
 - (i) The use or occupancy is a freestanding use.
 - (ii) The combined total of all approved directional outdoor advertising signs for a motel, hotel or restaurant is necessary for the public welfare and will not excessively promote the specific motel, hotel or restaurant.

- (ab) Noncommercial outdoor advertising signs may be permitted with a maximum area of seventy-two (72) square feet and a height of twenty (20) feet, except that:
- (i) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be as large as one hundred fifty (150) square feet and thirty-five (35) feet in height.
 - (ii) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be higher than thirty-five (35) feet, subject to the approval of a conditional use permit through the procedure described in subsection (g) of this section. In deciding whether to grant the conditional use permit, the BZA shall not take into consideration the copy, subject matter or message of the proposed sign.
- (2) **C-1 zone.** Noncommercial outdoor advertising signs may be permitted in the C-1 zone with a maximum area of seventy-two (72) square feet and a maximum height of twenty (20) feet.
- (3) **Other zones.** Outdoor advertising signs are prohibited in all zones other than those listed in subsections (i)(1) and (i)(2), above.
- (j) **Service station signs.** The following sign requirements apply to service stations in addition to the provisions of Tables 21-2 and 21-3. The following signs are allowed in addition to the signs and sign area allowed by Tables 21-2 and 21-3, except where otherwise limited by this subsection. See Figure 21-10.
- (1) **Pump island signs.** Signs shall be permitted on pump islands, canopy uprights, and nonmovable structures on the pump islands if the combined area of these signs and all other wall and canopy signs do not exceed the total sign area permitted in Table 21-2 for the service station building, and do not project beyond the canopy roof or raised pump island. These signs shall not exceed ten (10) feet in height if there is no canopy. For self-service stations with small attendant booths less than ten (10) feet on any side, the total wall and canopy sign area shall not exceed one hundred sixty (160) square feet.
 - (2) **Price signs.** Freestanding motor fuel price signs are permitted as follows, for service stations open to the public.

- (aa) **Sign copy.** The copy on the signs shall be limited to specifying the prices and grades of motor fuel, self-service or full service, and brand name of the motor fuel, as required by the California Business and Professions Code.
- (ab) **Maximum sign area.** The maximum allowable area for fuel price signs shall be twenty-five (25) square feet for the portion of the sign identifying self- or full-service prices, and six (6) square feet for a discount for cash portion of the sign; all can be combined as one (1) sign.
- (ac) **Maximum sign height.** Maximum sign height shall be fourteen (14) feet.
- (ad) **Maximum number of signs.** One fuel price sign is permitted for each street frontage of the site.



**FIGURE 21-10
SERVICE STATION SIGN REQUIREMENTS**

- (k) **Shopping center identification signs.** A shopping center identification sign allowed by section 10-2.2112 shall also comply with the following requirements.
 - (1) **Limitation on copy.** The copy on a shopping center sign shall be limited to the shopping center name, with an optional reader board or a listing of uses within the center. The lettering for the reader board or the listing of uses shall be of the same or smaller size than the lettering of the shopping center name.

- (2) **Monument signs required.** Shopping center identification signs for centers approved after February 4, 1999, shall be limited to monument signs. No pole/pylon signs shall be allowed.
- (3) **Removal of existing signs required.** Any freestanding or projecting identification signs installed at the shopping center on or after July 1, 1972, whether identifying the shopping center or any use or occupancy within the center, shall be removed prior to the issuance of a building permit for the installation of a shopping center sign.
- (4) **Limitation on other signs.** After the installation of a shopping center sign, no additional freestanding or projecting identification sign shall be installed for any use or occupancy within the center, even in cases where the existing signs were installed prior to this Code provision.
- (5) **Approval of additional signs.** A shopping center with more than two hundred fifty thousand (250,000) square feet of gross floor area may be authorized one (1) additional shopping center identification sign through conditional use permit approval, for each street frontage longer than six hundred (600) feet. Where more than one (1) sign is located on a single street frontage, the signs shall be separated by a minimum of three hundred (300) feet.
- (1) **Street address signs.** Each building or group of buildings assigned a street address shall display the street address on a wall of the building, as follows.
 - (1) **Location.** The street address shall be visible from the street upon which the building is addressed.
 - (2) **Size of numerals.** The minimum height, width, and maximum area of the street address numerals shall be as follows:
 - (aa) **Residential uses.** Each numeral shall have a minimum height of three (3) inches and a minimum stroke width of one-fourth (1/4) inch. The total area of all the numerals which comprise the street address shall not exceed one (1) square foot.
 - (ab) **Nonresidential and conditional uses.** Each numeral shall have a minimum height of six (6) inches and a minimum stroke width of one-half (1/2) inch. The total area of all the numerals which comprise the street address shall not exceed four (4) square feet.

- (m) **Subdivision sales signs.** Residential subdivisions are permitted the following signs during the marketing of the lots/homes within the subdivision.
 - (1) **Sales/identification sign.** One (1) subdivision identification sign is allowed on the site of each recorded subdivision during lot sales, with a maximum area of sixty-four (64) square feet, and a maximum height of ten (10) feet.
 - (2) **Directional signs.** Each recorded subdivision is allowed directional signs to guide potential customers to the site and its model homes or other sales facility, as follows.
 - (aa) **Allowed location of signs.** Subdivision sales directional signs shall be located as follows.
 - (i) Within the boundaries of the subdivision, one (1) directional sign shall be permitted per block.
 - (ii) Outside the boundaries of the subdivision, directional signs on private property shall be permitted as follows:
 - (a) One (1) at each street intersection where a change in direction (left turn, right turn) is required; and
 - (b) Three (3) where no change in direction is required. No subdivision directional sign shall be closer than one thousand (1000) feet to another subdivision directional sign for the same subdivision.
 - (ab) **Sign area and height.** The signs shall not exceed sixteen (16) square feet and six (6) feet in height.
 - (3) **Temporary directional placards.** Temporary directional placard signs are allowed without limitation on number, and are exempt from sign permit requirements, provided that the signs:
 - (aa) Are in place on weekends only, no longer than from 5:00 p.m. on Friday, to 12:00 a.m. on Monday;

- (ab) Are placed on private property outside of a public right-of-way, with the permission of the property owner;
 - (ac) Do not exceed three (3) square feet in area or a height of thirty-six (36) inches; and
 - (ad) Are completely removed when not in use, including all stakes and any other mounting materials.
- (4) **Subdivision banners, flags, and promotional decorations.** These devices are subject to the requirements of Sections 10-2.2114(b), and 10-2.2114(f).
- (5) **Time limits.** The subdivision sales signs allowed by this subsection shall be removed not later than three (3) years from the date the subdivision map is recorded, except as follows:
- (aa) Where building permits have been issued by the City for more than fifty (50) percent but less than sixty-five (65) percent of the lots in the subdivision at the end of three (3) years, the sign may remain for an additional one (1) year;
 - (ab) Where building permits have been issued by the City for fifty (50) percent or less of the lots in the subdivision at the end of three (3) years, the sign may remain for an additional two (2) years; and
 - (ac) Temporary directional placards shall be removed in compliance with subsection (m)(3), above.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: June 26, 2008

ORDINANCE NO. 3489-C.S.

ORDINANCE ADOPTING THE 2008-09 ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2008-09 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO AND THE RELATED INTER-FUND TRANSFERS

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget and Capital Improvement Program for the 2008-09 Fiscal Year to the Finance Committee on May 19, 2008, and

WHEREAS, the Finance Committee reviewed the Proposed Operating Budget and Capital Improvement Program in a series of televised public workshops on May 19, 20, 21, and 22, 2008 and

WHEREAS, the Finance Committee recommended modifications to the Proposed Operating Budget and Capital Improvement Program and has forwarded said recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was held on May 27, 2007, during which the City Council considered the recommendations of the Finance Committee relating to the Proposed Operating Budget and the Capital Improvement Program, and

WHEREAS, prior to any discussion of the budgets and prior to the final adoption, the City Council by separate motion considered each CIP project that could be the source of a potential conflict of interest to one or more members of the City Council without the

participation of those members, and

WHEREAS, copies of the Proposed Budget and the Capital Improvement Program have been and are available for inspection by the public at the office of the City Clerk,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. ADOPTION OF BUDGET. That the proposed operating budget, a copy of which is on file in the City Clerk's Office and as shown in Exhibits 1 through 4 (Exhibit 1 - Proposed Revenue Budget by fund, Exhibit 2 - Proposed Expense Budget by fund, Exhibit 3 - Proposed Revenue and Expense budgets with Transfers, Exhibit 4 - Proposed Transfers, In and Out, by fund), the amendments to the proposed operating budget as shown in Exhibit 5, the Finance Committee and Council Recommendations as shown in Exhibit 6, are hereby adopted as the Fiscal Year 2008-09 Operating Budget for the City of Modesto.

SECTION 2. ADOPTION OF BUDGET CONTROLS/FINANCIAL POLICIES. That the Financial Policies for budgetary control and authority as shown in Exhibit 7 and incorporated herein by reference is hereby adopted for the Fiscal Year 2008-09.

SECTION 3. ADOPTION OF CAPITAL IMPROVEMENT PROGRAM. That the Capital Improvement Program, a copy of which is on file in the City Clerk's office and shown in Exhibits 8 and 9 (Exhibit 8 - CIP Revenue Budget by fund, Exhibit 9 - CIP Expense Budget by fund) and other amounts previously approved for spending on Capital Improvement Projects are hereby adopted as the 2008-09 Capital Improvement Program for the City of Modesto.

SECTION 4. MULTI-YEAR OPERATING PROGRAMS. That unexpended funds previously approved and appropriated in Multi-Year Programs are hereby re-appropriated for the

programs for which they were originally authorized, and any proposed increases or decreases in revenue and expense budgets as identified in Exhibit 10 shall be part of the Budget for the Fiscal Year 2008-09 adopted hereby.

SECTION 5. COUNCIL POLICIES. That the Policy Issues outlined in the 2008-09 Proposed Operating Budget have been reviewed.

SECTION 6. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go in effect and be in full force and operation immediately upon adoption.


SECTION 7. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following votes:

AYES: Councilmembers: Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 10, 2008

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**CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE FY 2007-08**

Line No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recommended 07-08	Finance Committee	Frequency
1	City-wide 2007-08	Recover Morris Comm. Ctr. Costs	This amount recognized in April 2008.	\$138,848	\$138,848	One-Time
2	City-wide 2007-08	Reduce transfer in FY 2007-08 to Storm Drain Fund for Master Plan	No impact as funding will come from Gas Tax Fund.	\$430,000	\$430,000	One-Time
3	City-wide 2007-08	Reduce transfer in FY 2007-08 to Storm Drain Fund for Rate Study	Staff evaluating regulatory fees for specific services that are not system-wide.	\$150,000	\$150,000	One-Time
4	City-wide 2007-08	Reduce Travel Training Line Items		\$500,000	\$500,000	One-Time
5	City-wide 2007-08	Reduce Office/Field Supply Line Items		\$225,987	\$225,987	One-Time
6	City-wide 2007-08	Reduce Golf operating Subsidy Transfer in FY 2007-08		\$50,000	\$50,000	One-Time
7	City-wide 2007-08	Reduce Transfer to Gas Tax Fund in FY 2007-08		\$500,000	\$500,000	One-Time
8	City-wide 2007-08	Forgive Fleet Payment in FY 2007-08		\$212,000	\$212,000	One-Time
9	FIRE	Service credit for Fire support to airport operations for FY 2007-08	None. Enterprise Fund (Airport) reimburses Fire for cost of providing staffing and equipment resources to the Airport per FAA regulations.	\$100,060	\$100,060	On-Going
10	FIRE	Service for Fire training and response for confined space activities for FY 2007-08	None. Utility funds reimburse Fire for cost of confined space and technical rescue services.	\$52,027	\$52,027	On-Going
11	City-wide 2007-08			\$2,358,922	\$2,358,922	

CITY OF DESTO
 MAYOR'S BUDGET RECOMMENDATIONS
 AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
 FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
1	CEDD	Thurman Field Improvements - As the City's 'consultants' for environmental assessments and CEQA-related compliance, Planning staff will be expected to assist in the review and coordination of environmental documentation prepared for the John Thurman Field	New Service Credit Agreement for Parks, Recreation, & Neighborhood Department - Capital Improvement Program (CIP)	\$2,061	\$2,061	One-Time	\$0
2	CEDD	Manage Pelandale Interchange Project	New Service Credit Agreement for Public Works - E740	\$28,603	\$28,603	One-Time	\$0
3	CEDD	Improve fee recovery % for development function (new fee update in July; est. 80% recovery)	Increased revenue potential resulting from new fees adopted from Development User Fee Update	\$100,000	\$100,000	On-Going	\$0
4	CEDD	Increase RDA payback of loans from GF (\$100,000 current proposal from CRAC)	May impact the RDA's ability to initiate or complete area projects.	\$250,000	\$250,000	One-Time	\$0
5	CEDD	Sal & Wages, Part-Time: Eliminate Planning Intern (1)	The Planning Intern is responsible for a wide variety of current & long-range planning activities, including assisting customers, conducting & presenting research studies, provides administrative support, & perform related duties as assigned. Intern assistance is needed for the Comprehensive General Plan Update (tasks would include: preparation of land use surveys, assistance with preparing for & conducting public workshops, meetings & hearings, conducting research, preparation of mapping, graphics, etc. Removal of this position impacts ability to complete the Comprehensive General Plan Update.	\$13,780		On-Going	(\$13,780)

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
6	CEDD	Remove appropriation for Senior Planner - Salary/Benefits	Will impact the ability to complete the Comprehensive General Plan Update.	\$93,572	\$46,800	On-Going	(\$46,772)
7	CEDD	Professional Services	The reduction to the Professional Services account equates to a 49% decrease. This account is used to pay for market and financial studies to produce demographics and statistics in the attraction of new projects, including new and diverse businesses. The cost for a market study typically ranges from \$7500 to \$15,000. This reduction will eliminate 1-2 market studies, which will limit our ability to attract new projects and/or business prospects.	\$14,085	\$14,085	One-Time	\$0
8	CEDD	Remove appropriation for Associate Civil Engineer - Salary/Benefits	Will delay processing of planning referrals, plan checks, etc. Will impact sewer and water related customer service. Will impact processing of parcel and final maps. Will impact issuance of encroachment permits. Will require release for hire of 2 current vacant Assistant Civil Engineer positions.	\$116,574	\$116,574	On-Going	\$0

CITY OF DESTE
 MAYOR'S BUDGET RECOMMENDATIONS
 AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
 FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
9	CEDD	Hold Associate Civil Engineer position (8.5 mths) Salary & Benefits	Structural plan checks will continue to be sent to a third party. Commercial plan review turnaround times will continue to hover around 50% of target range. Commercial development continues to progress. We will never be able to totally streamline our process and give the customer efficient service without this position being filled. Eliminating plan check contracts will hamper our efforts to provide efficient service to our customers. We anticipate a range of about 20-30% of the target without the use of a contract plan service. If a large development such as a 14th and J would happen to break free, that project would overwhelm current staff. Other smaller projects would suffer and would possibly require senior staff to intervene. Other nonessential projects would be put on hold to service this customer.	\$78,137	\$78,137	On-Going	\$0
10	CEDD	Remove appropriation for third Building Inspector II - Salary/Benefits	Two Building Inspection positions are already held to meet City Manager's 3% reduction target. This will be the third position held. All are vacant due to unfilled vacancies. At the time of the vacancies the inspection staff was overburden and the inspections per day ratio was out of alignment. However, for the past several years residential construction has been steadily declining, thus the immediate need for these positions was not realized. By eliminating these positions, we will need to rely on contract personnel when the next building increase arises until the appropriate staffing levels can be restored. The budget impact for these contract personnel would cost more for the same level of service.	\$78,270	\$78,270	On-Going	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
11	CEDD	Professional Services: Consultant Plan Check	Eliminating plan check contracts will hamper our efforts to provide efficient service to our customers. We anticipate a range of about 20-30% of the target without the use of a contract plan service. If a large development such as a 14th and J would happen to break free, that project would overwhelm current staff. Other smaller projects would suffer and would possibly require senior staff to intervene. Other nonessential projects would be put on hold to service this customer.	\$36,484	\$36,484	On-Going	\$0
12	CEDD	Professional Services: Web Design & Maintenance	Will reduce consultant services for department web page and Development Center management.	\$11,000	\$11,000	One-Time	\$0
13	CEDD	Professional Services: Web Design & Maintenance	Will eliminate outside professional agreement for department web page and Development Center management.	\$29,000		One-Time	(\$29,000)
13a	CEDD	Professional Services: Land Surveyor Services	Will impact signing of maps (parcel and final)		\$20,000	One-Time	\$20,000
13b	CEDD	Fleet Management	Return of Equipment replacement funds for 2 vehicles that will not be replaced.		\$26,512		\$26,512
13c	CEDD	Printing and Binding: Reduct budget in half from \$4,000 to \$2,000	Reduce the ability for division to produce documents expected by the public, i.e. Planning Commission packets, BZA packets, agendas, studies, etc.		\$2,000	One-Time	\$2,000

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
13d	CEDD	Advertising/Marketing	The reduction of the marketing budget equates to a 58.5% decrease and the reduction to the Printing account equates to a 20% decrease. The direct mailing campaign to target site selectors would be eliminated (\$20,000). In addition, the upgrades to the economic development website (Choosemodesto.com) would be eliminated (\$10,000). The goal of the marketing campaign is to put Modesto's name on the short list of site selection for target industries. Without direct mailers and with an outdated website, our ability to achieve our goal would be severely impacted.		\$5,000	One-Time	\$5,000
13e	CEDD	Printing and Binding: Customer Outreach Brochures/Handouts (6,000); Community Development Newsletter (6,000)	The newsletter, brochures and handouts are links to our customers and a good way to communicate vital information about our process, achievements and marketing of the Building Safety Division.		\$3,000	One-Time	\$3,000
13f	CEDD	Quarterly Department & Monthly Meetings	Will reduce Department quarterly and division monthly meetings		\$2,752	One-Time	\$2,752
13g	CEDD	SPIE (3% reduction based on the funding of \$15,000)	Reduction will impact programs ability for outreach.		\$5,000	One-Time	\$5,000
	CEDD Total			\$851,566	\$826,278		(\$25,288)
15	City Attorney	PCE reimbursements/settlements for City Attorney's fees	Reimbursement for General Fund expenditures made on behalf of PCE litigation.	\$500,000	\$500,000	One-Time	\$0
16	City Attorney	Employment Agencies - Temps	Will reduce funds available for temporary help.	\$1,019	\$1,019	One-Time	\$0
17	City Attorney	Services Professional & Other	Will reduce funds available for outside professional services such as attorneys, experts, investigations, services professional & other; reduce ability to pay for costs associated with equal employment complaint related investigations.	\$14,200	\$14,200	One-Time	\$0

CITY OF TUSTEPE
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
18	City Attorney	Remove appropriation for vacant Administrative Office Assistant II position (includes salary & Benefits)	Legal Secretaries can absorb additional workload, however, this will require us to close our front receptionist desk.	\$51,602	\$51,602	On-Going	\$0
19	City Attorney	Remove appropriation for vacant Deputy City Attorney position (includes salary & benefits)	Existing attorney staff can absorb some of the additional workload, however, because the City Attorney's office is minimally staffed we are quickly depleting our ability to take on additional work or new cases. As a result this will necessitate utilizing outside counsel more frequently. As of July 1, 2008, we will no longer appear on Pitchess motions, but will work with Police Department personnel to train them on the process. Additionally, the following actions may become necessary based on the increase in workload: <ul style="list-style-type: none"> - Stop prosecuting misdemeanors - Send all litigation outside - Limit administrative and criminal enforcement support to only the highest priority cases as identified by the SMART Team. 	\$100,782	\$100,782	On-Going	\$0
	City Attorney Total			\$667,603	\$667,603		\$0
21	City Mgr	This action reduces by 25% the undesignated allocation for consultant services.	About \$10,000 will remain in undesignated funds within this program for limited consultant activity.	\$10,750	\$10,750	On-Going	\$0
22	City Mgr	This action eliminates funding for part-time clerical/receptionist support in the City Manager's Office	There is currently one person to handle receptionist duties for both the Council and City Manager's Office. Additionally, this staff person will assist with the clerical support needs for the Auditor's Office during FY 08-09. To offset this impact, staff will continue to evaluate and utilize where appropriate free programs through the County and MJC for staffing support in receptionist area.	\$11,677	\$11,677	On-Going	\$0

CITY OF DEBUNO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
23	City Mgr	This reduction eliminates the State Lobbyist contract for FY 08-09.	City will allow the current annual contract to expire at the end of June and will rely more on Mayor/Council and executive level staff to lobby at the State level for items of interest to City.	\$80,000	\$80,000	One-Time	\$0
	City Mgr Total			\$102,427	\$102,427		\$0
25	City-wide 2008-09	All non-city use of City facilities will be on a cost-recovery basis		\$30,000	\$30,000	One-Time	\$0
26	City-wide 2008-09	Capture Investment Gains		\$200,000	\$200,000	One-Time	\$0
27	City-wide 2008-09	Have Redevelopment Agency (RDA) purchase Downey site; Community Dev. & Block Grant Program (CDBG) funds to purchase property next door		\$215,000	\$215,000	One-Time	\$0
28	City-wide 2008-09	Return Employee Benefit Fund supplemental allocation to General Fund		\$872,874	\$872,874	One-Time	\$0
29	City-wide 2008-09	Revenue Reduction from Cost Allocation Plan		(\$214,051)	(\$214,051)	One-Time	\$0
30	City-wide 2008-09	Reduce Golf operating Subsidy Transfer in FY 2008-09		\$100,000	\$100,000	One-Time	\$0
31	City-wide 2008-09	Reduce Golf CIP Transfer in FY 2008-09		\$50,000	\$50,000	One-Time	\$0
32	City-wide 2008-09	Reduce Transfer to Gas Tax Fund in FY 2008-09		\$1,000,000	\$1,000,000	One-Time	\$0
33	City-wide 2008-09	Fleet Rate Holiday		\$795,576	\$795,576	One-Time	\$0

CITY OF JESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
34	City-wide 2008-09	Forgive Fleet Payment in FY 2008-09		\$212,000	\$212,000	One-Time	\$0
35	City-wide 2008-09	Recognize savings from Tenth Street Place JPA 2008-09 budget		\$23,620	\$23,620	One-Time	\$0
36	City-wide 2008-09	Eliminate bottled water purchases and private refrigeration units		\$30,000	\$30,000	On-Going	\$0
37	City-wide 2008-09	Reduce Travel and Training budgets by 50% (Objects 0207, 0208, 0209)		\$500,000	\$500,000	One-Time	\$0
	City-wide 2008-09 Total			\$3,815,019	\$3,815,019		\$0
39	Clerk	Charge Businesses (8 books) for Quarterly Municipal Code updates	Fee is already established but has not been previously implemented or recognized.	\$1,032	\$1,032	On-Going	\$0
40	Clerk	Reduce appropriation for unfilled clerical staff for Auditor and share with City Clerk/City Manager's Office (CMO)	Should be minimal. If Auditor has been hired by the start of the FY, then CMO and City Clerk will jointly provide support for Auditor while the office gets up and running. This will also give the Auditor time to thoroughly evaluate staffing needs.	\$45,000	\$45,000	One-Time	\$0
	Clerk Total			\$46,032	\$46,032		\$0
42	FINANCE	Increase in Return Check Fee	Increase fee from \$10 to \$25 - fee has not been increased since the mid-1990's (at a minimum). Approved by Finance Committee in March.	\$15,600	\$15,600	On-Going	\$0
43	FINANCE	Fee for pre-collection activities.	Fee would capture costs associated with in-house pre-collection of delinquent accounts. Approved by Finance Committee in March.	\$37,250	\$37,250	On-Going	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
44	FINANCE	Enhanced enforcement of Business License requirement	Business licensing and mil tax collection are currently on honor basis. This would provide for field audits on regular and on-going basis. Finance Committee has requested further information.	\$50,000	\$50,000	On-Going	\$0
45	FINANCE	Business License Application Fee	Covers cost of providing reviews on new business license applications by Finance, Planning, Neighborhood Preservation Unit (NPU), and Fire. Finance Committee has requested further information.	\$120,000	\$120,000	On-Going	\$0
46	FINANCE	Reduce books and periodicals	Spending on these materials will be cut in half.	\$328	\$328	On-Going	\$0
47	FINANCE	Reduce advertising expenses	Any special advertising costs will have to be absorbed by savings in other line items.	\$768	\$768	On-going	\$0
48	FINANCE	Reduce Office Supplies	The budget for this division is already limited. Staff will have to conserve materials as much as possible.	\$1,513	\$1,513	One-time	\$0
49	FINANCE	Reduce Office Supplies	This will reduce the line item by 1/3. Staff will have to conserve materials and attempt to stock up if possible before the end of the current year.	\$1,938	\$1,938	One-Time	\$0
50	FINANCE	Remove Computer replacement costs	Any additional computer needs will come from forced budget savings in other line items	\$3,395	\$3,395	One-Time	\$0
51	FINANCE	Reduce Office Supplies	Staff will attempt to stock-up on materials needed before the end of the current year. Some printed documents will be prepared without combed spines and plastic covers.	\$3,558	\$3,558	One-Time	\$0
52	FINANCE	Reduce professional services	The use of any outside consultants for the preparation of special reports or claims will be limited.	\$3,625	\$3,625	One-Time	\$0
53	FINANCE	Printing cost reduction for Comprehensive Annual Financial Report (CAFR)	Staff will print less copies of CAFR and will economize on the cost of those printed.	\$5,000	\$5,000	On-going	\$0
54	FINANCE	Reduce outside contract service costs	Opportunities to bring in software specialists to upgrade budget software will be reduced.	\$21,567	\$21,567	One-Time	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
55	FINANCE	Recognize salary savings from filling Administrative Analyst position	Salary savings will occur as the result of holding other positions vacant when the Administrative Analyst position is filled.	\$55,088	\$55,088	One-Time	\$0
55a	FINANCE	Office Supplies	Staff will share materials with other orgs as necessary		\$1,292	On-Going	\$1,292
55b	FINANCE	Remove Temp Labor Funding	Loss of this funding will eliminate any opportunities to apply extra help that may be needed to manage the budget process		\$6,305	One-Time	\$6,305
55c	FINANCE	Reduce Office Supplies by 1/3	Staff will have to carry supplies over to the new year. Some reports will be issued in simpler formats and without covers.		\$1,615	One-Time	\$1,615
55d	FINANCE	Remove Miscellaneous Services Funding	This will not have a significant impact.		\$1,455	One-Time	\$1,455
	FINANCE Total			\$319,630	\$330,297		\$10,667
57	FIRE	Sell Fire Station #2 after Neighborhood Center opens	None. Water pumping station at this location has also been closed for some time.	\$200,000	\$200,000		\$0
58	FIRE	Service credit for Fire support to airport operations for FY 2008-09	None. Enterprise Fund (Airport) reimburses Fire for cost of providing staffing and equipment resources to the Airport per FAA regulations.	\$94,660	\$94,660	On-Going	\$0
59	FIRE	Service for Fire training and response for confined space activities for FY 2008-09	None. Utility funds reimburse Fire for cost of confined space and technical rescue services.	\$52,900	\$52,900	On-Going	\$0
60	FIRE	On-Call Investigator - eliminating April 1, 2008	On-call program eliminated. Will utilize paging system.	\$11,270	\$11,270	On-going	\$0
61	FIRE	On-Call Investigator - eliminating April 1, 2008	On-call program eliminated. Will utilize paging system.	\$14,030	\$14,030	On-going	\$0
62	FIRE	Reduce Part-Time Clerical	Eliminate funding for a part-time position which has been kept vacant during the FY 07-08.	\$18,000	\$18,000	On-going	\$0
63	FIRE	Reduce Fire Prevention Education program	Reduces specialized Fire Prevention and Safety programs.	\$29,000	\$29,000	One-Time	\$0
64	FIRE	Overtime - Non-Constant Staffing	Limits additional assistance with training and attendance at special classes.	\$50,000	\$50,000	On-going	\$0

CITY OF DEBOSTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
65	FIRE	Remove appropriation for one filled Fire Prevention AOA III position.	Fire Prevention unit to perform all of their own clerical functions. This will result in the lay-off of one (1) filled position.	\$56,652	\$56,652	On-going	\$0
66	FIRE	Full Time 40-hour Investigator - reduced to Part-time (860 hr) Investigator	This transfers partial responsibility for follow-up and administrative duties to shift investigators.	\$101,712	\$101,712	On-going	\$0
67	FIRE	Discretionary Appropriations	Reduces ability to maintain facilities. Will result in the delay of the apparatus bay door replacement program, the delay in painting of stations, and the delay in flooring replacement.	\$151,100	\$151,100	One-Time	\$0
68	FIRE	Remove appropriation for vacant Training Officer position	A portion of the mandated training accountability falls to Captains and Battalion Chiefs.	\$158,000	\$158,000	On-going	\$0
69	FIRE	4th Person on Truck 1 for 6 months - Three Firefighters (Jan - June)	Leave positions vacant for a portion of the year - Requires additional units to respond to complex emergencies. This results in full year vacancy for these positions as the first six months was part of the base reductions.	\$163,000	\$163,000	On-going	\$0
70	FIRE	Remove appropriation for vacant Division Chief	Administrative duties will fall to others in the Department.	\$180,000	\$180,000	On-going	\$0
71	FIRE	New Engine - purchase over two fiscal years	Delays apparatus replacement schedule. Older less reliable fleet.	\$220,000	\$220,000	One-Time	\$0
72	FIRE	Eliminate staffing at Station 8	Other apparatus would respond to airport needs during flight operations.	\$775,000	\$775,000	On-going	\$0
73	FIRE	4th Person on Truck 5 - 3 Firefighters	Additional units required to respond to complex emergencies.	\$326,000	\$326,000	On-Going	\$0
	FIRE Total			\$2,601,324	\$2,601,324		\$0
75	IT	Institute \$0.75 Public Education & Government (PEG) fee	This fee can offset General Fund costs for PEG capital, broadcasting equipment, and facilities costs.	\$131,500	\$131,500		\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
76	IT	General Fund litigation support	Legal expenses if incurred may need to be covered in the IT Reserve.	\$33,005	\$33,005		\$0
	IT Total			\$164,505	\$164,505		\$0
78	Personnel	Additional service credit for two (2) Employee Relations Specialist (ERS) services to Water Fund	Proposed service credit (10% each x 2 ERS positions) to Water Fund	\$21,470	\$21,470	On-going	\$0
79	Personnel	Additional service credit for two (2) Employee Relations Specialist services to Sewer Fund	Proposed service credit (10% each x 2 ERS positions) to Sewer Fund	\$21,470	\$21,470	On-going	\$0
80	Personnel	Professional services	Will reduce professional services (training/legal expertise); impact is minimal	\$979	\$979	On-Going	\$0
81	Personnel	Reduction of overtime expense	Overtime reduction; limits the ability for after hours or weekend testing	\$1,000	\$1,000	On-Going	\$0
82	Personnel	Printing and binding	Significant reduction to printing and binding limits the number of job flyers and Memorandums of Understanding (MOUs) that can be printed; printing costs for job flyers may be pushed back to the department for funding	\$5,000	\$5,000	On-Going	\$0
83	Personnel	PC Software and supplies	Will defer purchase of laptop/LCD projector; experiencing technical problems with laptop/LCD projector which impacts testing and training presentations	\$5,000	\$5,000	One-Time	\$0
84	Personnel	Eliminate Annual Recognition/Retirement Luncheon	Eliminate General Fund impact for expenses incurred for annual luncheon	\$5,000	\$5,000	On-Going	\$0
85	Personnel	Adjusted salary	Adjusted salary for newly-filled position (proposed vs. actual)	\$5,181	\$5,181	One-Time	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
86	Personnel	Advertising	Significant reduction to advertising expenses will limit the amount of advertising that can be conducted for open recruitments; could hinder recruitment efforts unless the requesting department absorbs the cost of advertising	\$5,280	\$5,280	On-Going	\$0
87	Personnel	Reduction of part-time wages	Reduce part-time clerical assistance resulting in labor relations impact; timeliness issues	\$5,406	\$5,406	One-Time	\$0
88	Personnel	Reduction to salaries/wages	Employee retirement pending; leave position vacant for 6 months; recruitment will be affected due to reduced staff	\$52,491	\$52,491	One-Time	\$0
89	Personnel	Eliminate Educational Partnership Program	Eliminate General Fund impact for expenses incurred for continuing education program for employees	\$37,000	\$37,000	One-Time	\$0
	Personnel Total			\$165,277	\$165,277		\$0
91	Police	Charge other agencies for use of Police Firing Range	A number of other public agencies utilize the firing range at no cost. Police Department (PD) to develop a fee to help offset costs of operating and maintaining the facility.	\$50,000	\$50,000	On-Going	\$0
92	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance	\$3,000	\$3,000	One-Time	\$0
93	Police	No idling of PD cars	Minimal	\$15,000	\$15,000	On-Going	\$0
94	Police	Remove appropriation for filled Police Civilian Supervisor (PCS) position effective 1/1/09.	Will operate with 20% reduction in front-line supervision of the Records program. This will be accomplished with the demotion of current PCS and the layoff of a Police Clerk.	\$40,786	\$40,786	On-Going	\$0
95	Police	Remove appropriation for vacant Evidence & Property Specialist position.	More time needed to process evidence, backlog of evidence to be booked will result in overtime and reduced level of service for citizens at the Evidence facility. Will continue to operate with 20% less personnel services for the Property & Evidence Program	\$56,712	\$56,712	On-going	\$0

**CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09**

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
96	Police	Remove appropriation for vacant Animal Control Officer (ACO) position.	This will reduce the total number of vacant ACO to 2 with 1 eliminated as part of the 3% reduction. Longer response to animal control related calls, officers will respond to critical ACO calls (officers lack the tools and training to effectively handle these types of calls). Will continue to operate with 40% reduction in Animal Control Services program.	\$63,216	\$63,216	On-going	\$0
97	Police	Remove appropriation for Sergeant effective 1/1/09	Incumbent planning to retire 12/31/08 reduces front line supervision by 50% in the Youth Services program.	\$63,578	\$63,578	On-going	\$0
98	Police	Remove appropriation for Sergeant effective 1/1/09	Total reduction 2 positions, 1 Sergeant eliminated to make 3% reduction (incumbent planning to retire 12/31/08). This will increase the span of supervisory control for front line police services.	\$64,550	\$64,550	On-going	\$0
99	Police	Remove appropriation for vacant Crime Analyst position.	Less crime stats available resulting in less efficient deployment of police resources. Delayed response to Council/City Hall requests for information & statistics. The Department will operate with a 25% reduction in the Crime Analysis program.	\$69,084	\$69,084	On-going	\$0
100	Police	Eliminate on-site SMART Team	This will eliminate the formal Beat Health program, but activities will continue through inter-department coordination. This action results in the elimination of one Supervising Building Inspector position and has the potential for the lay-off of one position.	\$100,000		On-Going	(\$100,000)
101	Police	Reduction of City of Modesto contribution to County drug enforcement unit.	Recent changes to the JPA formula to determine participant contributions resulted in a decrease in the amount to be paid by the City of Modesto for JPA personnel costs. No impact of this reduction.	\$120,000	\$120,000	On-Going	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
102	Police	Training Site Project	Eliminate PD operations transfer for Training Facility. Stop further development of the training facility. This will result in potential lack of adequate facilities in the future for some types of officer training.	\$120,000	\$120,000	One-Time	\$0
103	Police	Remove appropriation for vacant Lieutenant position.	Leave current Lieutenant position vacant and operate with only one Lieutenant in the Investigations Division. This will leave two Lieutenant positions vacant since one position in the Operations Division was included as part of the 3% reduction. This will result in less management oversight in both the Operations and Investigations Divisions.	\$150,330	\$150,330	On-Going	\$0
104	Police	Remove appropriations for 3 vacant Police Clerk positions	Overall, this reduction will mean the loss of five Police Clerks as 2 were included in the 3% reduction. There will be a reduced capacity to process critical information quickly, mandated reporting requirements will require overtime, case preparation for prosecution will be delayed. Service to the Community will be affected with slow availability of police reports and limited hours for public access. The Records Unit will continue to operate with 15% less clerical support in the Records program.	\$161,122	\$161,122	On-Going	\$0
105	Police	Remove appropriation for 2 vacant Detective positions.	Two detective positions will be unfilled. Fewer follow-up on cases referred, citizens will receive little or no investigation for some crimes. Will continue to operate with a 12% staffing reduction in Investigations program.	\$214,682	\$214,682	On-Going	\$0
106	Police	Remove appropriation for 4 vacant Police Officer positions	The reduction of four Police Officers will impact Special Units - MNET, Street Crimes and Tactical Patrol Unit. Special units throughout the department reduce the calls for service for the 24/7 patrol operations. We will continue to manage patrol staffing at current levels while monitoring the affects of reductions that will be made in the special units.	\$380,379	\$285,284	On-Going	(\$95,095)

**CITY OF JESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09**

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
107	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance	\$3,000	\$3,000		\$0
108	Police	Reduction of part-time assistance.	Eliminate all part-time assistance in the Chief's office.	\$9,420	\$9,420		\$0
109	Police	Reduction of part-time assistance.	Staffing had been increased in order to expand parking enforcement outside of the downtown area. The assignment will be reduced by one position (18%)	\$15,000	\$15,000		\$0
110	Police	Reduction of part-time assistance.	33% Reduction in part-time assistance.	\$30,000	\$30,000		\$0
111	Police	Reduction of part-time assistance.	36% Reduction in part-time assistance	\$40,000	\$40,000		\$0
112	Police	Remove all GF funding of PAL Program	Transfer responsibility for Police Athletic League (PAL) to non-profit. Reduction or elimination of a critical program for youth determined by the availability of non-profit funding	\$47,000	\$47,000	On-Going	\$0
113	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance,	\$233,300	\$233,300		\$0
	Police Total			\$2,050,159	\$1,855,064		(\$195,095)
115	PR&N	Replacement funds and sale price of sedan that will not be replaced. (\$14,045 ***)	Neighborhood Preservation Unit Supervisor will receive car allowance in lieu of City vehicle.	\$14,055	\$14,055	On-Going	\$0
116	PR&N	Increase Swim fees	Alternative is to reduce hours for open swim	\$15,300	\$15,300	On-Going	\$0
117	PR&N	Develop sponsors for Leisure Bucks program or eliminate	Participation in recreation programs could decline.	\$40,000	\$40,000	On-Going	\$0
118	PR&N	Pay for portion of park maintenance programs through fund development	Donations would be focused toward maintenance rather than programs and development.	\$100,000	\$100,000	On-Going	\$0
119	PR&N	\$5 fee on all youth sports program participants	Participation in youth sports could decline.	\$100,000	\$100,000	On-Going	\$0
120	PR&N	Charge Spray Crew to Gas Tax Fund	Option is to eliminate Spray Crew, resulting in unsightly weeds and fire hazard.	\$144,663	\$144,663	On-Going	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
121	PR&N	Sell John Muir site @ \$400k (General Fund receives 1/2 of revenues)	Funding would not be available for grant matches, programs, or open space development and maintenance	\$200,000	\$200,000	One-Time	\$0
122	PR&N	Sell Coldwell and Virginia recreation site	Funding would not be available for grant matches, programs, or open space development and maintenance	\$215,000	\$215,000	One-Time	\$0
123	PR&N	Re-program Section 108 Loan Interest to Project	Funding will not be available for program activities	\$320,000	\$320,000	One-Time	\$0
124	PR&N	Eliminate 1 sedan; reassign existing SUV to Code Enf Officer; and car allowance to replace vehicle	Supervisor will receive car allowance rather than assigned City vehicle.	\$766	\$766	On-Going	\$0
125	PR&N	Eliminate All-Comers Track Meet	Facility rental costs have increased 20% and attendance is low.	\$1,792	\$1,792	On-Going	\$0
126	PR&N	Eliminate funding for Maxicom weather stations	No impact - maintained by Grover	\$4,001	\$4,001	On-Going	\$0
127	PR&N	Reduce rent at Codoni facility	No impact	\$9,000	\$9,000	On-Going	\$0
128	PR&N	Eliminate Part-time Clerical Support	This action would eliminate all funding for part-time support, which will impact the work unit's ability to respond to cases, and could require a Code Enforcement Officer to cover office duties.	\$13,816		One-Time	(\$13,816)
129	PR&N	Eliminate Adult Soccer	Program has been eliminated. Players form their own leagues and rent city fields.	\$36,543	\$36,543	On-Going	\$0
130	PR&N	Delay Mansion Foundation Study	Further structural deterioration could occur.	\$42,478	\$42,478	One-Time	\$0
131	PR&N	Recognize salary savings from filling positions and discontinuing acting assignments.	Budgeted funds that are not needed to run existing programs.	\$45,176	\$45,176	On-Going	\$0
132	PR&N	Remove appropriation for vacant Parks Crew leader	General Service level reduction.	\$58,158	\$58,158	On-Going	\$0
133	PR&N	Eliminate funding for Culture Commission grants	Local organizations will have to seek funding elsewhere or reduce program offerings	\$57,231		One-Time	(\$57,231)
134	PR&N	Remove appropriation for vacant Park Planning Coordinator	Grant funded projects could be jeopardized if current staff can not manage all projects.	\$75,000	\$75,000	On-Going	\$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
135	PR&N	Do not renew school agreements for multi-purpose rooms and pools except for pools at Johansen and Modesto High School (will also impact part-time staffing)	Open swim and swim lessons will be reduced.	\$100,000	\$100,000	On-Going	\$0
136	PR&N	Reduce custodial budget through managed competition or service level changes	Anticipated savings from management competition process.	\$200,000	\$200,000	On-Going	\$0
137	PR&N	Eliminate Recreation-based Neighborhood Programs	Pools are failing, and repair would require extensive work. Closes 12 pools; 7 pools would be demolished; corresponding reduction in part-time staffing. This cut would result in the elimination of a filled position.	\$256,037	\$186,037	On-Going	(\$70,000)
138	PR&N	Reduce funding for pool chemicals	Minimal impact	\$2,000	\$2,000	On-Going	\$0
139	PR&N	Reduce Senior class offering from 2 to 1	Duplicate classes will be eliminated.	\$7,156	\$7,156	On-Going	\$0
140	PR&N	Limit number of teams per league	Minimal impact. If additional teams wish to play, they will be self-supporting and revenue will increase.	\$40,686	\$40,686	N/A	\$0
140a	PR&N	Reduce contribution to Convention and Visitors Bureau (CVB) to Transient Occupancy Tax (TOT) estimate	Based on estimated TOT of \$2.2M		\$34,000	N/A	\$34,000
140b	PR&N	Decrease MoBand Café from 6 weeks to 5 weeks	One week will be eliminated.		\$565	N/A	\$565
140c	PR&N	Reduce camps to 5-week program	Attendees will be accommodated in the other 5 weeks of camp.		\$1,489	N/A	\$1,489
140d	PR&N	Reduce Youth Classes	Classes that have not met attendance minimums will be eliminated.		\$3,855	N/A	\$3,855
140e	PR&N	Fill vacant benefited Supervisor II position with 400 hours part-time Supervisor	This reduction could be accomplished with proposed service level reductions.		\$58,519	N/A	\$58,519
140f	PR&N	Eliminate Spring Basketball League, reduce adult basketball from 50 wks to 35 wks	3 leagues would continue. Spring attendance is low with other options.		\$4,570	N/A	\$4,570

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
	PR&N Total			\$2,098,858	\$2,060,809		(\$38,049)
142	PW	Sell portion of fleet pool vehicles	Fleet motor pool is overstocked for history of usage. This would reduce the motor pool by 8 vehicles and sell them at auction.	\$43,400	\$43,400	One-Time	\$0
143	PW	Photocopy - Rent, Service Supply	This action will surplus one copier and eliminate the maintenance contract on that copier. This action will have no impact on service delivery.	\$1,031	\$1,031	One-Time	\$0
144	PW	Professional Services	This action results in the elimination of 100% in expenses for professional services such as web	\$4,047	\$4,047	One-Time	\$0
145	PW	Reduction in purchase of replacement tools used by field crews in the course of carrying out their day to day work.	Reduces ability to replace/provide tools such as chainsaws etc. in Community Forestry.	\$4,421	\$4,421	One-Time	\$0
146	PW	Reduction of a proportional share of all objects support engineering services for General Fund related activities.	Results in a reduced ability to support General Fund related activities including, but not limited to Capital Projects, General Plan update, Specific Plan input, and general engineering support	\$6,054	\$6,054	One-Time	\$0
147	PW	Reduction in funding used to purchase paint, equipment and supplies used in the removal of graffiti from various surfaces.	This action will reduce paint, equipment and other supplies and materials used by graffiti crews by 14%.	\$10,309	\$10,309	One-Time	\$0
148	PW	Reduction in funding for weed abatement in public right of ways	Reduction in budget to match actual contract expenses.	\$10,595	\$10,595	One-Time	\$0

**CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09**

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
149	PW	Remove 1/2 appropriation for Temporary Graffiti Technician	This action results in the reduction of one full-time temporary laborer to one half-time temporary laborer, which accounts for 1/6 of the City's labor force assigned to Graffiti Abatement. Program impacts include a 17% reduction in the removal of graffiti overall during 2008-09. Suspension in the use of one pick-up truck for a period of 6-months would result, however Org 4722 would continue to incur these costs for a full-year. Customer impacts include longer response time for graffiti removal.	\$17,371	\$17,371	On-Going	\$0
150	PW	Reduction in use of service contracts for outside subject matter expertise	This action will eliminate available funding used to hire consultants or pay city staff assigned to other funds to conduct feasibility studies for transportation related projects prior to packaging and submitting a request for grant funding. These projects include intersection improvements and roadway projects. This work is a precursor to preliminary engineering.	\$21,507	\$21,507	One-Time	\$0
151	PW	Reduction in use of temporary labor in Forestry programs	Reduce temporary labor staff. This equates to approx. 3-4 full-time temporary laborers. This action will impact service frequencies in Tree Preservation, Tree/Stump Removal, Service Request Pruning Programs. Cycle Pruning frequency will change from a 5-year to a 6-year cycle.	\$47,007	\$47,007	One-Time	\$0
152	PW	Remove appropriation for 2 vacant Tree Trimmer positions.	Hold 2 vacant positions in the Tree Trimmer classification. This action will impact service level frequencies in Tree Preservation and Cycle Pruning.	\$112,752	\$112,752	On-Going	\$0
153	PW	Reduction in the purchase of gardening and horticulture supplies	Continue suspension of tree replanting program in older neighborhoods. Results in a loss of the replanting of approx. 1,146 trees at a cost of \$100 per tree including labor and supplies.	\$114,593	\$114,593	One-Time	\$0

CITY OF DESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
153a	PW	Remove appropriation for 1/2 of a Maintenance Worker II position which is currently vacant	This funding has been used to hire temporary labor to assist staff as well as to cover costs for OT due to storm events etc. Loss of these funds will impact service delivery.		\$26,786	N/A	\$26,786
	PW Total			\$393,087	\$419,873		\$26,786
	Grand Total			\$13,275,487	\$13,054,508		(\$220,979)

ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE 2008-09 ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2008-09 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO AND THE RELATED INTER-FUND TRANSFERS

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget and Capital Improvement Program for the 2008-09 Fiscal Year to the Finance Committee on May 19, 2008, and

WHEREAS, the Finance Committee reviewed the Proposed Operating Budget and Capital Improvement Program in a series of televised public workshops on May 19, 20, 21, and 22, 2008 and

WHEREAS, the Finance Committee recommended modifications to the Proposed Operating Budget and Capital Improvement Program and has forwarded said recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was held on May 27, 2007, during which the City Council considered the recommendations of the Finance Committee relating to the Proposed Operating Budget and the Capital Improvement Program, and

WHEREAS, prior to any discussion of the budgets and prior to the final adoption, the City Council by separate motion considered each CIP project that could be the source of a potential conflict of interest to one or more members of the City Council without the participation of those members, and

WHEREAS, copies of the Proposed Budget and the Capital Improvement Program have been and are available for inspection by the public at the office of the City Clerk,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. ADOPTION OF BUDGET. That the proposed operating budget, a copy of which is on file in the City Clerk's Office and as shown in Exhibits 1 through 4 (Exhibit 1 - Proposed Revenue Budget by fund, Exhibit 2 - Proposed Expense Budget by fund, Exhibit 3 - Proposed Revenue and Expense budgets with Transfers, Exhibit 4 - Proposed Transfers, In and Out, by fund), the amendments to the proposed operating budget as shown in Exhibit 5, the Finance Committee Recommendations as shown in Exhibit 6, are hereby adopted as the Fiscal Year 2008-09 Operating Budget for the City of Modesto.

SECTION 2. ADOPTION OF BUDGET CONTROLS/FINANCIAL POLICIES. That the Financial Policies for budgetary control and authority as shown in Exhibit 7 and incorporated herein by reference is hereby adopted for the Fiscal Year 2008-09.

SECTION 3. ADOPTION OF CAPITAL IMPROVEMENT PROGRAM. That the Capital Improvement Program, a copy of which is on file in the City Clerk's office and shown in Exhibits 8 and 9 (Exhibit 8 - CIP Revenue Budget by fund, Exhibit 9 - CIP Expense Budget by fund) and other amounts previously approved for spending on Capital Improvement Projects are hereby adopted as the 2008-09 Capital Improvement Program for the City of Modesto.

SECTION 4. MULTI-YEAR OPERATING PROGRAMS. That unexpended funds previously approved and appropriated in Multi-Year Programs are hereby re-appropriated for the programs for which they were originally authorized, and any proposed increases or decreases in revenue and expense budgets as identified in Exhibit 10 shall be part of the Budget for the Fiscal Year 2008-09 adopted hereby.

SECTION 6. COUNCIL POLICIES. That the Policy Issues outlined in the 2008-09 Proposed Operating Budget have been reviewed.

SECTION 7. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go in effect and be in full force and operation immediately upon adoption.

SECTION 8. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, by Councilmember _____, who moved its adoption, and passage to print, which motion being duly seconded by Councilmember _____, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2008 - ?**

A RESOLUTION APPROVING BUDGET GOALS AND BUDGET PRINCIPLES AS OUTLINED IN THE MAYOR'S BUDGET MESSAGE AND RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2008-09 BUDGET DEVELOPMENT PROCESS.

WHEREAS, as part of the Mayor's Proposed Budget for FY 2008-09, the Mayor included Proposed Budget Goals and Budget Principles for the Council's consideration, and

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, in the development of the FY 2008-09 operating budget, the Finance Committee reviewed and recommended for City Council consideration the attached Proposed Budget Goals and Budget Principles,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Proposed Budget Goals and Budget Principles as shown in Exhibits A and B.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2008 - ???**

A RESOLUTION APPROVING THE AMENDMENT OF THE 2007-08
GENERAL FUND BUDGET TO MAINTAIN THE CITY'S 8%
GENERAL FUND POLICY RESERVE

WHEREAS, staff has reviewed the year-to-date revenue and expenditure projections for the 2007-08 fiscal year, and

WHEREAS, the Interim City Manager requested all department heads to review their operating budgets and provide further reductions that would not result in reductions in force or reduced service levels, and

WHEREAS, the Mayor has identified revenue enhancement and expenditure reduction items shown in Exhibit A, which is incorporated by reference herein, and

WHEREAS, staff made presentations to the Finance Committee during the public hearings held during the week of May 19, 2008 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department has informed the Finance Committee that due to current economic conditions, the City's projected General Fund revenue and expenditure forecasts must be adjusted to reflect current economic trends and maintain the 8% General Fund Reserve Policy, and

WHEREAS, the Finance Committee reviewed the proposed revenue and expenditure adjustments including those put forth by the Mayor and has forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approve the following:

REVENUE AND EXPENDITURE BUDGET ADJUSTMENTS. That the proposed adjustments to the General Fund revenues and expenditures, which incorporate the Mayor's recommendations, shown in the column labeled "2007-2008 Projected 4/30/08" in the attached proforma, which is incorporated by reference herein, shall be approved.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the steps necessary to implement the approved budget adjustments shown in the attached proforma.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, by Councilmember ?, who moved its adoption, which motion is being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Attest: _____
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

**FY 2008-09
DRAFT GENERAL FUND PROFORMA**

			2005-06	2006-07	2007-08	2007-08	2008-09
B	C	D	E	F	G	H	
	Draft 05-02-08 6e	Actual	Actual	Adopted	Projected 04/30/2008	Mayor's Proposed 04/30/2008	
1	REV	BEGINNING FUND BALANCE	\$20,415,059	\$21,665,322	\$12,686,043	\$12,147,386	\$10,463,668
2	REV	Projected Dept. Savings		\$0	\$3,885,735	\$625,000	\$625,000
3							
4		REVENUES - ONGOING					
5	REV	Sales Tax	\$29,627,907	\$27,884,852	\$29,420,526	\$26,938,062	\$26,726,430
6	REV	Property Tax	\$14,318,747	\$16,456,379	\$18,056,366	\$16,100,367	\$16,115,503
7	REV	VLF Flip	\$13,850,014	\$14,676,912	\$15,704,296	\$15,811,000	\$15,958,000
8	REV	Utility Users Tax	\$17,584,060	\$18,319,657	\$20,238,990	\$19,418,836	\$19,615,000
9	REV	Franchise Fees	\$2,890,805	\$2,976,772	\$3,216,342	\$3,301,401	\$4,273,751
10	REV	VLF	\$1,296,992	\$1,556,350	\$1,657,399	\$1,150,000	\$1,259,190
11	REV	Business License/Mill Tax	\$10,374,157	\$10,359,058	\$11,155,380	\$10,800,000	\$10,970,111
12	REV	Transient Occupancy Tax	\$2,181,467	\$2,264,699	\$2,301,737	\$2,200,000	\$2,222,000
13	REV	Construction Related	\$3,528,268	\$3,035,439	\$3,351,181	\$3,065,793	\$3,255,850
14	REV	Other GF Rev	\$18,036,926	\$18,587,002	\$18,414,824	\$19,979,761	\$20,656,307
15		Sub-total Ongoing Rev.	\$113,689,343	\$116,117,120	\$123,517,041	\$118,765,220	\$121,052,142
16							
		REVENUES - ADDITIONAL					
	REV	Additional Revenues	\$1,120,832	\$1,815,561	\$885,000	\$0	
19	REV	RDA Loan Repayment (Gallo Center)				\$1,324,000	\$0
20	REV	Transfers In	\$2,111,925	\$2,437,022	\$3,387,375	\$6,557,376	\$4,684,937
21		Sub-total Add'l Rev.	\$3,232,757	\$4,252,583	\$4,272,375	\$7,881,376	\$4,684,937
22							
23	REV	Total Revenues	\$116,922,100	\$120,369,703	\$127,789,416	\$126,646,596	\$125,737,079
24							
25		GRAND TOTAL RESOURCES	\$137,337,159	\$142,035,025	\$144,361,194	\$139,418,982	\$136,825,747
26							
27		EXPENDITURES					
28	EXP	Non-Department	(\$1,468,427)	(\$2,353,010)	(\$1,552,951)	(\$1,271,432)	(\$2,025,859)
29	EXP	City Council	(\$194,297)	(\$181,554)	(\$208,136)	(\$251,580)	(\$482,063)
30	EXP	City Council (Measure M)				(\$70,000)	(\$45,000)
31	EXP	City Manager	(\$1,059,052)	(\$1,258,507)	(\$1,319,994)	(\$1,368,704)	(\$1,188,243)
32	EXP	Personnel	(\$1,382,206)	(\$1,587,680)	(\$1,801,796)	(\$1,809,071)	(\$1,712,260)
33	EXP	City Attorney	(\$2,898,489)	(\$1,845,850)	(\$2,099,775)	(\$2,192,019)	(\$2,131,027)
34	EXP	City Clerk	(\$476,692)	(\$613,562)	(\$715,184)	(\$681,292)	(\$402,275)
35	EXP	Office of the Auditor				\$0	(\$437,427)
36	EXP	Info. Technology	(\$56,277)	(\$3,401)	(\$66,500)	(\$106,136)	\$0
37	EXP	Finance	(\$5,845,693)	(\$6,161,685)	(\$6,563,346)	(\$6,304,968)	(\$6,634,481)
38	EXP	Community & Econ. Dev.	(\$5,201,794)	(\$5,362,327)	(\$7,992,486)	(\$8,018,214)	(\$7,770,469)
39	EXP	Fire	(\$23,865,064)	(\$26,623,750)	(\$27,663,900)	(\$27,856,281)	(\$26,996,800)
40	EXP	Police	(\$48,560,335)	(\$52,371,555)	(\$55,989,148)	(\$54,392,512)	(\$53,877,465)
41	EXP	Parks, Rec. & Neighborhoods	(\$11,560,029)	(\$12,144,004)	(\$13,141,754)	(\$12,863,160)	(\$11,965,370)

**FY 2008-09
DRAFT GENERAL FUND PROFORMA**

			2005-06	2006-07	2007-08	2007-08	2008-09
A	B	C	D	E	F	G	H
		Draft 05-02-08 6e	Actual	Actual	Adopted	Projected 04/30/2008	Mayor's Proposed 04/30/2008
42	EXP	Public Works	(\$1,719,587)	(\$6,383,524)	(\$5,257,639)	(\$5,510,474)	(\$4,400,615)
43		Department Operating Expenditures	(\$104,287,942)	(\$116,890,409)	(\$124,372,609)	(\$122,695,843)	(\$120,069,354)
44							
45		ADJUSTMENTS					
46	EXP	MOU (set-aside for MCEA)				(\$216,000)	(\$216,000)
47	EXP	Fund 1300 Sp Fnd Road Maint		(\$1,800,000)			
48	EXP	PD Personnel (Grants Expiring)					(\$132,216)
49	EXP	PD Towing Expense Budget					
50		Sub-total Adj	\$0	(\$1,800,000)	\$0	(\$216,000)	(\$348,216)
51							
52	EXP	Transfers Out	(\$9,739,702)	(\$10,539,933)	(\$9,343,798)	(\$7,853,471)	(\$7,338,228)
53							
54		GRAND TOTAL EXPENDITURES	(\$114,027,644)	(\$129,230,342)	(\$133,716,407)	(\$130,765,314)	(\$127,755,798)
55							
56		ENDING FUND BALANCE	\$23,309,515	\$12,804,683	\$10,644,787	\$8,653,668	\$9,069,949
57		Reduce Restriction	(\$1,644,193)	(\$657,297)	\$100,000	\$60,000	
58		Fleet Loan Adjustment				\$1,750,000	
59							
60		UNRESTRICTED BALANCE	\$21,665,322	\$12,147,386	\$10,744,787	\$10,463,668	\$9,069,949
61							
62		Reserve at 8%	(\$9,122,212)	(\$10,338,427)	(\$10,744,787)	(\$10,461,225)	(\$10,220,464)
63		Excess (Def.) to 8% policy	\$12,543,110	\$1,808,959	(\$0)	\$2,443	(\$1,150,515)
64			19.0%	9.4%	8.0%	8.0%	7.1%
65							
66		Reserve at 7%					(\$8,942,906)
67		Excess (Def.) to 7% policy					\$127,043
68							7.1%
69							
70							
71							
72							
73	**** Potential Revenue/Expense Reductions/Comments						
74	Cost for Animal Shelter not included in GF Proforma						
75	PD Revenue - Prop 172 Sales Tax Alloc of \$775k may be held by State in FY 2008-09						
76	Cost of potential future litigation not shown in GF Proforma						

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
General Fund (0100)	
Property Taxes	
1101 CURRENT YR SECURED TAXES	14,141,328
1105 DELINQUENT TAXES-UNSECURED	30,300
1107 CURRENT YR UNSECURED TAXES	642,875
1110 SUPPLEMENTAL ROLL	790,000
1116 IN-LIEU PROPERTY TAX	6,000
1119 PROPERTY TRANSFER TAX	505,000
Total	16,115,503
Sales & Related Taxes	
1201 SALES AND USE TAX	19,860,348
1202 TRIPLEFLIP SALES TAX	6,866,082
1204 UTILITY USERS TAX	19,615,000
1210 TRANSIENT OCCUPANCY TAX	2,222,000
Total	48,563,430
Franchises	
1301 CABLE TV FRANCHISE	1,564,000
1304 PG&E FRANCHISE	535,000
1305 PG&E FRANCHISE SURC (SB278)	127,045
1307 GARBAGE SVC AGREEMENT FEE	1,572,506
1313 RAILROAD FRANCHISE	6,200
1314 FRANCHISE FEE-CITY TOWING	360,000
Total	4,164,751
Business License Tax	
1401 BUSINESS LICENSE REGISTRATION	983,904
1404 BUSINESS LICENSE MILL TAX	9,986,207
Total	10,970,111
Licenses & Permits	
2101 BICYCLE LICENSE	500
2202 VARIOUS POLICE PERMITS	20,000
2203 "PERMITS VENDORS,FILMING "	100
2207 REMOVAL PERMITS	11,000
2210 ENCROACHMENT PERMITS	40,200
2213 STRT CLOSURE & ABANDONMENT FEE	5,900
2214 OUTDOOR PROMO/SALES PERMITS	12,000
Total	89,700
Intergovernmental	
3104 HOMEOWNER PRPTY TAX EXEMP REPL	217,299
3118 ABANDONED VEHICLE ALLOC	150,000
3119 MOTOR VEHICLE LICENSE FEES	1,109,190
3121 VLF SWAP ADJ	15,958,000
3128 POLICE TRAINING REIMB-POST	175,000
3172 PROP 172 SALES TAX ALLOCATION	775,000
3173 MCHENRY TAX SHARING AGREEMENT	1,261,000
3220 HI TECH TASK FORCE	90,000
3312 COUNTY VEHICLE THEFT ALLOC	101,000
3325 CTY HSG AUTH OFFICER REIMB	48,000
3706 JPA ADMINISTRATION FEES	42,034

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
General Fund (0100)	
<hr/>	
Intergovernmental	
3727 SCHOOL POLICE REIMB	480,000
3730 SCHOOL DISTRICT CONTRIBUTIONS	100,000
3765 WEED AND SEED	40,000
4962 EQUIPMENT RENTAL	4,750
Total	20,551,273
Construction Related Fees	
4000 MAP CHECKING FEES	23,091
4001 BUILDING FEE- ALL INCLUSIVE	704,588
4002 BUILDING INSPECTIONS	1,017,805
4003 PLUMBING INSPECTIONS	87,149
4004 ELECTRICAL INSPECTIONS	135,582
4005 HEATING/COOLING CODE INSPECT	113,490
4006 MOBILE HOME INSPECTIONS	14,236
4007 PLAN CHECKING FEES	541,405
4008 ZONING FEES	124,111
4009 ENVIRONMENTAL IMPACT FEES	8,100
4010 PLOT PLAN REVIEW FEES	54,617
4011 SUBDIVISION APPLIC/DEVELOPMEM	339,161
4012 ANNEXATION FEE	30,904
4014 EARTHQUAKE EDUC FEE	6,340
Total	3,200,578
Police & Fire Department Charges	
4021 EXTRADITION REIMB	45,000
4024 FINGERPRINT FEES	5,000
4025 CONTRACT POLICE SERVICES	200,000
4027 LIVE SCAN	110,000
4028 VEHICLE RELEASES-PD	250,000
4029 SAFETY RESPONSE REIMB	80,000
4030 REPOSITION RELEASE	4,500
4032 HOOD & DUCT INSTALLATION	1,700
4033 MEDICAL GAS SYS INSTALLATION	300
4035 UNDERGRD FLAM/COMB STOR TANK	700
4037 PLAN CHECK	90,000
4039 SPRINKLER SYSTEM	25,000
4042 INDUSTRIAL FIRE CONTRACT	286,000
4043 FALSE ALARM RESPONSE FEE	3,000
4061 POLICE SERVICES REIMBURSEMENT	207,000
4062 YCCD TRAINING PARTNERSHIP	130,000
Total	1,438,200
Highway & Streets Maintenance	
4050 SFRA INVESTIGATIONS CONTRACT	496,927
4060 POLICE SMART... REIMBURSEMENT	30,000
Total	526,927
Recreation & Neighborhood Fees	
1319 JOHN THURMAN FLD FRANCHISE	105,000
1325 PARK CONCESSIONS	4,000
4064 CONTRACT TREE WORK	1

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
General Fund (0100)	
Recreation & Neighborhood Fees	
4065 COMMERCIAL LANDSCAPE FEE	30,000
4066 PARKS RESERVATION FEES	48,000
4068 YOUTH SERVICES PROGRAM FEE	50,019
4069 NPU RE-INSPECTIN FEES	9,000
4071 SWIMMING POOL FEES	65,300
4072 LEAGUE FEES	183,000
4074 MISCELLANEOUS RECREATION	214,400
4081 SERVICES - CENTER PLAZA	2,000
6208 JOHN THURMAN FIELD RTL	4,000
6209 BALLFIELD RENTAL	21,500
6211 MCHENRY MUSEUM FEES	1,000
6215 MCHENRY MANSION RENTAL	25,000
6216 MANCINI BOWL RENTAL	6,300
6228 SENIOR CITIZENS CENTER RENTAL	5,000
8123 SPEC EVENTS INSURANCE	250
Total	773,770
Other Fees & Charges	
4085 SALARY REIMBURSEMENT AGREEMENT	27,074
4087 PAYOFF DEMAND FEE	
4091 REVENUE BOND ADMIN FEES	30,000
4092 COPYING FEES	17,249
4093 CITY BILLING FEES	667,646
4095 MISC SPECIAL SERVICE	526,803
Total	1,268,772
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	441,000
6201 LEASE OF LAND	76,000
6202 SIDEWALK PROPERTY USE FEE	500
6219 CITY BUILDING RENTAL-RDA	30,000
6225 BUILDING/ROOM RENTAL - OTHER	13,600
Total	561,100
Fines	
7101 GENERAL CITY FINES	220,000
7113 PARKING FINES	1,000,000
7120 COMPLIANCE ORDER FINE (NPU)	70,000
Total	1,290,000
Miscellaneous Revenue	
4154 FIRE ALARM	15,000
4155 SITE PLAN REVIEW	2,500
4156 INSPECTION	3,000
4240 OUTSIDE CITY WATER AGREEMENT	1,000
4340 OUTSIDE CITY SEWER AGREEMENTS	5,000
4908 INDIRECT COST RECOVERY	2,543,746
4909 INTERFUND LABOR CHARGES	7,026,628
5101 SPECIAL ASSESSMENTS	31,000
8101 SALE OF REAL PROPERTY	830,000
8104 SALE OF PERSONAL PROPERTY	10,000

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
General Fund (0100)	
<hr/>	
Miscellaneous Revenue	
8107 DONATIONS	102,001
8110 JURY AND SUBPOENA FEES	2,000
8114 EVIDENCE RELEASE	2,000
8115 VENDING COMMISSIONS	1,360
8117 NEAT PROGRAM RECEIPTS	20,000
8122 "REFUNDS,DAMAGES&COST RECOVERY "	66,501
8131 CASHIER OVERAGE	400
8132 DEPOSIT OVER/SHORT	1,500
8133 ALS CONTRACT	72,000
8134 RETURNED CHECK CHARGE	8,000
8137 SALE-CONST CODES AND SPECIFICA	1,193
8143 ITEMS FOR RESALE	13,825
8155 MISCELLANEOUS REVENUE	353,582
8173 REIMBURSEMENT - RDA	250,000
8174 REIMBURSEMENT - EMERG COMM CTR	175,790
8202 SALE OF FIXED ASSETS	
Total	11,538,026
Total General Fund (0100)	121,052,142

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Capital Improvement Support (0300)	
Licenses & Permits	
2210 ENCROACHMENT PERMITS	60,000
Total	60,000
Construction Related Fees	
4011 SUBDIVISION APPLIC/DEVELOPMEM	30,000
Total	30,000
Miscellaneous Revenue	
4158 TIME AND MATERIALS INSPECTION	45,000
4159 LEGAL DESCRIPTION CHECK	1
4162 STAKING SERVICES	1
4909 INTERFUND LABOR CHARGES	3,613,313
8155 MISCELLANEOUS REVENUE	8,513
Total	3,666,828
Total Capital Improvement Support (0300)	3,756,828

Solid Waste Fund (0310)

Intergovernmental	
3316 AB939 REIMBURSEMENT	270,000
3765 WEED AND SEED	3,586
Total	273,586
Other Fees & Charges	
4096 RES RECYCLE FEE	170,000
4097 COM RECYCLE FEE	56,500
4098 IND RECYCLE FEE	6,500
4108 RECYCLING PUB ED	50,000
4109 HAULERS FEES	1,000
Total	284,000
Fines	
7120 COMPLIANCE ORDER FINE (NPU)	1,500
Total	1,500
Miscellaneous Revenue	
4100 COMPOST BIN REIMBURSEMENT	500
4909 INTERFUND LABOR CHARGES	81,515
8103 WASTE ENERGY PROJECT RECOVERY	235,046
8107 DONATIONS	14,000
8155 MISCELLANEOUS REVENUE	1,500
8169 INK JET MISCE REVENUE	200
Total	332,761
Total Solid Waste Fund (0310)	891,847

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Education-Govt Communication (0320)	
<hr/>	
Franchises	
1301 CABLE TV FRANCHISE	150,000
Total	150,000
Miscellaneous Revenue	
8145 ACCESS MODESTO/PARTNERSHIP	131,500
Total	131,500
Total Education-Govt Communication (0320)	281,500

Elections/Outside Litigation (0350)

Intergovernmental	
3732 MCS ELECTIONS REIMBURSEMENT	
Total	
Total Elections/Outside Litigation (0350)	

Carpenter Landfill

Other Fees & Charges	
4097 COM RECYCLE FEE	118,500
4098 IND RECYCLE FEE	20,500
4099 CARPENTER ROAD LANDFILL REV	174,000
Total	313,000
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	
Total	
Total Carpenter Landfill	313,000

Police Outside Agreement (0420)

Intergovernmental	
3313 HIGH RISK OFFENDER & JUV COURT	108,264
Total	108,264
Total Police Outside Agreement (0420)	108,264

Traffic Safety Fund (0600)

Police & Fire Department Charges	
4028 VEHICLE RELEASES-PD	100,000
Total	100,000

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Traffic Safety Fund (0600)	
<hr/>	
Fines	
7110 MOTOR VEHICLE FINES AND FORFTS	1,550,000
Total	1,550,000
Total Traffic Safety Fund (0600)	
	1,650,000
Streets, Traffic & Forestry (0700)	
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Licenses & Permits	
2211 TRENCH CUT FEES	8,000
2213 STRT CLOSURE & ABANDONMENT FEE	200
Total	8,200
Intergovernmental	
3110 S & H CS 2106B	750,000
3120 S & H CS 2105	800,000
3122 S & H CS 2107.5	10,000
3125 S & H CS 2107	1,300,000
3138 STATE SHARE OF STREET PROJECTS	
3139 State Traffic Sustum Mgmt Grant	
3203 PROP 1B STREET/ROADS GRT	844,126
3230 PROP42 AB438 TRAF CONGEST RELF	137,970
3504 FEDERAL SHARE OF PROJECTS	
Total	3,842,096
Construction Related Fees	
4008 ZONING FEES	20,000
4009 ENVIRONMENTAL IMPACT FEES	5,000
4010 PLOT PLAN REVIEW FEES	6,000
4011 SUBDIVISION APPLIC/DEVELOPMEM	2,000
4012 ANNEXATION FEE	400
4013 CANAL CROSSING FEE	
4019 SUBDIVISION INSPECTIONS	500
Total	33,900
Police & Fire Department Charges	
4063 TRAF SIGNAL MAINT - RIVERBANK	1,500
Total	1,500
Highway & Streets Maintenance	
4051 TRAF SIG MTC/SWEEP-STATE HWYS	32,000
4052 TRAF SIG MTC AGMT-COUNTY	34,000
4053 FORCED CONSTRUCTION REIMB	500
4054 ALLEY IMPROVEMENTS REIMBURSE	
4055 STREET NAME SIGNS	2,000
4057 DANGEROUS BUILDING FEE	
4059 TRAF SIGNAL MTC AGMT- CERES	19,000
Total	87,500
Interest & Rent	
6100 CHANGE IN FAIR VALUE OF INVEST	
6101 INTEREST ON BANK ACCOUNTS	40,000

Proposed Revenue Estimate - Fiscal Year 2008-2009

		Revenue Estimate
Streets, Traffic & Forestry (0700)		
<hr/>		
Interest & Rent		
6225 BUILDING/ROOM RENTAL - OTHER		
Total		40,000
Miscellaneous Revenue		
4158 TIME AND MATERIALS INSPECTION		200
4160 RECIPRICAL ACCESS AGREEMENT		200
4161 RIGHT OF WAY ABANDONMENT		200
4909 INTERFUND LABOR CHARGES		839,610
8122 "REFUNDS,DAMAGES&COST RECOVERY "		12,100
8155 MISCELLANEOUS REVENUE		4,001
8301 OTHER FINANCING SOURCES		
Total		856,311
Total Streets, Traffic & Forestry (0700)		4,869,507

Downtown Improvement Dist (0900)

Business License Tax		
1410 BUSINESS LICENSE MILL TAX-DID		226,878
Total		226,878
Interest & Rent		
6101 INTEREST ON BANK ACCOUNTS		600
Total		600
Total Downtown Improvement Dist (0900)		227,478

CDBG - Direct Program (1130)

Intergovernmental		
3513 CDBG ENTITLEMENT		2,326,124
Total		2,326,124
Interest & Rent		
6101 INTEREST ON BANK ACCOUNTS		62,541
Total		62,541
Miscellaneous Revenue		
4909 INTERFUND LABOR CHARGES		245,107
6301 DIRECT LOAN PRINCIPAL		50,000
Total		295,107
Total CDBG - Direct Program (1130)		2,683,772

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
<u>Housing Loan Program (1150)</u>	
Interest & Rent	
6104 DIRECT LOAN INTEREST	200,000
Total	200,000
Total Housing Loan Program (1150)	200,000
<u>Home Program (1170)</u>	
Intergovernmental	
3517 HOME ENTITLEMENT	1,191,050
Total	1,191,050
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	17,549
Total	17,549
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	8,351
6301 DIRECT LOAN PRINCIPAL	50,000
Total	58,351
Total Home Program (1170)	1,266,950
<u>Emergency Shelter Program (1180)</u>	
Intergovernmental	
3518 ESG (EMERGENCY SHELTER GRANT)	104,243
3520 ESG CARRYOVER	6,315
Total	110,558
Total Emergency Shelter Program (1180)	110,558
<u>Admin Capital Facility Fee Fund (1390)</u>	
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	5,000
Total	5,000
Miscellaneous Revenue	
4152 CFF SEPT. 03	5,000
4153 CFF SEPT. 03 COUNTY SPHERE	2,000
4166 CFF MAR. 06	100,000
4167 CFF MAR. 06 COUNTY SPHERE	15,000
Total	122,000
Total Admin Capital Facility Fee Fund (1390)	127,000

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Village One (2600)	
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Miscellaneous Revenue	
5302 CFD ANNUAL MAINTENANCE TAX	325,000
Total	325,000
Total Village One (2600)	325,000
Fairview Village (2640)	
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Miscellaneous Revenue	
5301 CFD ONE-TIME CAPITAL TAX	130,000
Total	130,000
Total Fairview Village (2640)	130,000
CFD Fairview Village-Debt Service (2642)	
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Miscellaneous Revenue	
5303 CFD ANNUAL SPECIAL TAXES	350,000
8155 MISCELLANEOUS REVENUE	30,000
Total	380,000
Total CFD Fairview Village-Debt Service (2642)	380,000
CFD - Village 1 #2 (2690)	
<hr/>	
Miscellaneous Revenue	
5302 CFD ANNUAL MAINTENANCE TAX	560,000
Total	560,000
Total CFD - Village 1 #2 (2690)	560,000
CFD Village 1 #2 - Debt Service (2692)	
<hr/>	
Miscellaneous Revenue	
5303 CFD ANNUAL SPECIAL TAXES	2,100,000
8155 MISCELLANEOUS REVENUE	10,000
Total	2,110,000
Total CFD Village 1 #2 - Debt Service (2692)	2,110,000
Kiernan Business Park West (2720)	
<hr/>	
Miscellaneous Revenue	
5301 CFD ONE-TIME CAPITAL TAX	374,191

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Kiernan Business Park West (2720)	
<hr/>	
Miscellaneous Revenue	
5302 CFD ANNUAL MAINTENANCE TAX	130,600
Total	504,791
Total Kiernan Business Park West (2720)	504,791
Kiernan Business Park South (2730)	
<hr/>	
Construction Related Fees	
4048 CFD FORMATION FEE	64,500
Total	64,500
Total Kiernan Business Park South (2730)	64,500
Coffee-Claratina (2800)	
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Miscellaneous Revenue	
5302 CFD ANNUAL MAINTENANCE TAX	158,000
Total	158,000
Total Coffee-Claratina (2800)	158,000
Infrastructure Fin Prgm Admin (2900)	
<hr/>	
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	284,817
Total	284,817
Total Infrastructure Fin Prgm Admin (2900)	284,817
Parking Fund (6000)	
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Interest & Rent	
6201 LEASE OF LAND	105,900
Total	105,900
Miscellaneous Revenue	
4101 OFF-STREET PARKING	110,000
4102 PARKING AGREEMENT REVENUE	175,000
4103 VALIDATED LOTS	1,059,233
4909 INTERFUND LABOR CHARGES	31,045
8155 MISCELLANEOUS REVENUE	10,000
Total	1,385,278
Total Parking Fund (6000)	1,491,178

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Water Operations (6100)	
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Franchises	
1307 GARBAGE SVC AGREEMENT FEE	2,800
Total	2,800
Other Fees & Charges	
4111 DESTRCT INSPCT PERMIT FEES	1
Total	1
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	500,000
6201 LEASE OF LAND	20,000
6225 BUILDING/ROOM RENTAL - OTHER	3,780
Total	523,780
Miscellaneous Revenue	
4163 WATER SUPPLY ANALYSIS	5,000
4201 WATER SALES-FLAT RATE	32,104,156
4202 WATER SALES-METERED	20,261,564
4210 UTILITY MISC FEES - CLEARING	1,561,015
4909 INTERFUND LABOR CHARGES	367,662
8122 "REFUNDS,DAMAGES&COST RECOVERY "	15,000
8155 MISCELLANEOUS REVENUE	
8202 SALE OF FIXED ASSETS	1
Total	54,314,398
Total Water Operations (6100)	54,840,979

Water Development Fees (6101)

Miscellaneous Revenue	
4250 WATER SYSTEMS FEE	2,300,000
4251 WATER TAPS AND CONNECTIONS	500,000
4252 FIRE HYDRANT CONNECTION FEES	45,000
4253 WATER METER SALES	150,000
Total	2,995,000
Total Water Development Fees (6101)	2,995,000

Wastewater Fund (6210)

Franchises	
1307 GARBAGE SVC AGREEMENT FEE	1
Total	1
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	150,000
6102 TRUSTEE INTEREST/INV EARNINGS	150,000
6201 LEASE OF LAND	58,000
Total	358,000
Miscellaneous Revenue	
4301 RESIDENTIAL SEWER SERVICE	21,838,336

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Wastewater Fund (6210)	
Miscellaneous Revenue	
4304 COMMERCIAL SEWER SERVICE	5,346,002
4307 EMPIRE SANITARY DISTRICT	394,841
4310 SEPTIC TANK PUMPING	600,000
4313 INDUSTRIAL SEWER SERVICE	12,489,062
4355 LAB FEES	50,000
4909 INTERFUND LABOR CHARGES	948,539
8122 "REFUNDS,DAMAGES&COST RECOVERY "	1,000
8155 MISCELLANEOUS REVENUE	2,500
Total	41,670,280
Total Wastewater Fund (6210)	42,028,281

Wastewater Development Fees (6211)

Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	108,000
Total	108,000
Miscellaneous Revenue	
4351 SEWER RECOVERY	39,000
4352 SEWER CONNECTION CHARGE	500,000
4353 SUBTRUNK EXTENSION CHARGE	123,220
Total	662,220
Total Wastewater Development Fees (6211)	770,220

Storm Drainage Fund (6280)

Franchises	
1307 GARBAGE SVC AGREEMENT FEE	1
Total	1
Highway & Streets Maintenance	
4051 TRAF SIG MTC/SWEEP-STATE HWYS	21,076
Total	21,076
Miscellaneous Revenue	
4370 STORM DRAINAGE FEES	5,130,000
4383 PRUNED REFUSE REMOVAL	
4909 INTERFUND LABOR CHARGES	138,290
8122 "REFUNDS,DAMAGES&COST RECOVERY "	2
8155 MISCELLANEOUS REVENUE	1,001
8170 FEMA FLOODS/STORMS REVENUE	
8171 OES FLOODS/STORMS REVENUE	
Total	5,269,293
Total Storm Drainage Fund (6280)	5,290,370

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Compost Operations (6290)	
Interest & Rent	
6100 CHANGE IN FAIR VALUE OF INVEST	10,000
Total	10,000
Miscellaneous Revenue	
4380 COMPOST SALES	380,862
4382 CO-COMPOST SALES	20,000
4387 STOCKTON TIP FEES	250,000
4388 TIP FEE PRUNED REFUSE/FORESTRY	100,000
4390 TIP FEE HAULERS	675,000
Total	1,425,862
Total Compost Operations (6290)	1,435,862

Airport Operating Fund (6310)

Property Taxes	
1113 AIRCRAFT TAXES	210,000
Total	210,000
Business License Tax	
1401 BUSINESS LICENSE REGISTRATION	550
1404 BUSINESS LICENSE MILL TAX	30,000
Total	30,550
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	17,000
6201 LEASE OF LAND	130,000
6225 BUILDING/ROOM RENTAL - OTHER	40,000
Total	187,000
Miscellaneous Revenue	
4401 SPECIAL CONCESSIONS	6,000
4402 AIRPORT KEY REVENUE	250
4404 GALLONAGE	67,675
4405 PASSENGER FACILITY CHARGE	
4408 PAX SKY TREK	
4410 AIRPORT CAR RENTAL	139,000
4413 AIRPORT HANGAR RENTAL	335,000
4414 AIRPORT HANGAR RENTAL-NEW	1
4416 AIRPORT LANDING FEES	26,050
4419 AIRCRAFT TIE-DOWN FEES	5,000
8125 TELEPHONE REFUNDS	
8146 AIRLINE SECURITY REIMBURSEMENT	1,200
8155 MISCELLANEOUS REVENUE	600
Total	580,776
Total Airport Operating Fund (6310)	1,008,326

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
County Aircraft Tax (6330)	
Intergovernmental	
3404 COUNTY AIRPORT CAP CONTR	184,000
Total	184,000
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	19,000
Total	19,000
Total County Aircraft Tax (6330)	203,000

Bus Service - DAR (6520)

Intergovernmental	
3158 LTF-CURRENT YEAR	1,583,179
3554 FTA5307 CA-90-Y568 GRANT	1,117,400
Total	2,700,579
Interest & Rent	
6100 CHANGE IN FAIR VALUE OF INVEST	1
6101 INTEREST ON BANK ACCOUNTS	1
Total	2
Miscellaneous Revenue	
4501 PASSENGER REV-DIAL-A-RIDE	195,000
Total	195,000
Total Bus Service - DAR (6520)	2,895,581

Transportation Center (6530)

Intergovernmental	
3158 LTF-CURRENT YEAR	337,734
3554 FTA5307 CA-90-Y568 GRANT	327,546
Total	665,280
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	1
6125 TELEPHONE COMMISSIONS	6,000
6201 LEASE OF LAND	86,000
Total	92,001
Miscellaneous Revenue	
8115 VENDING COMMISSIONS	4,000
Total	4,000
Total Transportation Center (6530)	761,281

Bus Fixed Route MAX Operations (6540)

Intergovernmental	
3158 LTF-CURRENT YEAR	1,142,027

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Bus Fixed Route MAX Operations (6540)	
Intergovernmental	
3161 STAF-TRANSIT OPERATING GRANT	5,483,008
3554 FTA5307 CA-90-Y568 GRANT	1,554,710
Total	8,179,745
Miscellaneous Revenue	
4504 CASH FARES & DAILY PASSES	1,311,610
4507 STUDENT PASSES-MONTHLY	171,992
4508 BART EXPRESS PASSES	134,972
4510 E-H PASSES-MONTHLY	199,192
4511 E-H TICKET BOOKS	39,692
4514 STUDENT TICKET BOOKS	23,899
4519 REG RIDE BOOK SALES	144,540
4522 REGULAR MONTHLY BUS PASSES	315,931
4530 COUNTY EMPLOYEE FARE REIMBRSMT	13,675
4909 INTERFUND LABOR CHARGES	116,364
8148 BUS ADVERTISING	150,000
8149 BUS BENCH ADVERTISING	10,000
Total	2,631,867
Total Bus Fixed Route MAX Operations (6540)	10,811,612

Bus Fixed Route-Alt Transport (6550)

Intergovernmental	
3158 LTF-CURRENT YEAR	9,931
3532 FEDERAL TEA-21 RSTP	76,655
Total	86,586
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	1
Total	1
Total Bus Fixed Route-Alt Transport (6550)	86,587

Golf Fund (6600)

Recreation & Neighborhood Fees	
4076 GOLF TEAM ROUNDS	16,000
4601 MUNI GREEN FEES	356,345
4602 DRYDEN GREEN FEES	886,782
4603 CREEKSIDE GREEN FEES	957,830
4604 ANNUAL MEMBERSHIP FEE	9,000
4605 FIRST TEE GREEN FEES	600
4606 NCGA GREEN FEES	2,400
4620 PRO SHOP MONTHLY RENT	60,000
4621 PRO SHOP/CONCESS PERCENT RENT	5,000
Total	2,293,957
Interest & Rent	
6102 TRUSTEE INTEREST/INV EARNINGS	20,000

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Golf Fund (6600)	
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Interest & Rent	
6201 LEASE OF LAND	1,358
6203 MISCELLANEOUS LEASE	76,680
Total	98,038
Total Golf Fund (6600)	2,391,995
Centre Plaza Fund (6700)	
<hr/>	
Intergovernmental	
4962 EQUIPMENT RENTAL	60,000
Total	60,000
Recreation & Neighborhood Fees	
4081 SERVICES - CENTER PLAZA	33,000
4082 COMMISSIONS	265,000
8123 SPEC EVENTS INSURANCE	7,000
Total	305,000
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	2,000
6218 ROOM RENT - CENTER PLAZA	495,000
Total	497,000
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	158,799
Total	158,799
Total Centre Plaza Fund (6700)	1,020,799
Central Services (7100)	
<hr/>	
Intergovernmental	
4940 COPIER CHARGES	26,000
Total	26,000
Total Central Services (7100)	26,000
Inventory Purchases (7110)	
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Intergovernmental	
4945 UPS SERVICE-STORES	900
4947 STORES SURPLUS	7,000
4948 RETAIL SALES	500
4951 SALES OF INVENTORY-STORES	4,586,560
Total	4,594,960
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	500
Total	500

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Inventory Purchases (7110)	
<hr/>	
Miscellaneous Revenue	
8155 MISCELLANEOUS REVENUE	5,000
Total	5,000
Total Inventory Purchases (7110)	4,600,460
Central Services - Mail (7120)	
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Intergovernmental	
4942 MAIL CHARGES	285,176
Total	285,176
Total Central Services - Mail (7120)	285,176
Information Technology (7130)	
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Intergovernmental	
4935 TECHNOLOGY & INFORMATION SVCS	5,586,727
Total	5,586,727
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	40,000
Total	40,000
Total Information Technology (7130)	5,626,727
Fleet Management Fund (7200)	
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Intergovernmental	
4961 EQUIPMENT POOL CHARGES	4,789,231
Total	4,789,231
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	193,758
8122 "REFUNDS,DAMAGES&COST RECOVERY "	15,000
Total	208,758
Total Fleet Management Fund (7200)	4,997,989
Fleet Equipment Replacement (7210)	
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Intergovernmental	
4964 EQUIPMENT POOL-REPLACEMENT	3,934,615
Total	3,934,615
Total Fleet Equipment Replacement (7210)	3,934,615

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Insurance - Administration (7310)	
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Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	1,053,733
Total	1,053,733
Total Insurance - Administration (7310)	1,053,733
Insurance - Workers Comp (7320)	
<hr/>	
Intergovernmental	
4971 PREMIUM ASSESSMENTS	4,000,000
Total	4,000,000
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	380,000
Total	380,000
Total Insurance - Workers Comp (7320)	4,380,000
Insurance - Liability Insurance (7330)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	2,689,620
Total	2,689,620
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	164,380
Total	164,380
Miscellaneous Revenue	
8119 INSURANCE REIMBURSEMENTS	40,000
Total	40,000
Total Insurance - Liability Insurance (7330)	2,894,000
Insurance - Property Insurance (7340)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	400,031
Total	400,031
Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	15,000
Total	15,000
Total Insurance - Property Insurance (7340)	415,031

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Insurance - Dental Insurance (7350)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	1,217,580
Total	1,217,580
Total Insurance - Dental Insurance (7350)	1,217,580
Insurance - Health (7360)	
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Intergovernmental	
4972 PREMIUM ASSESSMENTS-OTH	7,408,818
Total	7,408,818
Total Insurance - Health (7360)	7,408,818
Insurance - Disability (7370)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	429,378
Total	429,378
Total Insurance - Disability (7370)	429,378
Other Employee Insurance (7380)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	337,291
Total	337,291
Total Other Employee Insurance (7380)	337,291
Insurance - Vision (7390)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	331,052
Total	331,052
Total Insurance - Vision (7390)	331,052
Employee Benefits Mgmt (7510)	
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Intergovernmental	
4913 EBF LEAVE ACCRUAL	3,517,826
Total	3,517,826

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Employee Benefits Mgmt (7510)	
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Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	380,000
Total	380,000
Total Employee Benefits Mgmt (7510)	3,897,826
Employee Benefits Admin (7520)	
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Intergovernmental	
4971 PREMIUM ASSESSMENTS	275,277
Total	275,277
Miscellaneous Revenue	
8135 DEFERRED COMP ADMIN. ALLOWANCE	35,000
Total	35,000
Total Employee Benefits Admin (7520)	310,277
Building Services (7800)	
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Intergovernmental	
4910 BLDG SERVICES CHARGES	2,067,842
Total	2,067,842
Interest & Rent	
6225 BUILDING/ROOM RENTAL - OTHER	42,000
Total	42,000
Miscellaneous Revenue	
4909 INTERFUND LABOR CHARGES	10,185
Total	10,185
Total Building Services (7800)	2,120,027
JPA Building Services (8500)	
<hr/>	
Intergovernmental	
3311 COUNTY SHARE JPA COSTS	693,087
4911 CITY SHARE JPA COSTS	681,369
4912 1010 RETAIL SHARE JPA COSTS	78,800
4914 CINEMA SHARE JPA COSTS(PLAZA)	13,079
4915 1020 SHARE JPA COSTS (PLAZA)	18,331
4916 STAN CO DET-TSP MAINTENANCE	18,528
Total	1,503,194

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
JPA Building Services (8500)	
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Interest & Rent	
6225 BUILDING/ROOM RENTAL - OTHER	3,592
Total	3,592
Total JPA Building Services (8500)	1,506,786

Stanislaus Drug Enforce Agency (8850)

Intergovernmental	
3501 FEDERAL GRANT-OCJP	200,000
3702 CONTRIBUTIONS IN-KIND	1,606,441
3703 SDEA CONTRIBUTIONS OPERATIONS	562,823
Total	2,369,264
 Interest & Rent	
6101 INTEREST ON BANK ACCOUNTS	25,000
Total	25,000
 Fines	
7202 SEIZED FORFEITURES	240,000
Total	240,000
Total Stanislaus Drug Enforce Agency (8850)	2,634,264

Tuolumne River Regional Park (8900)

Intergovernmental	
3701 TRRP APPORTIONMENT	413,403
Total	413,403
 Recreation & Neighborhood Fees	
6209 BALLFIELD RENTAL	10,000
6220 PICNIC AREA RENTAL	8,000
Total	18,000
 Other Fees & Charges	
4095 MISC SPECIAL SERVICE	2,000
Total	2,000
 Interest & Rent	
6201 LEASE OF LAND	

Proposed Revenue Estimate - Fiscal Year 2008-2009

	Revenue Estimate
Tuolumne River Regional Park (8900)	
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Interest & Rent	
6225 BUILDING/ROOM RENTAL - OTHER	65,000
Total	<hr/> 65,000
Total Tuolumne River Regional Park (8900)	498,403
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General Fund Total	
All Other Funds Total	
Grand Total	318,992,458

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
City Council Department		
General Fund (0100)		
0101 City Council	482,063	
	<u>482,063</u>	
City Council Department Total		482,063
City Manager Department		
General Fund (0100)		
0201 City Manager	1,188,243	
	<u>1,188,243</u>	
City Manager Department Total		1,188,243
Personnel Department		
General Fund (0100)		
0301 Personnel	1,527,261	
0303 Training	184,376	
0310 Personnel Committees & Commission	623	
	<u>1,712,260</u>	
Insurance - Administration (7310)		
0372 Risk Management	1,053,733	
	<u>1,053,733</u>	
Insurance - Workers Comp (7320)		
6610 Workers Compensation	4,380,000	
	<u>4,380,000</u>	
Insurance - Liability Insurance (7330)		
6611 Liability Insurance	2,894,000	
	<u>2,894,000</u>	
Insurance - Property Insurance (7340)		
6612 Property Insurance	415,031	
	<u>415,031</u>	
Insurance - Dental Insurance (7350)		
6614 Dental Insurance	1,217,580	
	<u>1,217,580</u>	
Insurance - Health (7360)		
6613 Health Insurance	7,408,818	
	<u>7,408,818</u>	
Insurance - Disability (7370)		
6615 Disability Insurance	429,378	
	<u>429,378</u>	
Other Employee Insurance (7380)		
6616 Unemployment Insurance	156,706	
6617 Employee Assistance Program	25,581	
6618 Life Insurance	155,004	
	<u>337,291</u>	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Personnel Department		
Insurance - Vision (7390)		
6619 Vision Insurance	331,052	
	<u>331,052</u>	
Employee Benefits Mgmt (7510)		
6650 Leave Usage City-Wide	4,291,384	
6651 Non-Insurance Benefits City-Wide	0	
	<u>4,291,384</u>	
Employee Benefits Admin (7520)		
0351 Employee Benefits Administration	565,341	
	<u>565,341</u>	
Personnel Department	Total	25,035,868
City Attorney Department		
General Fund (0100)		
0401 City Attorney	2,131,027	
	<u>2,131,027</u>	
City Attorney Department	Total	2,131,027
City Clerk & Auditor Department		
General Fund (0100)		
0501 City Clerk	402,275	
	<u>402,275</u>	
Elections/Outside Litigation (0350)		
0504 Elections	2,700	
	<u>2,700</u>	
Central Services - Mail (7120)		
0554 Central Services Mail	287,318	
	<u>287,318</u>	
City Clerk & Auditor Department	Total	692,293
Information Technology		
General Fund (0100)		
0219 Cable Legal	0	
	<u>0</u>	
Education-Govt Communication (0320)		
0703 Education/Government Cable	263,000	
	<u>263,000</u>	
Information Technology (7130)		
0740 IT Administration	602,227	
0742 Business Application/Development Services	1,593,268	
0743 Networks/Data Center	1,885,007	
0744 Technology & Equipment Replacement	1,461,753	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Information Technology		
Information Technology (7130)		
0745 Geographic Information Systems	474,614	
	<u>6,016,869</u>	
Information Technology Total		6,279,869
Finance Department		
General Fund (0100)		
1201 Finance Administration	365,593	
1205 Budget & Financial Analysis	927,845	
1221 Cashiering	450,403	
1222 Accounting Division	1,721,416	
1223 Utilities & Collections	1,652,615	
1224 Licensing	611,349	
1225 Accounts Receivable	258,481	
1232 Purchasing	646,780	
1234 Citation Processing Services	0	
	<u>6,634,482</u>	
Central Services (7100)		
1252 Internal Service Copy	41,000	
1272 Internal Service Stores	0	
	<u>41,000</u>	
Inventory Purchases (7110)		
1272 Internal Service Stores	353,558	
8311 Internal Service Inventory Purchasing	4,246,902	
	<u>4,600,460</u>	
Finance Department Total		11,275,942

Community & Economic Development Department

General Fund (0100)	
1400 Community Development	517,789
1401 Building Safety Division	3,175,079
1408 Current Facilities Planning	395,076
1410 Planning Committees & Commission	6,894
1413 Permits	1,218,192
1421 Business Development	462,403
1430 Planning Division	1,995,035
	<u>7,770,469</u>
Econ Dev/Strategic Plan (0800)	
1422 Economic Development	4,016
1435 Housing Element Update	2,098
	<u>6,114</u>
Downtown Improvement Dist (0900)	
1442 Downtown Improvement District	226,870

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Community & Economic Development Department		
Downtown Improvement Dist (0900)		
1442 Downtown Improvement District	226,870	
	<u>226,870</u>	
Admin Capital Facility Fee Fund (1390)		
0260 CFF Administration	444,446	
	<u>444,446</u>	
Village One (2600)		
0207 CFD-Annual Maintenance Charges	535,000	
0208 CFD-One Time Capital Expenses	149,000	
	<u>684,000</u>	
Fairview Village (2640)		
0207 CFD-Annual Maintenance Charges	210,000	
	<u>210,000</u>	
CFD Fairview Village-Debt Service (2642)		
0251 CFD Bond Issuance #1	329,649	
	<u>329,649</u>	
North Beyer (2650)		
0207 CFD-Annual Maintenance Charges	9,000	
	<u>9,000</u>	
Enterprise Park 1998 (2660)		
0207 CFD-Annual Maintenance Charges	14,100	
	<u>14,100</u>	
Carver/Bangs (2670)		
0207 CFD-Annual Maintenance Charges	196,500	
	<u>196,500</u>	
CFD - Village 1 #2 (2690)		
0207 CFD-Annual Maintenance Charges	605,741	
0208 CFD-One Time Capital Expenses	35,000	
	<u>640,741</u>	
CFD Village 1 #2 - Debt Service (2692)		
0251 CFD Bond Issuance #1	1,705,983	
	<u>1,705,983</u>	
Kiernan Business Park West (2720)		
0207 CFD-Annual Maintenance Charges	130,600	
0208 CFD-One Time Capital Expenses	374,191	
	<u>504,791</u>	
Kiernan Business Park South (2730)		
0206 CFD-Formation Expenditures	64,500	
	<u>64,500</u>	
NorthPointe Village (2750)		
0207 CFD-Annual Maintenance Charges	88,000	
	<u>88,000</u>	
Coffee-Claratina (2800)		
0207 CFD-Annual Maintenance Charges	163,000	
	<u>163,000</u>	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Community & Economic Development Department		
Infrastructure Fin Prgm Admin (2900)		
0250 IFP Administration	284,817	
0270 CFD Engineering	145,596	
	<u>430,413</u>	
Community & Economic Development Department	Total	13,488,576
Fire Department		
General Fund (0100)		
1802 Administration	381,186	
1805 Planning	349,326	
1810 Finance & Logistics	1,771,233	
1815 Emergency Response Vehicle Program	709,176	
1820 Investigation	864,150	
1822 Fire Prevention	673,241	
1830 Training	276,652	
1832 Emergency Operations	21,971,836	
	<u>26,996,800</u>	
Fire Department	Total	26,996,800
Police Department		
General Fund (0100)		
1901 Police Administration	2,699,799	
1902 Communications Center	3,559,769	
1907 BEAT HEALTH	325,233	
1921 Support Services	9,283,101	
1924 Stanislaus County Drug Enforcement Unit	402,610	
1930 PD Maintenance (Training Center)	35,992	
1932 Police Activities League (PAL)	517	
1934 Citation Processing	494,019	
1941 Investigation Services	10,051,052	
1951 Police Outside Services	700,000	
1961 Operations	22,122,190	
1964 Animal Control	679,264	
1965 Abandoned Vehicle Abatement	103,387	
1966 Traffic Unit	2,616,410	
1968 Weed and Seed	130,735	
1970 Stanislaus Drug Enforcement Agency	673,387	
	<u>53,877,465</u>	
Police Outside Agreement (0420)		
2983 High Risk Offender Program	108,264	
	<u>108,264</u>	
Traffic Safety Fund (0600)		
1906 Traffic Safety	1,046,802	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Police Department		
Traffic Safety Fund (0600)		
1906 Traffic Safety	1,046,802	
	<u>1,046,802</u>	
Stanislaus Drug Enforce Agency (8850)		
1974 SDEA Grant	1,051,865	
1975 SDEA - Operating-JPA	1,581,814	
	<u>2,633,679</u>	
Police Department	Total	57,666,210
Parks, Recreation & Neighborhoods Department		
General Fund (0100)		
3001 Parks, Recreation & Neighborhoods Administration	964,140	
3120 Parks Planning & Development	362,180	
3415 John Thurman Field	459,355	
3430 Convention & Visitor Bureau	317,017	
3522 Parks Services	5,723,827	
3611 Cultural Services General	392,071	
3612 Cultural Services Museum	122,594	
3613 Cultural Services Mansion	107,938	
3622 Cultural Services Promotions	0	
3631 Landmark Preservation Commission	1,233	
3701 Youth Development	472,130	
3712 Senior and Child Services	431,026	
3713 Sports & Aquatics Services	472,315	
3731 King Kennedy Memorial Center	102,016	
3732 Maddux Youth Center	574,826	
3733 Neighborhood Center At Marshall Park	141,239	
3770 Neighborhood Preservation	816,477	
3801 Guest Services	317,671	
3850 Modesto Sister Cities Contribution	27,587	
3916 TRRP Contribution	159,728	
	<u>11,965,370</u>	
Solid Waste Fund (0310)		
4402 Solid Waste Management	840,336	
	<u>840,336</u>	
Carpenter Landfill		
4403 Carpenter Road Landfill	313,000	
	<u>313,000</u>	
CDBG Interest Subsidy Program (1120)		
3252 CDBG Administration	0	
	<u>0</u>	
CDBG - Direct Program (1130)		
3252 CDBG Administration	762,331	
3254 Direct Services Non-Housing	1,203,019	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Parks, Recreation & Neighborhoods Department		
CDBG - Direct Program (1130)		
3256 CDBG Housing Rehabilitation	682,548	
	<u>2,647,898</u>	
Housing Loan Program (1150)		
3266 CDBG Rehab Revolving Loan Fund	200,000	
	<u>200,000</u>	
Home Program (1170)		
3258 HOME Housing Development	154,850	
3259 Home-Direct Services	1,110,443	
3260 HOME Addition	7,224	
	<u>1,272,517</u>	
Emergency Shelter Program (1180)		
3257 Emergency Shelter Program	110,558	
	<u>110,558</u>	
Parking Fund (6000)		
3581 Parking Garage Maintenance	718,202	
3582 Surface Parking Lots	116,492	
3583 Eleventh Street Parking Garage	138,318	
3584 Ninth Street Parking Garage	222,841	
3585 Tenth Street Parking Garage	307,531	
	<u>1,503,384</u>	
Compost Operations (6290)		
5222 Biosolids Co-Composting	1,439,834	
	<u>1,439,834</u>	
Golf Fund (6600)		
3311 Golf General	617,786	
3315 Golf Environmental Golf Inc.	1,747,156	
3316 Golf Non-Environmental Golf Inc.	25,000	
	<u>2,389,942</u>	
Centre Plaza Fund (6700)		
3412 Modesto Centre Plaza	1,628,730	
3414 Technical Services	83,457	
	<u>1,712,187</u>	
Centre Plaza FF&E (6710)		
3420 Centre Plaza FF&E Fund	77,580	
	<u>77,580</u>	
Building Services (7800)		
3512 Building Services Administration	540,424	
3513 Building Services Maintenance and Custodial	1,419,319	
3514 Maintenance & Custodial - PD	0	
3515 PRN Facilities Maintenance/Custodial	0	
3810 Rental Facilities	42,000	
	<u>2,001,743</u>	
JPA Building Services (8500)		
3524 JPA Bldg Engineering	1,466,482	
	<u>1,466,482</u>	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Parks, Recreation & Neighborhoods Department		
Tuolumne River Regional Park (8900)		
3912 Tuolumne River Regional Park (TRRP)	498,403	
	<u>498,403</u>	
Parks, Recreation & Neighborhoods Department	Total	28,439,234
Office of the Auditor		
General Fund (0100)		
0601 Office of the Auditor Dept	437,427	
	<u>437,427</u>	
Office of the Auditor	Total	437,427
Public Works Department		
General Fund (0100)		
1612 Electrical	0	
4301 Traffic & Development Services Admin	322,343	
4302 Public Works Administration	748,724	
4303 Fiscal Programming & Management	66,734	
4304 Transportation Services Administration	173,725	
4521 Landscape Maintenance Contract	29,405	
4712 Community Forestry	2,758,582	
4722 Graffiti Abatement	301,102	
	<u>4,400,615</u>	
Capital Improvement Support (0300)		
4112 Engineering Design	2,046,706	
4212 Construction Administration	1,859,039	
	<u>3,905,745</u>	
Local Transportation Fund (0510)		
4310 Local Transportation Fund Revenue	31,719	
	<u>31,719</u>	
Streets, Traffic & Forestry (0700)		
1601 Transportation Traffic	1,116,441	
1605 Electrical Utility Cost	1,413,649	
1611 Traffic Engineering Liability	164,372	
1612 Electrical	1,718,740	
4370 Gas Tax Revenue	0	
4612 Streets Maintenance	2,428,570	
4622 Traffic Operations	762,710	
4724 Curbs, Gutters, and Sidewalks	1,518,261	
	<u>9,122,743</u>	
Water Operations (6100)		
5000 Water General	515,147	
5002 Water PCE Litigation	600,000	
5007 Water Ops - System Maintenance	2,407,105	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Public Works Department		
Water Operations (6100)		
5009 Water Ops - Administration	1,987,659	
5012 Water Ops - Construction	3,725,926	
5013 Water Ops - Well Site Improvements	7,058,614	
5015 Capital Planning	902,788	
5016 Water Ops - Service/Meter Installation	2,380,485	
5024 Water Ops - MID Surface Water	11,723,776	
5099 Water Billing & Collection	1,293,859	
	<u>32,595,359</u>	
Wastewater Fund (6210)		
5200 Wastewater General	468,745	
5201 Capital Improvement Services Administration	1,699,692	
5202 Wastewater PCE Litigation	1,566,605	
5208 Wastewater Lift Stations	1,047,730	
5209 Water Quality Control Administration	649,558	
5210 SCADA and Electric	619,842	
5211 WWTP - Operations	1,804,306	
5212 Wastewater Collections	4,062,647	
5213 Wastewater Treatment Plant Primary	2,521,427	
5214 Wastewater Treatment Plant Secondary	2,607,189	
5215 Wastewater Monitoring & Control	962,069	
5217 Industrial Waste	1,468,624	
5299 Wastewater Utility Billing & Collection	964,189	
	<u>20,442,623</u>	
Storm Drainage Fund (6280)		
5220 Green Waste Collection	1,130,299	
5300 Storm Drain General	187,502	
5310 Storm Water Lift Stations	285,073	
5312 Storm Water Collections	2,731,046	
5313 Street Sweeping	1,644,278	
5314 Storm Drainage Administration/Monitoring	907,439	
5315 Leaf Collection	209,891	
5319 Storm Drain Planning	24,042	
5399 Storm Drain Billing & Collection	712,518	
	<u>7,832,088</u>	
Airport Operating Fund (6310)		
5412 Airport Operations	1,040,450	
	<u>1,040,450</u>	
Bus Service - Fixed Route (6510)		
5612 Fleet Services Bus	0	
	<u>0</u>	
Bus Service - DAR (6520)		
1673 Dial-A-Ride	2,893,135	
	<u>2,893,135</u>	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
Public Works Department		
Transportation Center (6530)		
1672 Transportation Transit	0	
1674 Transportation Center	616,962	
1675 Modesto Amtrak Station	145,659	
	<u>762,621</u>	
Bus Fixed Route MAX Operations (6540)		
1672 Transportation Transit	7,606,787	
5612 Fleet Services Bus	3,117,915	
	<u>10,724,702</u>	
Bus Fixed Route-Alt Transport (6550)		
1676 Alternative Transportation	86,641	
	<u>86,641</u>	
Centre Plaza Fund (6700)		
4712 Community Forestry	0	
	<u>0</u>	
Fleet Management Fund (7200)		
5810 Fleet Services - Administration	514,489	
5812 Fleet Services - Operations and Maintenance	5,660,945	
5813 Fleet Services - Police	0	
5816 Fleet Services - Motor Pool	246,137	
	<u>6,421,571</u>	
Fleet Equipment Replacement (7210)		
5814 Fleet Services - Equipment Replacement	2,461,744	
	<u>2,461,744</u>	
Public Works Department	Total	02,721,756

Debt Service

Water CIP COP Fund (6120)		
5089 Water Debt Service-1997 Issue	1,795,758	
	<u>1,795,758</u>	
2006 Water COP Fund (6130)		
5090 Water Debt Service - 2006 Issue	1,976,212	
	<u>1,976,212</u>	
Wastewater Fund (6210)		
5250 Wastewater Debt Service	3,327,375	
	<u>3,327,375</u>	
1984 Revenue Bonds Sewer (6240)		
5251 Wastewater Debt SVC - 06 Issue	710,258	
	<u>710,258</u>	
Public Financing Auth 98 Bonds (9450)		
DS25 Lease Revenue Bonds Debt Service (9450)	628,171	
DS26 \$62,275,000 Lease Rev Bonds-07	3,174,284	

Mayor Proposed Budget - FY 2008-2009

Department / Fund / Organization	Organization/ Fund Total	Department Total
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Debt Service

Public Financing Auth 98 Bonds (9450)		
DS26 \$62,275,000 Lease Rev Bonds-07	<u>3,174,284</u>	
	3,802,455	

	Debt Service Total	11,612,058
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Non-Department

General Fund (0100)		
9510 General Purpose Fund	<u>2,025,859</u>	
	2,025,859	

	Non-Department Total	2,025,859
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	General Fund Total	120,024,355
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	All Other Funds Total	170,448,869
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	All Funds Grand Total	290,473,224
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**Proposed Operating Revenues/Expenditures
FY 2008-09
ALL FUNDS with Transfers**

Fund		Revenues	Transfers_In	Total Revenues	Expenditures	Transfers_Out	Total Expenditures	Net
0100	General Fund (0100)	\$121,052,142	\$4,688,930	\$125,741,072	\$120,024,355	\$7,338,228	\$127,362,583	(\$1,621,511)
0300	Capital Improvement Support (0300)	\$3,756,828	\$204,919	\$3,961,747	\$3,905,745	\$0	\$3,905,745	\$56,002
0310	Solid Waste Fund (0310)	\$891,847	\$0	\$891,847	\$840,336	\$0	\$840,336	\$51,511
0320	Education-Govt Communication (0320)	\$281,500	\$0	\$281,500	\$263,000	\$0	\$263,000	\$18,500
0350	Elections/Outside Litigation (0350)	\$0	\$250,000	\$250,000	\$2,700	\$0	\$2,700	\$247,300
0360	Carpenter Landfill	\$313,000	\$0	\$313,000	\$313,000	\$0	\$313,000	\$0
0410	Operating Grants - Reimbursed (0410)	\$0	\$153,245	\$153,245	\$0	\$0	\$0	\$153,245
0420	Police Outside Agreement (0420)	\$108,264	\$0	\$108,264	\$108,264	\$0	\$108,264	\$0
0510	Local Transportation Fund (0510)	\$0	\$0	\$0	\$31,719	\$368,281	\$400,000	(\$400,000)
0600	Traffic Safety Fund (0600)	\$1,650,000	\$0	\$1,650,000	\$1,046,802	\$842,000	\$1,888,802	(\$238,802)
0610	Traffic Offender Fund	\$0	\$0	\$0	\$0	\$310,000	\$310,000	(\$310,000)
0700	Streets, Traffic & Forestry (0700)	\$4,869,507	\$2,180,456	\$7,049,963	\$9,122,743	\$1,246,799	\$10,369,542	(\$3,319,579)
0800	Econ Dev/Strategic Plan (0800)	\$0	\$0	\$0	\$6,114	\$0	\$6,114	(\$6,114)
0900	Downtown Improvement Dist (0900)	\$227,478	\$0	\$227,478	\$226,870	\$0	\$226,870	\$608
1120	CDBG Interest Subsidy Program (1120)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1130	CDBG - Direct Program (1130)	\$2,683,772	\$0	\$2,683,772	\$2,647,898	\$0	\$2,647,898	\$35,874
1150	Housing Loan Program (1150)	\$200,000	\$0	\$200,000	\$200,000	\$0	\$200,000	\$0
1170	Home Program (1170)	\$1,266,950	\$0	\$1,266,950	\$1,272,517	\$0	\$1,272,517	(\$5,567)
1180	Emergency Shelter Program (1180)	\$110,558	\$0	\$110,558	\$110,558	\$0	\$110,558	\$0
1300	Special Fund for Capital Outlay		\$54,752	\$54,752	\$0	\$374,572	\$374,572	(\$319,820)
1310	Police Capital Facility Fee (1310)	\$0	\$0	\$0	\$0	\$228,000	\$228,000	(\$228,000)
1320	Fire Capital Facility Fee (1320)	\$0	\$0	\$0	\$0	\$154,752	\$154,752	(\$154,752)
1350	Parks Capital Facility Fee (1350)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1380	City Hall Expansion Capital Facility Fees	\$0	\$0	\$0	\$0	\$653,159	\$653,159	(\$653,159)
1390	Admin Capital Facility Fee Fund (1390)	\$127,000	\$0	\$127,000	\$444,446	\$0	\$444,446	(\$317,446)
1400	Park Fund (1400)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1410	Streets Capital Facility Fee (1410)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2300	Capital Grants Fund (2300)	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**Proposed Operating Revenues/Expenditures
FY 2008-09
ALL FUNDS with Transfers**

Fund		Revenues	Transfers_In	Total Revenues	Expenditures	Transfers_Out	Total Expenditures	Net
2600	Village One (2600)	\$325,000	\$0	\$325,000	\$684,000	\$0	\$684,000	(\$359,000)
2640	Fairview Village (2640)	\$130,000	\$0	\$130,000	\$210,000	\$0	\$210,000	(\$80,000)
2642	CFD Fairview Village-Debt Service (2642)	\$380,000	\$0	\$380,000	\$329,649	\$0	\$329,649	\$50,351
2650	North Beyer (2650)	\$0	\$0	\$0	\$9,000	\$0	\$9,000	(\$9,000)
2660	Enterprise Park 1998 (2660)	\$0	\$0	\$0	\$14,100	\$0	\$14,100	(\$14,100)
2670	Carver/Bangs (2670)	\$0	\$0	\$0	\$196,500	\$0	\$196,500	(\$196,500)
2690	CFD - Village 1 #2 (2690)	\$560,000	\$0	\$560,000	\$640,741	\$0	\$640,741	(\$80,741)
2692	CFD Village 1 #2 - Debt Service (2692)	\$2,110,000	\$0	\$2,110,000	\$1,705,983	\$0	\$1,705,983	\$404,018
2720	Kiernan Business Park West (2720)	\$504,791	\$0	\$504,791	\$504,791	\$0	\$504,791	\$0
2730	Kiernan Business Park South (2730)	\$64,500	\$0	\$64,500	\$64,500	\$0	\$64,500	\$0
2750	NorthPointe Village (2750)	\$0	\$0	\$0	\$88,000	\$0	\$88,000	(\$88,000)
2800	Coffee-Claratina (2800)	\$158,000	\$0	\$158,000	\$163,000	\$0	\$163,000	(\$5,000)
2900	Infrastructure Fin Prgm Admin (2900)	\$284,817	\$0	\$284,817	\$430,413	\$0	\$430,413	(\$145,596)
6000	Parking Fund (6000)	\$1,491,178	\$0	\$1,491,178	\$1,503,384	\$0	\$1,503,384	(\$12,206)
6100	Water Operations (6100)	\$54,840,978	\$0	\$54,840,978	\$32,595,359	\$4,117,270	\$36,712,629	\$18,128,349
6101	Water Development Fees (6101)	\$2,995,000	\$0	\$2,995,000	\$0	\$0	\$0	\$2,995,000
6120	Water CIP COP Fund (6120)	\$0	\$1,795,758	\$1,795,758	\$1,795,758	\$0	\$1,795,758	\$0
6130	2006 Water COP Fund (6130)	\$0	\$1,976,212	\$1,976,212	\$1,976,212	\$0	\$1,976,212	\$0
6180	Water Zone 1	\$0	\$264,000	\$264,000	\$0	\$0	\$0	\$264,000
6210	Wastewater Fund (6210)	\$42,028,280	\$114,000	\$42,142,280	\$23,769,998	\$1,063,658	\$24,833,656	\$17,308,624
6211	Wastewater Development Fees (6211)	\$770,220	\$0	\$770,220	\$0	\$0	\$0	\$770,220
6240	1984 Revenue Bonds Sewer (6240)	\$0	\$710,258	\$710,258	\$710,258	\$0	\$710,258	\$0
6280	Storm Drainage Fund (6280)	\$5,290,370	\$326,000	\$5,616,370	\$7,832,088	\$8,700	\$7,840,788	(\$2,224,418)
6290	Compost Operations (6290)	\$1,435,862	\$0	\$1,435,862	\$1,439,834	\$0	\$1,439,834	(\$3,972)
6310	Airport Operating Fund (6310)	\$1,008,326	\$0	\$1,008,326	\$1,040,450	\$1,000	\$1,041,450	(\$33,124)
6330	County Aircraft Tax (6330)	\$203,000	\$0	\$203,000	\$0	\$0	\$0	\$203,000
6510	Bus Service - Fixed Route (6510)	\$0	\$0	\$0	\$0	\$18,000	\$18,000	(\$18,000)

**Proposed Operating Revenues/Expenditures
FY 2008-09
ALL FUNDS with Transfers**

Fund		Revenues	Transfers_In	Total Revenues	Expenditures	Transfers_Out	Total Expenditures	Net
6520	Bus Service - DAR (6520)	\$2,895,581	\$0	\$2,895,581	\$2,893,135	\$0	\$2,893,135	\$2,446
6530	Transportation Center (6530)	\$761,281	\$0	\$761,281	\$762,621	\$0	\$762,621	(\$1,340)
6540	Bus Fixed Route MAX Operations (6540)	\$10,811,612	\$0	\$10,811,612	\$10,724,702	\$4,000	\$10,728,702	\$82,910
6550	Bus Fixed Route-Alt Transport (6550)	\$86,587	\$1,500	\$88,087	\$86,641	\$0	\$86,641	\$1,446
6600	Golf Fund (6600)	\$2,391,995	\$50,000	\$2,441,995	\$2,389,942	\$0	\$2,389,942	\$52,053
6700	Centre Plaza Fund (6700)	\$1,020,799	\$768,968	\$1,789,767	\$1,712,187	\$77,580	\$1,789,767	\$0
6710	Centre Plaza FF&E (6710)	\$0	\$77,580	\$77,580	\$77,580	\$0	\$77,580	\$0
7100	Central Services (7100)	\$26,000	\$0	\$26,000	\$41,000	\$0	\$41,000	(\$15,000)
7110	Inventory Purchases (7110)	\$4,600,460	\$0	\$4,600,460	\$4,600,460	\$0	\$4,600,460	\$0
7120	Central Services - Mail (7120)	\$285,176	\$0	\$285,176	\$287,318	\$0	\$287,318	(\$2,142)
7130	Information Technology (7130)	\$5,626,727	\$0	\$5,626,727	\$6,016,869	\$0	\$6,016,869	(\$390,142)
7200	Fleet Management Fund (7200)	\$4,997,989	\$0	\$4,997,989	\$6,421,571	\$49,600	\$6,471,171	(\$1,473,182)
7210	Fleet Equipment Replacement (7210)	\$3,934,615	\$0	\$3,934,615	\$2,461,744	\$0	\$2,461,744	\$1,472,871
7310	Insurance - Administration (7310)	\$1,053,733	\$0	\$1,053,733	\$1,053,733	\$0	\$1,053,733	\$0
7320	Insurance - Workers Comp (7320)	\$4,380,000	\$1,000,000	\$5,380,000	\$4,380,000	\$0	\$4,380,000	\$1,000,000
7330	Insurance - Liability Insurance (7330)	\$2,894,000	\$0	\$2,894,000	\$2,894,000	\$0	\$2,894,000	\$0
7340	Insurance - Property Insurance (7340)	\$415,031	\$0	\$415,031	\$415,031	\$0	\$415,031	\$0
7350	Insurance - Dental Insurance (7350)	\$1,217,580	\$0	\$1,217,580	\$1,217,580	\$0	\$1,217,580	\$0
7360	Insurance - Health (7360)	\$7,408,818	\$0	\$7,408,818	\$7,408,818	\$0	\$7,408,818	\$0
7370	Insurance - Disability (7370)	\$429,378	\$0	\$429,378	\$429,378	\$0	\$429,378	\$0
7380	Other Employee Insurance (7380)	\$337,291	\$0	\$337,291	\$337,291	\$172,694	\$509,985	(\$172,694)
7390	Insurance - Vision (7390)	\$331,052	\$0	\$331,052	\$331,052	\$0	\$331,052	\$0
7510	Employee Benefits Mgmt (7510)	\$3,897,826	\$0	\$3,897,826	\$4,291,384	\$0	\$4,291,384	(\$393,558)
7520	Employee Benefits Admin (7520)	\$310,277	\$0	\$310,277	\$565,341	\$42,000	\$607,341	(\$297,064)
7800	Building Services (7800)	\$2,120,027	\$0	\$2,120,027	\$2,001,743	\$207,700	\$2,209,443	(\$89,416)
8500	JPA Building Services (8500)	\$1,506,786	\$0	\$1,506,786	\$1,466,482	\$0	\$1,466,482	\$40,304
8850	Stanislaus Drug Enforce Agency (8850)	\$2,634,264	\$0	\$2,634,264	\$2,633,679	\$0	\$2,633,679	\$585

**Proposed Operating Revenues/Expenditures
FY 2008-09
ALL FUNDS with Transfers**

Fund		Revenues	Transfers_In	Total Revenues	Expenditures	Transfers_Out	Total Expenditures	Net
8900	Tuolumne River Regional Park (8900)	\$498,403	\$0	\$498,403	\$498,403	\$0	\$498,403	\$0
9070	RDA 10th Street Project	\$0	\$0	\$0	\$0	\$974,140	\$974,140	(\$974,140)
9450	Public Financing Auth 98 Bonds (9450)	\$0	\$3,635,555	\$3,635,555	\$3,802,455	\$0	\$3,802,455	(\$166,900)
	GRAND TOTAL	\$318,992,456	\$18,252,133	\$337,244,589	\$290,473,224	\$18,252,133	\$308,725,357	\$28,519,231

Operating Inter-Fund Transfers - TRANSFER OUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed		
										2007-08	2007-08	2008-09	Purpose	
TRANSFER OUT (from)					TRANSFER IN (to)									
FUND		AGY	ORG	OBJ	FUND		AGY	ORG	OBJ					
1	0400	Operation Grants Block Grants	700	7000	7010	0100	General Fund	700	7000	9040	\$117,201	\$0	\$0	SLESF Repymt of Fleet Fd. Loan (4 years)
2	0400	Operation Grants Block Grants	700	7000	7010	0100	General Fund	700	7000	9040	\$0	\$283,000	\$0	SLESFfor PD operations
3	0600	Traffic Safety Fund	700	7000	7010	0100	General Fund	700	7000	9060	\$842,000	\$842,000	\$842,000	Traffic Safety (7000)
4	0610	Traffic Offender (Safety) Fund	700	7000	7010	0100	General Fund	700	7000	9061	\$210,000	\$210,000	\$210,000	Traffic Offender Fund (mandatory \$210K)
5	0610	Traffic Offender (Safety) Fund (\$250)	700	7000	7010	0100	General Fund	700	7000	9061	\$100,000	\$100,000	\$100,000	
6	0700	Special Gas Tax Fund	700	7000	7010	0100	General Fund	700	4712	9070	\$712,736	\$712,736	\$1,102,136	Cycle Pruning (4712)
7	0700	Special Gas Tax Fund	700	3001	7010	0100	General Fund	700	3001	9070	\$0	\$0	\$144,663	PR&N Weed Abatement (3001)
8	0800	Econ Dev and Strategic Plan Fund	700	7000	7010	0100	General Fund	700	7000	9080	\$0	\$49,940	\$0	Transfer Fund Balance
9	1300	Special Fund For Capital Outlay	700	7000	7010	0100	General Fund	700	7000	9130	\$50,579	\$50,579	\$54,572	General Transfer (7000)
10	1300	Special Fund For Capital Outlay	700	7000	7010	0100	General Fund	700	7000	9130	\$0	\$0	\$320,000	CDBG Public Service (M163)
11	1300	Special Fund For Capital Outlay	700	H683	7010	0100	General Fund	700	7000	9130	\$0	\$300,000	\$0	Return of excess \$1.8 for Road Maintenance
12	1300	Special Fund For Capital Outlay	700	P866	7010	0100	General Fund	700	7000	9130	\$0	\$80,000	\$0	Transfer from P866
13	1310	Capital Facility Fees - Police	700	7000	7010	0100	General Fund	700	7000	9131	\$228,000	\$228,000	\$228,000	Tenth Street Place Project (7000)
14	1320	Capital Facility Fees - Fire	701	7001	7010	0100	General Fund	701	7001	9132	\$100,000	\$100,000	\$100,000	Loan Repayment (7001) M174L
15	1380	Capital Facility Fees - City Hall Expansion	700	7000	7010	0100	General Fund	700	7000	9138	\$653,159	\$653,159	\$653,159	Tenth Street Place Project (7000)
16	1400	Parks Fund	700	7000	7010	0100	General Fund	700	7000	9140	\$0	\$0	\$0	Park Maintenance
17	1400	Parks Fund	701	7001	7010	0100	General Fund	701	7001	9140	\$200,000	\$200,000	\$0	Monterosso Property (7001) Q239L
18	2690	Village One #2 CFD	700	7000	7010	0100	General Fund	700	7000	9269	\$0	\$190,000	\$0	Repayment from CFD Village One #2
19	6100	Water Fund Zone 1	700	7000	7010	0100	General Fund	700	1205	9610	\$0	\$0	\$0	Rate Study (55%) 1205
20	6100	Water Operations	700	7000	7010	0100	General Fund	700	4302	9610	\$0	\$0	\$0	Insurance Certificate Prog. (4302)
21	6100	Water Operations	700	7000	7010	0100	General Fund	700	7000	9610	\$65,000	\$65,000	\$65,000	Tenth Street Place Project (7000)
22	6100	Water Fund Zone 1	700	7000	7010	0100	General Fund	700	7000	9610	\$0	\$0	\$250,000	PCE Reimbursement/Settlements for City Atty Fees
23	6150	Water Fund Zone 2	700	7000	7010	0100	General Fund	700	7000	9615	\$0	\$0	\$0	Tenth Street Place Project (7000)
24	6160	Water Fund Zone 3	700	7000	7010	0100	General Fund	700	7000	9616	\$0	\$0	\$0	Tenth Street Place Project (7000)
25	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	1205	9621	\$0	\$0	\$0	Water & Wastewater Study (1205)
26	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	1205	9621	\$0	\$0	\$0	Rate Study (45%) 1205
27	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	4302	9621	\$0	\$0	\$0	Insurance Certificate Prog. (4302)
28	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	7000	9082	\$0	\$0	\$0	Tenth Street Place Project (7000)
29	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	7000	9621	\$66,000	\$66,000	\$66,000	Tenth Street Place Project (7000)
30	6210	Wastewater Fund	700	7000	7010	0100	General Fund	700	7000	9621	\$0	\$0	\$250,000	PCE Reimbursement/Settlements for City Atty Fees
31	6280	Storm Drain Fund	700	7000	7010	0100	General Fund	700	4302	9628	\$0	\$0	\$0	Insurance Certificate Prog. (4302)
32	6280	Storm Drain Fund	700	7000	7010	0100	General Fund	700	7000	9628		\$632,000		Reimburse Gf for Pruned Ref Prog for 6-mos.
33	6310	Airport Operations Fund	700	7000	7010	0100	General Fund	700	4302	9631	\$0	\$0	\$0	Insurance Certificate Prog. (4302)

Operating Inter-Fund Transfers In - JUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed		
										2007-08	2007-08	2008-09	Purpose	
TRANSFER OUT (from)					TRANSFER IN (to)									
FUND		AGY	ORG	OBJ	FUND		AGY	ORG	OBJ					
34	6310	Airport Operations Fund	700	7000	7010	0100	General Fund	700	7000	9631	\$0	\$0	\$0	Loan Repayment Pd FY03/04
35	6510	Bus Services Fixed Route Fund	700	7000	7010	0100	General Fund	700	7000	9651	\$18,000	\$18,000	\$18,000	Tenth Street Place Project (7000)
36	6540	Fixed Bus Max Operations	700	7000	7010	0100	General Fund	700	4302	9654	\$0	\$0	\$0	Insurance Certificate Prog. (4302)
37	7130	IT	700	7000	7010	0100	General Fund	700	0219	9713	\$0	\$31,500	\$0	
38	7130	IT	700	7000	7010	0100	General Fund	700	7000	9713	\$0	\$650,000		Return contribution for ERP
39	7130	IT	700	M483	7010	0100	General Fund	700	7000	9713		\$142,462		To fund M483 through grants
40	7200	Fleet Fund	700	5816	7010	0100	General Fund	700	7000	9720			\$43,400	Sale of GF Pool Vehicles (5816)
41	7510	Employee Benefits Fund	700	7000	7010	0100	General Fund	700	7000	9751	\$0	\$0	\$0	PERS Contribution
42	7510	Employee Benefits Management Fund	700	7000	7010	0100	General Fund	700	7000	9751		\$953,000	\$0	Return supplemental funding
43	7520	Employee Benefits Administration	700	0351	7010	0100	General Fund	700	7000	9752	\$0	\$0	\$42,000	Employee Training & Performance Incentives (0351)
44	7800	P/R Building Services	700	3513	7010	0100	General Fund	700	7000	9780	\$0	\$0	\$200,000	Custodial Services Parks (3513)
45						0100 Total					\$3,362,675	\$6,557,376	\$4,688,930	
46	0100	General Fund	700	4112	7030	0300	Capital Improvement Fund	700	4112	9010	\$151,245	\$100,000	\$151,245	Engineering Design (4112)
47	0100	General Fund	700	4212	7030	0300	Capital Improvement Fund	700	4212	9010	\$53,674	\$0	\$53,674	Engineering Construction (4212)
48						0300 Total					\$204,919	\$100,000	\$204,919	
49	0100	General Fund	700	7000	7031	0310	Solid Waste Sp. Rev. Fund	700	7000	9010	\$0	\$0	\$0	Carpenter Road Landfill
50						0310 Total					\$0	\$0	\$0	
51	0100	General Fund	700	0703	7032	0320	Education & Gov't Comm	700	0703	9010	\$0	\$0	\$0	City Media production to E&G (0703)
52	0100	General Fund	700	0703	7032	0320	Education & Gov't Comm	700	0703	9010	\$133,000	\$133,000	\$0	City portion of the operating budget (0703)
53	0100	General Fund	700	7000	7032	0320	Education & Gov't Comm	700	7000	9010	\$0	\$0	\$0	Savings from FY03
54						0320 Total					\$133,000	\$133,000	\$0	
55	0100	General Fund	700	0504	7035	0350	Elections Fund	700	0504	9010	\$250,000	\$250,000	\$0	Elections (0504)
56	0100	General Fund	700	7000	7035	0350	Elections Fund	700	7000	9010	\$1,000,000	\$1,000,000	\$250,000	Outside Litigation
57						0350 Total					\$1,250,000	\$1,250,000	\$250,000	
58	0100	General Fund	700	3138	7040	0400	Operation Grants Block Grants	700	3138	9010	\$0	\$0	\$0	Design of 15 Parks (3138)
59	0100	General Fund	700	3139	7040	0400	Operation Grants Block Grants	700	3139	9010	\$0	\$0	\$0	Park Build Contract I (3139)
60	0100	General Fund	700	3140	7040	0400	Operation Grants Block Grants	700	3140	9010	\$0	\$0	\$0	Park Build Contract I (3140)
61	0100	General Fund	700	3141	7040	0400	Operation Grants Block Grants	700	3141	9010	\$0	\$0	\$0	Park Build Contract I (3141)
62						0400 Total					\$0	\$0	\$0	
63	0100	General Fund	700	1854	7041	0410	Operating Grants	700	1854	9010	\$0	\$0	\$0	Assist to FF (1854)
64	0100	General Fund	700	2903	7041	0410	Operating Grants	700	2903	9010	\$53,245	\$53,245	\$53,245	SAFE Neighborhood Grants (2903)
65	0100	General Fund	700	2905	7041	0410	Operating Grants	700	2905	9010	\$100,000	\$100,000	\$100,000	GREAT Grant (2905)
66	0100	General Fund	700	2966	7041	0410	Operating Grants	700	2966	9010	\$0	\$0	\$0	Modesto Safe Traffic Ops (2966)

Operating Inter-Fund Transfers - OUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed			
										2007-08	2007-08	2008-09	Purpose		
TRANSFER OUT (from)					TRANSFER IN (to)										
FUND			AGY	ORG	OBJ	FUND			AGY	ORG	OBJ				
67	0100	General Fund	700	2967	7041	0410	Operating Grants		700	2967	9010	\$0	\$0	\$0	Survive the Night (2967)
68	0100	General Fund	700	2985	7041	0410	Operating Grants		700	2985	9010	\$0	\$0	\$0	COPs Universal Hiring Grant (2985)
69	0100	General Fund	700	2986	7041	0410	Operating Grants		700	2986	9010	\$0	\$0	\$0	Juvenile Impact Program (2986)
70	0100	General Fund	700	2989	7041	0410	Operating Grants		700	2989	9010	\$0	\$0	\$0	Cops in Schools (2989)
71	0100	General Fund	700	2993	7041	0410	Operating Grants		700	2993	9010	\$0	\$0	\$0	COPs in Schools (2993)
72	0100	General Fund	700	4805	7041	0410	Operating Grants		700	4805	9010	\$0	\$0	\$0	Trees for Tots Match Grant (4805)
73	0100	General Fund	700	7000	7041	0410	Operating Grants		700	7000	9010	\$0	\$0	\$0	COPS more grant
74						0410 Total					\$153,245	\$153,245	\$153,245		
75	0100	General Fund	700	2007	7042	0420	Police Outside Agreements		700	2007	9010	\$0	\$100,000	\$0	Beat Health (2007)
76						0420 Total					\$0	\$100,000	\$0		
77	0100	General Fund	700	1601	7070	0700	Gas Tax Fund		700	1601	9010	\$125,000	\$125,000	\$125,000	Traffic Engineering (1601)
78	0100	General Fund	700	1630	7070	0700	Gas Tax Fund		700	1630	9010	\$0	\$0	\$0	LED Replacement Program (1630)
79	0100	General Fund	700	4380	7070	0700	Gas Tax Fund		700	4380	9010	\$800,000	\$560,000	\$320,000	Slurry Seals (4380)
80	0100	General Fund	700	4612	7070	0700	Gas Tax Fund		700	4612	9010	\$887,175	\$627,175	\$367,175	Street Maintenance (4612)
81	0100	General Fund	700	4613	7070	0700	Gas Tax Fund		700	4613	9010	\$0	\$0	\$0	Bluegum for Fire Improvemnt (4613)
82	0100	General Fund	700	4622	7070	0700	Gas Tax Fund		700	4622	9010	\$0	\$0	\$389,400	Traffic Operations (4622)
83	0100	General Fund	700	4712	7070	0700	Gas Tax Fund		700	4712	9010	\$0	\$0	\$0	Community Forestry (4712)
84	0100	General Fund	700	4724	7070	0700	Gas Tax Fund		700	4724	9010	\$610,600	\$610,600	\$610,600	Curbs Gutters, and Sidewalks (4724)
85	0100	General Fund	700	7000	7070	0700	Gas Tax Fund		700	7000	9010	\$0	\$0	\$0	General Transfer (7000)
86	0510	LTF Streets and Roads	700	1605	7070	0700	Gas Tax Fund		700	1605	9051	\$0	\$0	\$0	Electrical Utility Costs (1605)
87	0510	LTF Streets and Roads	700	1612	7070	0700	Gas Tax Fund		700	1612	9051	\$0	\$0	\$0	Electrical Division (1612)
88	0510	LTF Streets and Roads	700	1621	7070	0700	Gas Tax Fund		700	1621	9051	\$0	\$0	\$0	Restriping Various Locations (1621)
89	0510	LTF Streets and Roads	700	1622	7070	0700	Gas Tax Fund		700	1622	9051	\$0	\$0	\$0	Low Cost Traffic Improvements (1622)
90	0510	LTF Streets and Roads	700	1624	7070	0700	Gas Tax Fund		700	1624	9051	\$0	\$0	\$0	Upgrade High Voltage Circuits (1624)
91	0510	LTF Streets and Roads	700	4380	7070	0700	Gas Tax Fund		700	4380	9051	\$177,170	\$177,170	\$0	Slurry Seals (4380)
92	0510	LTF Streets and Roads	700	4612	7070	0700	Gas Tax Fund		700	4612	9051	\$1,511,783	\$1,511,783	\$39,607	Street Maintenance (4612)
93	0510	LTF Streets and Roads	700	4622	7070	0700	Gas Tax Fund		700	4622	9051	\$735,204	\$735,204	\$252,874	Traffic Operations (4622)
94	0510	LTF Streets and Roads	700	4725	7070	0700	Gas Tax Fund		700	4725	9051	\$0	\$0	\$0	Curbs Gutters, and Sidewalks (4725)
95	0510	LTF Streets and Roads	700	7000	7070	0700	Gas Tax Fund		700	7000	9051	\$76,000	\$76,000	\$76,000	General Transfer (7000)
96	0520	LTF Non-Motorized	700	4724	7070	0700	Gas Tax Fund		700	4724	9052	\$0	\$0	\$0	Curbs Gutters, and Sidewalks (4724)
97	7330	Insurance Liability Fund	700	4725	7070	0700	Gas Tax Fund		700	4725	9733	\$0	\$0	\$0	Curbs Gutters, and Sidewalks (4725)
98						0700 Total					\$4,922,932	\$4,422,932	\$2,180,456		
99	0100	General Fund	700	7000	7080	0800	Econ Dev and Strategic Plan Fund		700	7000	9010	\$0	\$11,520	\$0	General Plan-related Development (7000)

Operating Inter-Fund Transfers II. OUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed			
										2007-08	2007-08	2008-09	Purpose		
TRANSFER OUT (from)					TRANSFER IN (to)										
FUND			AGY	ORG	OBJ	FUND			AGY	ORG	OBJ				
100						0800 Total						\$0	\$11,520	\$0	
101	0100	General Fund	700	7000	7130	1300	Special Fund For Capital Outlay		700	7000	9010	\$0	\$0	\$0	Road Maintenance Projects
102	0100	General Fund	700	M168	7130	1300	Special Fund For Capital Outlay		700	M168	9010	\$120,000	\$0	\$0	Police Training Site (M168)
103	1320	Fire CFF Fund	701	7001	7130	1300	Special Fund For Capital Outlay		701	7001	9132	\$50,579	\$50,579	\$54,752	Loan Repayment (7001) M174L
104						1300 Total						\$170,579	\$50,579	\$54,752	
105	1300	Special Fund For Capital Outlay	700	1899	7132	1320	Fire CFF Fund		700	1899	9130	\$0	\$0	\$0	Ladder Truck (1899)
106						1320 Total						\$0	\$0	\$0	
107	0100	General Fund	700	7000	7140	1400	Parks Fund		700	7000	9010	\$0	\$0	\$0	General Transfer (7000)
108	0100	General Fund	700	7000	7140	1400	Parks Fund		700	7000	9010	\$0	\$0	\$0	Discretionary Parks Transfer
109	0100	General Fund	700	7000	7140	1400	Parks Fund		700	7000	9010	\$0	\$0	\$0	School Infrastructure Maintenance
110	0100	General Fund	700	7000	7140	1400	Parks Fund		700	7000	9010	\$99,000	\$99,000	\$0	Parks School Infrastructure (now project P733)
111	0700	Gas Tax Fund	700	7000	7140	1400	Parks Fund		700	7000	9070	\$80,000	\$80,000	\$0	General Transfer (7000)
112	1350	Parks Capital Facilities Fees	700	3124	7140	1400	Parks Fund		700	3124	9135	\$0	\$0	\$0	Park Partners Op (3124)
113	1430	Air Quality Capital Facility Fund	700	7000	7140	1400	Parks Fund		700	7000	9143	\$120,000	\$120,000	\$0	General Transfer (7000)
114						1400 Total						\$299,000	\$299,000	\$0	
115	1350	Parks Capital Facilities Fees	700	7000	7230	2300	Capital Grants Fund		700	7000	9135	\$0	\$0	\$0	Recreational Pool Upgrades (7000)
116						2300 Total						\$0	\$0	\$0	
117	0800	Econ Dev and Strategic Plan Fund	700	7000	7260	2600	Village One CFD		700	7000	9080	\$0	\$0	\$0	Village One CFD (7000)
118						2600 Total						\$0	\$0	\$0	
119	4000	CFD Debt Service Enterprise Business PK	700	7000	7266	2660	CFD Enterprise Park Fund		700	7000	9400	\$0	\$0	\$0	
120						2660 Total						\$0	\$0	\$0	
121	6150	Water Fund Zone 2 Consolidation	700	5018	7610	6100	Water Fund Zone 1		700	5018	9615	\$0	\$0	\$0	Water Quality Compliance Consolidation (5018)
122	6150	Water Fund Zone 2 Consolidation	700	7000	7610	6100	Water Fund Zone 1		700	7000	9615	\$0	\$0	\$0	Collapsing 3 zones to 1
123	6160	Water Fund Zone 3 Consolidation	700	5018	7610	6100	Water Fund Zone 1		700	5018	9616	\$0	\$0	\$0	Water Quality Compliance Consolidation (5018)
124	6160	Water Fund Zone 3	700	7001	7610	6100	Water Fund Zone 1		700	7001	9616	\$0	\$0	\$0	Loan Repayment (7001)
125						6100 Total						\$0	\$0	\$0	
126	6100	Water Operations	700	7000	7612	6120	Water COP 97 Fund		700	7000	9610	\$1,795,430	\$1,795,430	\$1,795,758	Debt Service Payment (7000)
127	6150	Water Fund Zone 2	700	7001	7612	6120	Water CIP COP Fund		700	7001	9615	\$0	\$0	\$0	Loan Repayment (7001)
128						6120 Total						\$1,795,430	\$1,795,430	\$1,795,758	
129	6100	Water Operations	700	7000	7613	6130	2006 Water COP Fund		700	7000	9610	\$1,732,489	\$1,732,489	\$1,976,212	Debt Service Payment (7000)
130						6130 Total						\$1,732,489	\$1,732,489	\$1,976,212	
131	6100	Water Fund Zone 3	700	7000	7616	6160	Water CIP COP Fund		700	7000	9610	\$0	\$0	\$0	Collapsing 3 zones into 1
132						6160 Total						\$0	\$0	\$0	

Operating Inter-Fund Transfers - OUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed			
										2007-08	2007-08	2008-09	Purpose		
TRANSFER OUT (from)					TRANSFER IN (to)										
FUND			AGY	ORG	OBJ	FUND			AGY	ORG	OBJ				
133	0100	General Fund	700	W445	7618	6180	Water Fund Zone 1		700	W445	9010	\$264,000	\$264,000	\$264,000	Prop 218 rebate become MY W445
134						6180 Total					\$264,000	\$264,000	\$264,000		
135	0100	General Fund	700	5201	7621	6210	Wastewater Fund		700	5201	9010	\$0	\$0	\$0	Capital Improvement Svcs (5201)
136	0100	General Fund	700	5220	7621	6210	Wastewater Fund		700	5220	9010	\$0	\$0	\$0	Pruned Refuse Collection (5220)
137	0100	General Fund	700	B618	7621	6210	Wastewater Fund		700	B618	9010	\$114,000	\$114,000	\$114,000	Prop 218 rebate became MY B618
138	6230	1997 Sewer Revenue Bonds	700	7000	7621	6210	Wastewater Fund		700	7000	9623	\$0	\$0	\$0	WW Bond Financing - move bet. Subfunds
139	6270	Refunding Revenue Bonds	700	7000	7621	6210	Wastewater Fund		700	7000	9627	\$0	\$0	\$0	WW Bond Financing - move bet. Subfunds
140						6210 Total					\$114,000	\$114,000	\$114,000		
141	6210	Wastewater Fund	700	7000	7622	6220	1993 Sewer COP Fund		700	7000	9621	\$0	\$0	\$0	Debt Service Payment (7000)
142						6220 Total					\$0	\$0	\$0		
143	6210	Wastewater Fund	700	7000	7623	6230	1997 Sewer Revenue Bonds		700	7000	9621	\$0	\$0	\$0	Debt Service Payment (7000)
144						6230 Total					\$0	\$0	\$0		
145	6210	Wastewater Fund	700	7000	7624	6240	2006 Wastewater Revenue Bonds		700	7000	9621	\$706,758	\$706,758	\$710,258	Debt Service Payment
146						6240 Total					\$706,758	\$706,758	\$710,258		
147	6210	Wastewater Fund	700	7000	7627	6270	Refunding Revenue Bonds		700	7000	9621	\$0	\$0	\$0	Debt Service Payment (7000)
148						6270 Total					\$0	\$0	\$0		
149	0100	General Fund	700	5312	7628	6280	Storm Drain Fund		700	5312	9010	\$0	\$0	\$0	Storm Water Collection (5312)
150	0100	General Fund	700	5312	7628	6280	Storm Drain Fund		700	5312	9010	\$0	\$0	\$0	Rockwell Rejuvenation (5312)
151	0100	General Fund	700	5315	7628	6280	Storm Drain Fund		700	5315	9010	\$326,000	\$326,000	\$326,000	Storm Drain Deficit-Leaf Collection (5315)
152	0100	General Fund	700	7000	7628	6280	Storm Drain Fund		700	7000	9010	\$0	\$0	\$0	Weed Abatement
153	0100	General Fund	700	7000	7628	6280	Storm Drain Fund		700	7000	9010	\$500,000	\$50,000	\$0	Rate Analysis (Prop 218)
154	0100	General Fund	700	Q231	7628	6280	Storm Drain Fund		700	Q231	9010	\$0	\$70,000	\$0	Master Plan (Q231)
155						6280 Total					\$826,000	\$446,000	\$326,000		
156	6210	Wastewater Fund	700	5222	7629	6290	Composting Fund		700	5222	9621	\$0	\$0	\$0	Composting (5222)
157	7210	Fleet Replacement Fund	700	5222	7629	6290	Composting Fund		700	5222	9721	\$0	\$0	\$0	Composting (5222)
158						6290 Total					\$0	\$0	\$0		
159	6330	County Aircraft Revenue Fund	700	7000	7631	6310	Airport Operations Fund		700	7000	9633	\$0	\$0	\$0	Closure of fund 6330
160						6310 Total					\$0	\$0	\$0		
161	1420	Fixed Bus Max Operations	700	7000	7651	6510	Bus Service Fixed Route Fund		700	7000	9142	\$0	\$0	\$0	Bus Stop Improvements 1677
162						6510 Total					\$0	\$0	\$0		
163	0700	Gas Tax Fund	700	1676	7654	6540	Bus Fixed Route Max Operation Fund		700	1676	9070	\$0	\$0	\$0	Alternative Transportation (1676)
164	7510	Employee Benefits Management Fund	700	1672	7654	6540	Bus Fixed Route Max Operation Fund		700	1672	9751	\$0	\$0	\$0	Transportation Transit (1672)
165						6540 Total					\$0	\$0	\$0		

Operating Inter-Fund Transfers II JUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed			
										2007-08	2007-08	2008-09	Purpose		
TRANSFER OUT (from)					TRANSFER IN (to)										
FUND			AGY	ORG	OBJ	FUND			AGY	ORG	OBJ				
166	0100	General Fund	700	1676	7655	6550	Bus Fixed Route Max Altnative Trans Fund		700	1676	9010	\$1,500	\$1,500	\$1,500	Taxi Cab Inspections (1676)
167	0700	Gas Tax Fund	700	1676	7655	6550	Bus Fixed Route Max Altnative Trans Fund		700	1676	9070	\$0	\$0	\$0	Alternative Transportation (1676)
168						6550 Total						\$1,500	\$1,500	\$1,500	
169	0100	General Fund	700	7000	7660	6600	Golf Fund		700	7000	9010	\$100,000	\$50,000	\$0	Operating Subsidy (7000)
170	0100	General Fund	700	P391	7660	6600	Golf Fund		700	P391	9010	\$100,000	\$50,000	\$50,000	Golf Capital (P391)
171						6600 Total						\$200,000	\$100,000	\$50,000	
172	0100	General Fund	700	7000	7670	6700	Centre Plaza Event Services Fund		700	7000	9010	\$746,571	\$746,571	\$768,968	Operating Subsidy (7000)
173						6700 Total						\$746,571	\$746,571	\$768,968	
174	6700	Centre Plaza Event Services Fund	700	7000	7000	6710	Centre Plaza FF&E Fund		700	7000	9670	\$75,600	\$75,600	\$77,580	FF&E
175						6710 Total						\$75,600	\$75,600	\$77,580	
176	0100	General Fund	700	0743	7713	7130	Information Technology Fund		700	0743	9010	\$0	\$0	\$0	Network Services (0743)
177	0100	General Fund	700	0744	7713	7130	Information Technology Fund		700	0744	9010	\$0	\$0	\$0	Technology Replacement (0744)
178	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	IT allocation shortage (7000)
179	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Employee transfer from PD to IT
180	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Supplemental Novell License
181	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Supplemental IT CAD CIP vs PD
182	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Fund Comcate (eFeedback Program)
183	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Supplemental Request: Land Use System
184	0100	General Fund	700	7000	7713	7130	Information Technology Fund		700	7000	9010	\$0	\$0	\$0	Supplemental Request: Business Process Review
185						7130 Total						\$0	\$0	\$0	
186	0100	General Fund	700	7000	7713	7131	Technology Investment Fund		700	7000	9010	\$0	\$0	\$0	Technology Investment Fund
187						7131 Total						\$0	\$0	\$0	
188	0100	General Fund	700	5813	7720	7200	Fleet Fund		700	5813	9010	\$0	\$0	\$0	Taxi Cab Inspections (5813)
189	7210	Fleet Replacement Fund	700	7000	7720	7200	Fleet Fund		700	7000	9721	\$0	\$0	\$0	Fleet Operations shortage EOY
190	7210	Fleet Replacement Fund	700	7000	7720	7200	Fleet Fund		700	7000	9721	\$0	\$0	\$0	Fleet Operations shortage EOY
191						7200 Total						\$0	\$0	\$0	
192	0100	General Fund	700	7000	7721	7210	Fleet Replacement Fund		700	7000	9010	\$0	\$0	\$0	Vehicle Replacement
193	0100	General Fund	701	7001	7721	7210	Fleet Fund		701	7001	9010	\$72,228	\$0	\$0	Fleet Fund Repayment (7000)
194	6210	Wastewater Fund	700	7000	7721	7210	Fleet Replacement Fund		700	7000	9621	\$0	\$0	\$0	Vehicle Replacement
195						7210 Total						\$72,228	\$0	\$0	
196	0100	General Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9010	\$894,631	\$0	\$732,006	General Fund Orgs WC (7000)
197	6100	Water Operations Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9610	\$34,634	\$34,634	\$30,300	Water Operations WC (7000)
198	6210	Wastewater Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9621	\$39,983	\$39,983	\$37,400	Wastewater Operations WC (7000)

Operating Inter-Fund Transfers & OUT Detail (sorted by Transfers IN)

										Adopted	Estimate	Proposed			
										2007-08	2007-08	2008-09	Purpose		
TRANSFER OUT (from)					TRANSFER IN (to)										
FUND			AGY	ORG	OBJ	FUND			AGY	ORG	OBJ				
199	6280	Storm Drain Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9628	\$9,146	\$9,146	\$8,700	Storm Drain Operations WC (7000)
200	6310	Airport Operations Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9631	\$1,030	\$1,030	\$1,000	Airport Operations WC (7000)
201	6540	Bus Fixed Route Alternative Trans	700	7000	7732	7320	Workers Comp Fund		700	7000	9654	\$2,639	\$2,639	\$4,000	Bus Fixed Rt- MAX Operations WC (7000)
202	7200	Fleet Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9720	\$8,936	\$8,936	\$6,200	Fleet Operations WC (7000)
203	7340	Property Insurance Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9734	\$0	\$0	\$0	Property Insurance Fund (7000)
204	7380	Insurance Other Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9733	\$0	\$0	\$172,694	Insurance Liability Fund
205	7800	Building Svc Fund	700	7000	7732	7320	Workers Comp Fund		700	7000	9780	\$9,001	\$9,001	\$7,700	Building Services WC (7000)
206						7320 Total					\$1,000,000	\$105,369	\$1,000,000		
207	0100	General Fund	700	7000	7891	8910	TRRP (CIP) Fund		700	7000	9010	\$300,000	\$0	\$0	TRRP Operations - Dennet Dam
208						8910 Total					\$300,000	\$0	\$0		
209	0100	General Fund	700	7000	7902	9020	RDA COP Debt Service Fund		700	7000	9010	\$0	\$0	\$0	RDA Centre Plaza Debt Service TOT (7000)
210	9070	RDA 10th St. Project	700	7000	7902	9020	RDA COP Debt Service Fund		700	7000	9907	\$0	\$0	\$0	RDA COP Debt Service
211						9020 Total					\$0	\$0	\$0		
212	0100	General Fund	700	7000	7905	9050	RDA Administration Fund		700	7000	9010	\$0	\$0	\$0	Sales Tax (7000)
213	0100	General Fund	700	7000	7905	9050	RDA Administration Fund		700	7000	9010	\$0	\$0	\$0	Transient Occupancy Tax
214						9050 Total					\$0	\$0	\$0		
215	0100	General Fund	700	7000	7908	9080	RDA Master Plan Fund		700	7000	9010	\$0	\$0	\$0	CIP
216						9080 Total					\$0	\$0	\$0		
217	0100	General Fund	700	7000	7944	9440	Public Financing Authority COP Fund		700	7000	9010	\$60,000	\$60,000	\$0	Thurman Field Additional Debt
218						9440 Total					\$60,000	\$60,000	\$0		
219	0100	General Fund	700	7000	7945	9450	Public Financing Authority COP Fund		700	7000	9010	\$382,742	\$382,742	\$451,593	Thurman Field Debt Service (7000)
220	0100	General Fund	700	7000	7945	9450	Public Financing Auth 98 & 07 Bonds		700	7000	9010	\$1,969,118	\$1,969,118	\$2,209,822	Tenth Street Place Debt Service (7000)
221	2100	Public Financing Authority	700	7000	7945	9450	Public Financing Authority 1988 Bond Fund		700	7000	9210	\$0	\$0	\$0	Tenth Street Place Debt Service
222	9020	RDA COP Debt Service Fund	700	7000	7945	9450	Public Financing Auth 98 & 07 Bonds		700	7000	9902	\$862,000	\$862,000	\$974,140	Debt Service Payment (7000)
223						9450 Total					\$3,213,860	\$3,213,860	\$3,635,555		
224						Grand Total					\$21,604,786	\$22,439,229	\$18,252,133		

**Changes to the
2008-09 Proposed Annual Operating Budget
(changes for Adoption for FY 2008-09)**

1. The proposed transfer of \$172,694 from the Insurance Liability Fund (7330) to the Worker's Compensation Fund (7320) should be a transfer from the Risk Management Administration Fund (7310) to the Worker's Compensation Fund (7320).

2. Amend the 2008-09 Proposed Position Allocation and Proposed Annual Operating Budget to add one (1) Senior Civil Engineer for the Public Works Department.

3. Increase City Manager's Office (0201) operating budget by \$1,200 for the City Manager contract.

**Finance Committee Recommendations
to the
2008-09 Proposed Operating Budget**

1. Increase the Community Economic and Development Department's (CEDD) operating budget by \$25,288.⁽¹⁾
2. Decrease the Finance Department's operating budget by \$10,667.⁽²⁾
3. Increase the Parks, Recreation and Neighborhoods Department's operating budget by \$38,049.⁽³⁾
4. Increase the Police Department's operating budget by \$195,095.⁽⁴⁾
5. Decrease the Public Work's Department's operating budget by \$26,786.⁽⁵⁾

⁽¹⁾ Items 5,6 13 and 13a through 13g of the 2008-09 Mayor's Recommendations

⁽²⁾ Items 55a through 55d of the 2008-09 Mayor's Recommendations

⁽³⁾ Items 128, 133, 137, and 140a through 140f of the 2008-09 Mayor's Recommendations

⁽⁴⁾ Items 100 and 106 of the 2008-09 Mayor's Recommendations

⁽⁵⁾ Items 153a of the 2008-09 Mayor's Recommendations

City of Modesto Financial Policies

1. Budget Adoption Level: The city wide, legally adopted level for the budget of any program is by department at the Fund level.
2. General Fund Reserve: The Council has established the unappropriated reserve's minimum level to be 8% of the current appropriations for operating expenditures and operating transfers-out.
3. Forecasting Model: For the General, Enterprise, Internal Service and Capital Project and other major funds the Finance Department will maintain either a 5 or 10-year financial forecasting model to assess the city's ability to respond to changes in anticipated revenue levels, capital improvement program needs and changes proposed in operating costs. (the use of a 5 or 10-year model will depend on the conditions that apply to each fund)
4. Enterprise Funds and other Non-General Fund Operations: These activities should be self-supporting and should maintain reserve levels that are adequate to protect against fluctuations in revenue and expenditure levels. Activities that deviate from this requirement shall be identified for the City Council annually at the time of budget adoption. Exempt from this requirement are those funds that account solely for grant funds.
5. Inter-fund Loans and Loans to Component Units: Loans between funds and loans to the RDA and other component units of the city should be considered in light of a multi-year business plan that demonstrates a reasonable ability to repay the loan. All inter-fund loans and loans to component units, either existing or proposed, shall be identified for the City Council at the time of budget adoption. Generally, inter-fund loans and loans to component units shall be established with a repayment deadline that reflects the earliest feasible opportunity for repayment of the loan. Interest rates charged on the loan shall be based on the actual rate of return earned by the city's investment portfolio during the 12-month period immediately preceding a payment date.
 - a. Note that the terms and conditions for existing loans between the City and the Redevelopment Agency are governed by one or more separate resolutions adopted at the time the loans were approved.
6. Interest Allocation: Interest shall be allocated quarterly to all funds based on their average monthly balances during each quarter.
7. Direct Charges between Funds: Costs charged between funds such as force-account labor and other direct costs shall be charged on the basis of actual cost and not on the budgeted amount, unless a separate contract exists between the managers of the two programs allowing the use of the budgeted amount as the basis for the charge.
8. Inter-fund Transfers: Unless direction is given at the time an inter-fund transfer is approved that the amount to be transferred between funds is not subject to adjustment based on a share of cost formula, all inter-fund transfers shall be based upon the sending fund's pro rata share of any project costs or other

obligation that is the basis for the transfer. Therefore, a reconciliation of the share of costs allocable to the fund(s) from which resources are to be transferred shall be performed prior to the year-end closing of the city's financial records and shall become the basis for determining the actual amount of any resources to be transferred. It is the intent of this policy that any transfers designed to provide a subsidy to the operations of another fund shall not exceed the amount needed to provide sufficient resources to make revenues equal expenditures unless other direction is provided by the City Council.

All inter-fund transfers and their purpose shall be identified to the Council annually, at the time of the budget adoption.

9. Multi-year appropriations: Appropriations for certain grants and on-going Capital Improvement Program projects that were authorized in previous years and that are not fully expended shall be deemed valid until revoked. Appropriations related to certain developer-funded expenditures may also be treated as multi-year appropriations.
10. Fund Replacement Reserves: In order to provide future resources for the replacement or repair of depreciable assets, each fund shall establish a list of depreciable assets, including useful lives and replacement costs that will determine the amount to be set-aside annually to allow the timely replacement or repair of these assets. Each program manager shall also establish a plan for funding the reserve and shall disclose the adequacy of the reserve level annually to the City Council as part of the annual budget adoption process.
11. Budget Adjustment Authority: The following budgetary adjustment actions are delegated to the parties shown below.
 - a. City Council
 - i. Appropriation of undesignated reserves
 - ii. Appropriation of new revenues
 1. Does not include Developer Payments
 - iii. Budgeting inter-fund transfers
 1. Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation as shown in item (x) under the City Manager's budget adjustment authority shown on page 3.
 - iv. Creation of inter-fund loans
 - v. Creation of, or increase in, any multi-year appropriation
 - vi. Addition of permanent staff positions
 - vii. Appropriation of payments for new indebtedness including operating leases
 - viii. All other budgetary actions not delegated to another official
 - City Manager
 - i. Transfer appropriations between departments within a fund
 - ii. Changing any capital equipment appropriation
 - iii. Changing appropriations for temporary agency labor
 - iv. Transfer appropriations to or from salary line items

- v. Appropriate reserves for litigation on a case-by-case basis
 - vi. Revoke multi-year appropriations
 - vii. Adjust operating program appropriation levels at his/her discretion to maintain the required 8% reserve level.
 - viii. Transfer appropriations from a primary capital project to create or modify the budget of a related secondary capital project without increasing the total appropriations
 - ix. Transfer appropriations between two or more related secondary capital projects without increasing the total appropriations
 - x. Close Capital Improvement Program projects
 - xi. Adjustments to Inter-fund transfers intended to balance enterprise fund operations where the cumulative total of any adjustment does not increase the original City Council approved appropriation by more than \$50,000.00
 - xii. Appropriate Developer Payments not previously budgeted
 - 1. Annexation Deposits
 - 2. Special District Formation Deposits
 - 3. Developer Deposits to be recognized as revenue
- b. Finance Director's Authority
- i. Appropriate unbudgeted grant interest
 - ii. Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount does not increase (any such changes to the allocation shall not result in an increase or decrease to the total amount of discretionary appropriations provided to the affected department(s))
 - iii. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
 - iv. Transfer appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases)
- c. Department Director's Authority
- i. Transfer appropriations between non-salary line items within a department, within a single fund (excludes appropriations related to capital equipment, capital improvement program projects and temporary agency labor)

Capital Projects

12. Capital Improvement Program Budget: The 10-year Capital Improvement Program budget shall reflect the goals and policies established by the General Plan and adopted Specific Plans. Emphasis shall also be given to the need for identification of opportunities to mitigate inadequate and deteriorating infrastructure. Care shall be given to utilize available resources and grants in a manner that legitimately maximizes the city's capacity to complete the capital improvements described above.

CIP Purpose

The purpose of the Capital Improvement Program (CIP) Budget Process is to allow the city to systematically plan, schedule, manage, monitor and finance capital projects to ensure cost-effectiveness and conformity with established policies. The CIP is a ten-year plan organized into the same functional groupings used for the operating programs. The CIP reflects a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure and capital facility projects that significantly expand or add to the City's existing fixed assets.

Requirements to Qualify for the CIP:

1. Cost should be \$100,000 or more for the life of the project
2. May take more than a single year to complete
3. Project revenues and expenditures must be clearly identified and balanced
4. Projects must have an identifiable timeline that includes periodic milestones
5. Maintenance costs to increase the life of the City's infrastructure, replacement costs for infrastructure and the budgeting of amounts to be set-aside in a reserve to create future funding for a project not defined as a Capital Project, but are included in the Capital Improvement Project (CIP) budget document. Examples of these include:
 - Pavement maintenance
 - Water System Downstream Improvements
6. Certain purchases and installation of fixed assets may also be included in the CIP budget plan
7. Every capital project will have a project manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status to the City Council. The project manager ensures that projects comply with the requirements imposed by the guidelines controlling the various revenue sources that are used to finance capital project costs. The project manager shall also coordinate project accounting with the Finance Department.

Primary-Secondary Project Relationships

The CIP frequently contains several projects that are similar in nature. For example, Public Works proposes projects to replace or upgrade traffic signals at different

intersections throughout the City. The construction at each intersection is considered a separate project.

The City Council previously approved grouping similar projects together in a “primary-secondary” relationship. Using the traffic signal example, “Traffic Signals” is the “primary” project, with individual “secondary” projects identified when either construction or construction design on each specific intersection will begin. Note that the primary project description must include a description of each of the secondary projects related to it.

To summarize, the primary project serves as the budgetary control device for both the primary and secondary components. The City Manager has the authority to move funding from one secondary project to another secondary project, as long as the overall project appropriation level does not change. This approach allows for greater flexibility and efficiency when programming multiple projects of the same type.

The Capital Improvement Program Budgeting Process - Generally

Section 65401 of the Government Code and Section 10-1.102 of the Modesto Municipal Code, requires the Planning Commission to review all new capital projects to determine if they conform with the City's adopted *Modesto Urban Area General Plan*.

Existing projects are reviewed annually by the Finance Department. This review uses financial information to identify project progress and completion timelines. This will be integrated into the budget proforma review process.

The Finance Department will work with the capital project managers to develop CIP revenue forecasts for the budget year. This analysis will be compiled and distributed by the Finance Department to the appropriate project managers.

The Senior Executive Team will review and prioritize all existing capital projects to assure consistency with the City's General Plan and the City's vision statement.

The City Council will review new projects and approve the re-appropriation of funds for existing projects as part of the annual Capital Improvement Project budget cycle.

Projects to be closed will be identified by the project managers and submitted by the appropriate Department Director through the Finance Director to the City Manager for closure. The City Manager has the final authority to close the projects using the CIP Closure Form. The reasons for closing a project may include:

- Project Completion
- Delays due to unanticipated costs or events
- Change in Council direction

Capital Improvement Program (CIP) – Budgeting Policies

1. Project costs are appropriated only when the required revenues are available.
 - a. For projects financed with grant monies, the grant award must be accepted by the City Council. Note that a copy of the final grant award must be provided to the Finance Department.

- b. For projects financed with debt, the financing must be completed before the project can be considered for the CIP, unless a reimbursement resolution has been adopted by the City Council.
2. Budget actions involving any Federal, State or grant funded CIP are restrained by the conditions of the funding award.
3. Project costs will be included in the CIP in phases, i.e. projects that are not bid-ready will reflect appropriations only through the design phase.
4. Appropriations needed for the construction phase are based on the bid awarded at the time the appropriation(s) for construction, contingency and construction management costs are requested.
5. If project costs at the time of bid award are greater than the funding available at that time, four options are typically available:
 - a. Eliminate the project.
 - b. Defer the project for consideration to the next budget cycle.
 - c. Re-scope or change the phasing of the project to meet the existing budget.
 - d. Request to close one or more other projects that are not time-sensitive, where doing so will not create a hardship. This will allow a new appropriation to be created from the funding restored in the fund balance.
6. Projects that are not included in the annual CIP adoption process may be added later in the year but must meet the policy requirements identified above and must be previously approved by the Planning Commission.

Capital Project Reporting and City Council Updates

Project Status Reports

Project milestones will be listed as objectives in the CIP program narratives to facilitate project tracking. Status reports for all CIP appropriations shall be filed with the City Council every October and May. Recurring status reports shall include:

1. The name of the project manager
2. Actual costs incurred compared to the budget, by phase.
3. Original timeline compared to the current timeline with an explanation for variances that push the deadline more than 30 days beyond the original date
4. The amount of funding received, if any, from outside sources or via transfers
5. The status of any required compliance reporting.

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
		(1310) Police Capital Facility Fee		1999 POLICE DEPT CAP FAC FUND	150,000
		(1320) Fire Capital Facility Fee		1899 FIRE DEPT CAP FAC FUND	65,000
		(1380) General Government Capital Facility Fee		4999 CITY HALL EXPANSN CAP FAC FUND	60,000
		(1410) Streets Capital Facility Fee		4399 STREETS CAP FAC FUND	2,955,000
		(1420) Transit Capital Facility Fee		1699 PUBLIC TRANSPRTN CAP FAC FUND	30,500
		(1430) Air Quality Capital Facility Fee		3198 AIR QUALITY CAP FAC FEE FUND	50,000
		(2300) Capital Grants	A012	A012 1230 12TH STREET RETROFIT	470,714
		(2330) Capital Grants-Parks	P056	P056 416 DOWNEY AVENUE	250,000
		(6181) Fairview Interim Water Improv	W336	W336 S. MODESTO INTERIM WATER IMPRV (PRIMARY)	7,998
		(6600) Golf	P391	P391 GOLF CAPITAL IMPROVEMENTS	104,024
Element Total					4,143,236
Comm Growth	Improv	(2300) Capital Grants	A080	A080 BRIGGSMORE/99 BEAUTIFICATION	1,135,134
Element Total					1,135,134
Comm Svcs & Fac	Maint	(0700) Special Gas Tax	H485	H485 PAVEMENT CONDITION SURVEY	368,316
		(6180) Water CIP	W455	W455 REPLACE PUMPS (PRIMARY)	221,774
		(6210) Wastewater Fund	B618	B618 UTILITY CUTS REPAVEMENT	228,000
	Improv	(1300) Special Fund for Capital Outlay	Q237	Q237 COUNTER RECONSTRUCTION	158,000

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Apr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(1350) Parks Capital Fac Fee	P501	P501 MARY E GROGAN COMMUNITY PARK	250
			P856	P856 NE COMMUNITY SERVICES CENTER	140,000
			P469	P469 SYLVAN & MARSHALL PARK SPRAY GROUNDS	117,800
		(1400) Parks	P504	P504 GEORGE A. ROGERS PARK PHASE III	36,276
			P733	P733 SCHOOL FACILITIES INFRASTRUCTURE	132,000
			P854	P854 THURMAN FIELD IMPROVEMENTS	2,400,000
			(1410) Streets Capital Facility Fee	E635	E635 ARTERIAL ROUNDABOUTS
		E305		E305 DALE ROAD CCTV CAMERAS	35,000
		E286		E674 NEW TRAFFIC SIGNALS	774,293
		E332		E332 NEW TRAFFIC SIGNALS 2008	450,000
		H420		H424 NWS1-PELANDALE/SISK TO SR99 NORTHBOUND ON-RAM	467,250
		E689		E689 PELANDALE CCTV/FIBER OPTICS	354,089
		(2300) Capital Grants	E306	E306 RIGHT-TURN LANES - 4 INTERSECTIONS	390,000
			E286	E678 ROUNDABOUTS - ROSELLE AVENUE	384,843
			E739	E739 STATE ROUTE 132 @ D STREET ROUNDABOUT	115,089
			E097	E677 UPGRADE T/S BRIGGSMORE/CARVER	127,595
				(2300) Capital Grants	N064

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget		
Comm Svcs & Fac	Improv	(2300) Capital Grants	M182C	M182 MADDUX YOUTH CENTER IMPROVEMENTS	140,000		
			N442	N442 PLAY EQUIPMENT UPGRADES	430,723		
			N060	N060 SCENIC & BODEM RIGHT-TURN LANE	81,719		
					A087	A087 VIRGINIA CORRIDOR	8,448,777
			(2330) Capital Grants-Parks	P500	P500 KING-KENNEDY KITCHEN & AUDITORIUM - PHASE 1	182,586	
		P849		P849 KING-KENNEDY KITCHEN & AUDITORIUM- PHASE 2	659,805		
			(2370) Capital Grants-Gas Tax	H930	H930 DALE RD/KIERNAN INTERSECTION IMPROVEMENTS	5,372,165	
				E330	E667 DETECTOR LOOPS SECONDARY	150,071	
				E330	E964 ELIMINATE TRAFF BTLNKS	9,610	
				H475C	H151 FED PAVEMENT REHAB H, I & 9TH STREETS	1,605,000	
				H475C	H187 FED PAVEMENT REHAB PELANDALE	168,000	
				H475C	H404 FED PAVEMT REHAB 9TH SEC	2,389,380	
				H485	H769 FED PAVEMT REHAB CLAUS/JHS TO SCENIC	1,627,635	
				E947	E947 HIGH VOLTAGE STREET LIGHT CIRCUIT REPAIR	276,314	
			E737	E737 LOW COST TRAFFIC IMPROVEMENTS PRIMARY	50,000		
			E602	E736 PEDESTRIAN & BICYCLIST SAFETY ENHANCEMENT	83,653		
			E602	E645 RNDABT COL/BOW,KOD/TEM,MER	422,975		

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget		
Comm Svcs & Fac	Improv	(2370) Capital Grants-Gas Tax	E602	E640	ROUNDABOUT KODIAK/LINCOLN OAK SECONDARY	219,327	
			E340	E340	ROUNDABOUTS COLLECTOR STREETS	450,000	
			E330	E663	RT CARP/STATE & SISK SECONDARY	977,119	
			E602	E955	SAFE ROUTE TO SCHOOL GRT-CONANT	427,000	
			E330	E520	SR219 PROJ COORDINATOR SVC SEC-E330	90,000	
			H475C	H580	SYLVAN/MCHENRY TO COFFEE	2,332,596	
			E330	E687	SYNCH SIGS OUTSIDE DOWNTOWN	135,737	
			E602	E672	T/S NEW SISK/VINTAGE FAIRE	239,290	
			E602	E602	TRAFFIC CONTROL DEVICES-NEW	152,841	
			E330	E330	TRAFFIC CONTROL UPGRADES-GAS TAX-PRIMARY	115,053	
			E330	E965	TRAFFIC SIGNAL MODIFICATIONS	41,838	
			E697	E697	TULLY/WOODROW	96,502	
			E330	E664	UPGRD T/S 12/J&LALOMA/BUR SECO	307,156	
			(2641) Fairview Village CFD-CIP	X725C	X725	FAIRVIEW VILLAGE H2O SYSTEM	150,526
			(2690) Village One #2 One Time	X536	X536	SYLVAN AND LITT INTERSECTION CONTROL & ROAD WID	48,938
	Q317C	Q317	SYLVAN-SO. BET. OAKDALE/WOOD S	145,700			
(2691) Village One #2 Bond Funds	X512C	X512	FLOYD AVE BETWEEN ROSELLE & FINE	-1,519,592			

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(2691) Village One #2 Bond Funds	Q315C	Q315 MERLE ROAD IMPROVEMENTS	311,254
			Q310	Q310 PEDESTRIAN OVERCROSSING	375,000
			X532	X532 ROSELLE AVENUE FROM SYLVAN AVENUE TO FLOYD AV	4,606,400
			X548	X548 SYLVAN AND OAKDALE - INTERSECTION IMPROVEMENTS	305,000
			X744	X744 VILLAGE ONE PROCEEDS PRIMARY	2,039,701
		(6180) Water CIP	W425	W425 DOWNSTREAM IMPROVEMENTS (PRIMARY)	77,926,484
	W425		W002 DOWNSTREAM IMPROVEMENTS CLARATINA & VA CORRI	12,580,000	
	W425		W003 DOWNSTREAM IMPROVEMENTS INDUSTRIAL TANK/PIPELI	3,000,000	
	W425		W361 DOWNSTREAM IMPROVEMENTS TIER 1 PRVS	5,094,795	
	W425		W363 DOWNSTREAM IMPROVEMENTS TIER 1-NO. TANK	693,200	
	W425		W133 DOWNSTREAM IMPROVEMENTS WEST TANK/PIPELINES	1,500,000	
	W425		W099 DOWNSTREAM IMPROVEMENTS YOSEMITE TRUNK LINE-	400,000	
	W425		W078 DOWNSTREAM IMPROVEMENTS-ORANGEBURG AVE TRA	6,450,000	
	W426		W426 EXTEND WATER MAINS (PRIMARY)	262,509	
	W440		W440 GROUNDWATER MANAGEMENT PLANNING & IMPLEMENT	74,957	
	W441		W441 INSTALL NEW WELLS (PRIMARY)	3,898,795	
	W425		A202 MRWTP PHASE 2 EXPANSION: PLANT IMPROVEMENTS (S	1,044,412	

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W433	W433 PURCHASE & INSTALL NEW GENERATORS (PRIMARY)	54,098
			W428	W428 STRENGTHEN AND REPLACE WATER SYSTEM (PRIMARY)	45,000
			W426	W798 SYLVAN/ROSELLE RNDBT H2O (SECONDARY)	175,354
			W414C	W414 TID SURFACE WATER SUPPLY PROJECT (INDIVIDUAL)	940,000
			W439	W439 WATER MASTER PLAN (INDIVIDUAL)	300,000
			W416C	W416 WATER METERS (PRIMARY)	638,634
			W436	W436 WATER SYSTEM ANALYSIS - PRIMARY	126,033
			W430	W430 WELLHEAD TREATMENT & WELL REHABILITATION (PRIMA	1,515,313
		(6210) Wastewater Fund	B778	B778 COLLECTION SYSTEM - REHABILITATION IMPROVEMENTS	3,021,058
			B777	B777 COLLECTION SYSTEM -CAPACITY IMPROVEMENTS	2,631,398
			B780	B780 COLLECTION SYSTEM -RELIABILITY IMPROVEMENTS	211,680
			A215	A215 DAF DISSOLVED AIR FLOTATION	9,450,000
			B808	B808 EMERALD TRUNK REHABILITATION	12,635,053
			B005	B005 JENNINGS ROAD OPERATIONS	55,000
			B812	B812 PRIMARY OUTFALL REHABILITATION	25,160,495
			B805	B805 WASTEWATER TREATMENT - PHASE 1A TERTIARY	25,387,693
			B807	B807 WASTEWATER TREATMENT - PHASE 1B PRIMARY WQC I	4,217,850

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
Comm Svcs & Fac	Improv	(6210) Wastewater Fund	B806	B806 WASTEWATER TREATMENT - PHASE 1B TERTIARY	6,713,613	
			B770	B770 WW TREATMENT-PHASE 1B SECONDARY WQC UPGRADE	1,020,600	
		(6280) Storm Drainage Fund	N686	N686 9TH STREET STORM DRAINAGE	549,134	
			Q231	Q231 STORM DRAIN MASTER PLAN	129,240	
			D001	D001 STORM DRAIN RATE ANALYSIS	50,000	
		(6320) Special Aviation	A007	A007 AIRPORT PLANNING STUDIES	237,500	
			A015	A015 AIRPORT SECURITY FENCE, 28R APPROACH END	32,300	
			A011	A011 APRON REHABILITATION DESIGN	118,750	
			A004	A004 ENHANCED RUNWAY 10R SAFETY AREA - DESIGN	118,750	
			A784	A784 NEW AIRPORT STORAGE HANGARS	850,000	
			A005	A005 REPLACE/UPDATE LIGHTED AIRFIELD WIND CONES	20,900	
		(6510) Bus Service - Fixed Route	A044	A044 AUTOMATIC VEHICLE LOCATION SYSTEM-MAX	1,276,427	
		(7130) Information Technology	M481	M481 INET - FIBER NETWORK	142,121	
		Replace	(6320) Special Aviation	A001	A001 AIR RESCUE FIRE FIGHTING (ARFF) VEHICLE	807,500
				(6510) Bus Service - Fixed Route	A128	A131 BUD PURCHASES 08
A128	A128 BUS PURCHASES				850,000	
A128	J401 BUS PURCHASES 06				2,071,330	

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund		Appr.	Project		2008-09 Budget
Comm Svcs & Fac	Replace	(6510)	Bus Service - Fixed Route	B911A	B911	NEW BUS MAINTENANCE FACILITY	17,685,016
				J792	J792	REPLACE VEHICLE WASHER	335,000
				Element Total			
Public Safety	Improv	(1300)	Special Fund for Capital Outlay	M163D	M163	NEIGHBORHOOD CENTER AT MARSHALL PARK	2,106,976
				M168	M168	POLICE TACTICAL TRAINING CENTER	220,000
				(1410)	Streets Capital Facility Fee	H465	H465
		(7130)	Information Technology	M483	M002	CAD-BYRNE JUSTICE GRANT 2005	116,260
				M483	M552	CAD-BYRNE JUSTICE GRANT 2006	79,092
				M483	M001	CAD-BYRNE JUSTICE GRANT 2007	142,462
				M483	M483	CAD-COMPUTER AIDED DISPATCH	651,925
		M483	M003	CAD-COPS 2005 TECH GRANT	254,456		
		M483	M780	CAD-COPS 2006 TECH GRANT	394,891		
		Replace	(2300)	Capital Grants	M203	M203	9TH STREET BRIDGE REPLACEMENT
Element Total						5,260,522	
Env Rsrchs & Opn Spcs	Maint	(6320)	Special Aviation	A803	A803	NOISE STUDY	145,399
	Improv	(2330)	Capital Grants-Parks	P502	P502	MONTEROSSO TRAILHEAD	600,632
	(8910)	Tuolumne River Regional Park-CIP	P844	P844	TRRP GATEWAY PHASE I & II	1,664,947	

CIP Budget by Element, Classification, and Fund (REV)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Env Rsrcs & Opn Spcs	Improv	(8910) Tuolumne River Regional Park-CIP	N441C	N441 TRRP, GATEWAY PROJECT	257,744
Element Total					2,668,722
Grand Total					289,084,775

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
		(1350) Parks Capital Fac Fee	P855	P855 SHARP PARK HOUSE REMOVAL & IMPROVEMENTS	158,840
		(2300) Capital Grants	A012	A012 1230 12TH STREET RETROFIT	388,066
			A087	P713 VIRGINIA CORRIDOR PHASE III	924,234
		(2330) Capital Grants-Parks	P056	P056 416 DOWNEY AVENUE	241,388
		(6000) Parking	P597	P597 PARKING GARAGE PROJECTS	1,256,313
		(6181) Fairview Interim Water Improv	W336	W353 LASSEN WATERLINE INSTAL (SECONDARY)	1
			W336	W336 S. MODESTO INTERIM WATER IMPRV (PRIMARY)	8,140
		(6290) Compost Ops Fund	P564	P564 COMPOST FACILITY INFRASTRUCTURE PRESERVATION	178,474
			P484	P484 COMPOST MAINTENANCE FACILITY	1,012
		(6600) Golf	P391	P391 GOLF CAPITAL IMPROVEMENTS	88,670
Element Total:					3,245,138
Comm Growth	Improv	(2300) Capital Grants	A080	A080 BRIGGSMORE/99 BEAUTIFICATION	1,145,913
Element Total:					1,145,913
Comm Dev	Improv	(1400) Parks	P734	P734 PARK PARTNERS	19,218
		(1410) Streets Capital Facility Fee	H476	H476 DEVELPR REIMBURSE IMPRV/ROW	7,319,284
Element Total:					7,338,502

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
Comm Svcs & Fac	Maint	(0700) Special Gas Tax	E453	E453 MAINTAIN ATMS CCTV SYSTEM	50,000	
			H485	H485 PAVEMENT CONDITION SURVEY	257,233	
		(1300) Special Fund for Capital Outlay	M710	M710 REPAINT MODESTO ARCH	45,000	
			(6180) Water CIP	W455	W455 REPLACE PUMPS (PRIMARY)	1,000,000
		(6210) Wastewater Fund	B576	B293 DIGESTER #1 REHABILITATION (SECONDARY B576)	309,498	
			B576	B178 DIGESTER #2 VALVE ACTUAT(B576)	13,100	
			B577	B986 FLOW METERS (SECONDARY B577)	200,000	
			B824	B824 GEOTECHNICAL STUDY @ CHLORINE FACILITY	12,894	
			B827	B827 JENNINGS RANCH ROADS AND LEVEES	56,000	
			B576	B272 SUTTER TP CORROSION CONTROL (SECONDARY B576)	50,000	
			B618	B618 UTILITY CUTS REPAVEMENT	585,978	
			(6320) Special Aviation	A787	A787 REFURBISH EXISTING STORAGE HANGARS	30,000
		Improv	(0700) Special Gas Tax	E453	E763 CCTV FY06-07 SECONDARY	35,000
				E451	E451 PEDESTRIAN COUNTDOWN INDICATOR	19,165
(1300) Special Fund for Capital Outlay	K859			K859 CORPORATION YARD LAND ACQTN	13,272	

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
Comm Svcs & Fac	Improv	(1300) Special Fund for Capital Outlay	Q237	Q237 COUNTER RECONSTRUCTION	360,505	
		(1350) Parks Capital Fac Fee	P331	P341 LIGHTING, PLAYGROUND, SHADE STRUCTURES FY 07-08	145,235	
			P331	P331 LIGHTING, PLAYGROUNDS AND SHADE STRUCTURES	400,000	
			P501	P501 MARY E GROGAN COMMUNITY PARK	3,548,564	
			P856	P856 NE COMMUNITY SERVICES CENTER	200,541	
			P331	P380 PHASE 1 LIGHTNG, PLAYGROUND AND SHADE STRUCTURES	254,612	
			P402	P402 SANDERS NEIGHBORHOOD PARK	203,879	
			P406	P406 STOCKARD COFFEE SHADE STRUCTURE	9,646	
			P469	P469 SYLVAN & MARSHALL PARK SPRAY GROUNDS	11,417	
			(1400) Parks	P504	P504 GEORGE A. ROGERS PARK PHASE III	933
				M185	M185 INFRASTRUCTURE PRESERVATION	254,294
				P493	P493 PARK SYSTEM IMPROVEMENTS	223,347
				P733	P733 SCHOOL FACILITIES INFRASTRUCTURE	355,539
				P854	P854 THURMAN FIELD IMPROVEMENTS	2,232,567
			(1410) Streets Capital Facility Fee	E097	E659 7TH & B ST SIGNAL MODIFICATION	51,065

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(1410) Streets Capital Facility Fee	E635	E635 ARTERIAL ROUNDABOUTS	479,630
			H468	H001 CLARA-MCHEN BN&SF PLAN LN SEC	60,741
			Q210	Q210 CLARATINA - COFFEE TO OAKDALE - 2 LANES	2,502,615
			H455	H455 CLARATINA-MCHENRY TO COFFEE-4 LANES	311,777
			H470	H470 CLARATINA-OAKDALE TO ROSELLE	300,000
			H458	H458 CLAUS ROAD - BRIGGSMORE TO SYLVAN - 4 LANES	300,000
			M283	M283 CLAUS ROAD PLAN LINE	74,940
			E305	E305 DALE ROAD CCTV CAMERAS	35,000
			E298	E298 EXPAND ATMS/CCTV-PRIMARY	75,000
			E286	E674 NEW TRAFFIC SIGNALS	873,682
			E332	E332 NEW TRAFFIC SIGNALS 2008	450,000
			H420	H420 NWS0 NORTHWEST MODESTO ST IMPROV - PRIMARY	69,416
			H420	H421 NWS1-BANGS/PRESCOTT INTERSECTION IMPROVEMENTS	154,639
			H420	H422 NWS1-PELANDALE/DALE INTERSECTION IMPROVEMENTS	335,517

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(1410) Streets Capital Facility Fee	H420	H424 NWS1-PELANDALE/SISK TO SR99 NORTHBOUND ON-RAMP	1,547,367
			H137	H137 OAKDALE ROAD WIDENING-SYLVAN TO CLARATINA	400,000
			E689	E689 PELANDALE CCTV/FIBER OPTICS	394,331
			H698	H461 PELANDALE-6 LANES DALE TO MCHENRY	17,064,785
			H468	H468 PLAN LINES - PRIMARY	19,532
			E306	E306 RIGHT-TURN LANES - 4 INTERSECTIONS	390,000
			E286	E678 ROUNDABOUTS - ROSELLE AVENUE	446,946
			E739	E739 STATE ROUTE 132 @ D STREET ROUNDABOUT	130,000
			E286	E286 TRAFFIC CONTROL DEVICES (NEW)-PRIMARY	459,500
			E097	E097 TRAFFIC CONTROL UPGRADES-CFF-PRIMARY	400,000
		E097	E677 UPGRADE T/S BRIGGSMORE/CARVER	137,850	
		(2300) Capital Grants	A265	A265 LOWER U.P.R.R. CROSSINGS	89,034
		M182C	M182 MADDUX YOUTH CENTER IMPROVEMENTS	90,026	
		N442	N442 PLAY EQUIPMENT UPGRADES	1,369	
		N060	N060 SCENIC & BODEM RIGHT-TURN LANE	148,090	

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(2300) Capital Grants	A087	A087 VIRGINIA CORRIDOR	18,868
			A087	P365 VIRGINIA CORRIDOR PHASE V	3,489,677
	(2330) Capital Grants-Parks	P500	P500 KING-KENNEDY KITCHEN & AUDITORIUM - PHASE 1	25,333	
		P849	P849 KING-KENNEDY KITCHEN & AUDITORIUM- PHASE 2	158,856	
		(2370) Capital Grants-Gas Tax	H930	H930 DALE RD/KIERNAN INTERSECTION IMPROVEMENTS	6,971,912
	E330		E667 DETECTOR LOOPS SECONDARY	17,757	
	E330		E964 ELIMINATE TRAFF BTLNKS	343	
	H475C		H151 FED PAVEMENT REHAB H, I & 9TH STREETS	1,542,965	
	H475C		H187 FED PAVEMENT REHAB PELANDALE	168,000	
	H475C		H404 FED PAVEMT REHAB 9TH SEC	2,017,445	
	H485		H769 FED PAVEMT REHAB CLAUS/JHS TO SCENIC	1,594,502	
	E947		E947 HIGH VOLTAGE STREET LIGHT CIRCUIT REPAIR	96,792	
	E737	E737 LOW COST TRAFFIC IMPROVEMENTS PRIMARY	12,950		
	E602	E736 PEDESTRIAN & BICYCLIST SAFETY ENHANCEMENT	83,653		
	E602	E645 RNDABT COL/BOW,KOD/TEM,MER	373,782		

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(2370) Capital Grants-Gas Tax	E602	E640 ROUNDABOUT KODIAK/LINCOLN OAK SECONDARY	217,267
			E340	E340 ROUNDABOUTS COLLECTOR STREETS	450,000
			E330	E663 RT CARP/STATE & SISK SECONDARY	960,863
			E602	E955 SAFE ROUTE TO SCHOOL GRT-CONANT	427,000
			E330	E520 SR219 PROJ COORDINATOR SVC SEC-E330	51,915
			H475C	H580 SYLVAN/MCHENRY TO COFFEE	2,303,082
			E330	E687 SYNCH SIGS OUTSIDE DOWNTOWN	79,663
			E602	E672 T/S NEW SISK/VINTAGE FAIRE	233,628
			E602	E602 TRAFFIC CONTROL DEVICES-NEW	152,841
			E330	E330 TRAFFIC CONTROL UPGRADES-GAS TAX-PRIMARY	115,053
			E330	E965 TRAFFIC SIGNAL MODIFICATIONS	34,875
			E697	E697 TULLY/WOODROW	18,286
			E330	E664 UPGRD T/S 12/J&LALOMA/BUR SECO	300,770
			(2641)	Fairview Village CFD-CIP	X725C X725 FAIRVIEW VILLAGE H2O SYSTEM
(2680)	Pelandale/Snyder	A102 A102 SNYDER AVE (PRESCOTT & CARVER)	1,049,077		

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(2690) Village One #2 One Time	X549	X549 OAKDALE ROAD FROM FLOYD TO SYLVAN	797,464
			X516	X516 ROSELLE & MERLE INTERSECTION IMPROVEMENTS (INT-007)	165,000
			X536	X536 SYLVAN AND LITT INTERSECTION CONTROL & ROAD WIDENING (INT-002)	1,263,470
			X538	X538 SYLVAN AVE @ ARIA WAY INTR SCTN CONTROL/RD WIDENING (INT-003)	846,000
			Q317C	Q317 SYLVAN-SO. BET. OAKDALE/WOOD S	145,408
			X001	X001 WEST BASIN LANDSCAPE/EROSION CONTROL	269,685
			X512C	X512 FLOYD AVE BETWEEN ROSELLE & FINE	2,904,928
			Q315C	Q315 MERLE ROAD IMPROVEMENTS	525,950
		X527C	X527 OAKDALE & LA FORCE INTERSECTION	119,100	
		Q310	Q310 PEDESTRIAN OVERCROSSING	681,080	
		X532	X532 ROSELLE AVENUE FROM SYLVAN AVENUE TO FLOYD AVENUE (RD-015)	3,988,108	
		A114C	A114 ROSELLE&FLOYD INT CTRL,RD WIDE	277,266	
		X548	X548 SYLVAN AND OAKDALE - INTERSECTION IMPROVEMENTS (INT-001)	305,000	
		X507C	X507 SYLVAN BETWEEN ROSELLE/MILLBROOK	1,473,265	
				(2691) Village One #2 Bond Funds	

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget		
Comm Svcs & Fac	Improv	(2691) Village One #2 Bond Funds	X744	X744	VILLAGE ONE PROCEEDS PRIMARY	286,160	
		(6000) Parking	P866	P866	PARKING LOT MAINTENANCE	60,412	
		(6180) Water CIP	W430	W730	CALIFORNIA ST. / WELL 283 BLENDING LINE (SECONDARY)		766,607
			W426	W379	CLARATINA-BETW COFFEE & OAKDALE MAIN EXTENSION		246,450
			W426	W008	CLARATINA-MCHENRY 12" MAIN		46,365
			W441	W456	DEL RIO - WELL REPLACEMENT (SECONDARY)		1,800,000
			W416C	W943	DEL RIO RESIDENTIAL METERS (SECONDARY)		36,027
			W425	W425	DOWNSTREAM IMPROVEMENTS (PRIMARY)		27,400,000
			W425	W002	DOWNSTREAM IMPROVEMENTS CLARATINA & VA CORRIDOR TRANS MAIN-SEC		12,580,000
			W135	W135	DOWNSTREAM IMPROVEMENTS FOR SOUTH MODESTO		650,000
			W425	W003	DOWNSTREAM IMPROVEMENTS INDUSTRIAL TANK/PIPELINES		2,999,311
			W425	W361	DOWNSTREAM IMPROVEMENTS TIER 1 PRVS		5,068,911
			W425	W363	DOWNSTREAM IMPROVEMENTS TIER 1-NO. TANK		1,691,837
W425	W133	DOWNSTREAM IMPROVEMENTS WEST TANK/PIPELINES		1,720,445			

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W425	W099 DOWNSTREAM IMPROVEMENTS YOSEMITE TRUNK LINE-SECONDARY	400,000
			W425	W078 DOWNSTREAM IMPROVEMENTS-ORANGEBURG AVE TRANS MAIN-SEC	6,338,747
			W428	W457 E. ORANGEBURG - WATER MAIN REPLACEMENT (SECONDARY)	780,000
			W426	W610 EXTEND WATER MAINS - NEW DEVELOPMENTS (SECONDARY)	220,273
			W426	W426 EXTEND WATER MAINS (PRIMARY)	3,095,535
			W430	W976 GAC WELLS- NITRATE ANALYZER (SECONDARY)	51,822
			W430	W629 GRAYSON NITRATE PILOT (SECONDARY)	21,050
			W440	W440 GROUNDWATER MANAGEMENT PLANNING & IMPLEMENTATION (PRIMARY)	275,000
			W416C	W703 HICKMAN RESIDENTIAL METERS (SECONDARY)	1
			W441	W441 INSTALL NEW WELLS (PRIMARY)	6,587,500
			W011	W011 KANSAS-NEEDHAM SOIL REMEDIATION	300,000
			W426	W371 KIERNAN AT DALE INTERSECTION MAIN EXTENSION	103,684
			W441	W729 MILDRED PERKINS WELL 83 (SECONDARY)	1,293,625

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W416C	W381 MODESTO RESIDENTIAL WATER METERS (SECONDARY)	444,385
			W428	W615 MODESTO SYSTEM IMPROVEMENTS (SECONDARY)	360,115
			W436	W608 MODESTO WATER SYSTEMS ANALYSIS (SECONDARY)	150,000
			W425	A202 MRWTP PHASE 2 EXPANSION: PLANT IMPROVEMENTS (SECONDARY)	609,151
			W377	W377 NEW WATER TANKS - PRIMARY	2,784,733
			W436	W609 OUTLYING AREAS WATER SYSTEMS ANALYSIS (SECONDARY)	100,000
			W426	W572 PELANDALE LANDSCAPE WATERLINE (SECONDARY)	26,180
			W426	W367 PELANDALE WATERLINE EXTENSION TO U.P.R.R.-SECONDARY	80,933
			W433	W433 PURCHASE & INSTALL NEW GENERATORS (PRIMARY)	500,000
			W416C	W704 SALIDA RESIDENTIAL METERS (SECONDARY)	93,360
			W430	W386 SALIDA WELLS ARSENIC TREATMENT	540,000
			W435	W603 SECURITY (VA)-TANK 5 SITE (SECONDARY)	11,324
			W435	W604 SECURITY (VA)-TANK 6 SITE (SECONDARY)	2,595
			W435	W719 SECURITY (VA)-TANK 7 SITE (SECONDARY)	12,969

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W435	W723 SECURITY (VA)-WELL SITE 14 (SECONDARY)	13,294
			W435	W721 SECURITY (VA)-WELL SITE 2 (SECONDARY)	2,707
			W435	W724 SECURITY (VA)-WELL SITE 25 (SECONDARY)	7,296
			W435	W722 SECURITY (VA)-WELL SITE 7 (SECONDARY)	4,050
			W428	W119 SR 132 MAIN REPLACEMENT (SECONDARY)	1,332,749
			W428	W001 STRENGTH/REPL TUOLUMNE-NEECE	181,188
			W428	W373 STRENGTHEN & REPLACE WTR SYS WEST MODESTO-SECONDARY	750,000
			W428	W428 STRENGTHEN AND REPLACE WATER SYSTEM (PRIMARY)	2,500,000
			W440	W620 STRGBA GROUNDWATER MANAGEMENT PLAN (SECONDARY)	50,000
			W426	W798 SYLVAN/ROSELLE RND BT H2O (SECONDARY)	-337
			W426	W387 TANK #5 FILL LINE	330,000
			W433	W392 TANKS 7 & 8 PURCHASE/INSTALL GENERATORS (SECONDARY)	520,000
			W441	W624 TEST HOLES-VARIOUS LOCATIONS (SECONDARY)	443,131
			W440	W621 TGBA GROUNDWATER MANAGEMENT PLAN (SECONDARY)	12,750

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W414C	W414 TID SURFACE WATER SUPPLY PROJECT (INDIVIDUAL)	4,088,940
			W410C	W410 URBAN WATER MANAGEMENT PLANNING & IMPLEMENTATION (INDIVIDUAL)	43,449
			W458	W458 WATER DIVISION CORP YARD (INDIVIDUAL)	65,000
			W439	W439 WATER MASTER PLAN (INDIVIDUAL)	1,250,579
			W416C	W416 WATER METERS (PRIMARY)	1,600,000
			W415F	W415 WATER QUALITY STUDY (INDIVIDUAL)	238,061
			W435	W607 WATER SECURITY SYSTEM DESIGN-ALL SITES (SECONDARY)	14,612
			W436	W436 WATER SYSTEM ANALYSIS - PRIMARY	206,684
			W428	W706 WATER SYSTEM SAFETY (SECONDARY)	24,480
			W435	W435 WATER SYSTEM SECURITY ENHANCEMENTS (PRIMARY)	1,029,000
			W438	W438 WATER TANK IMPROVEMENTS (PRIMARY)	200,000
			W416C	W702 WATERFORD RESIDENTIAL METERS (SECONDARY)	1
			W430	W601 WELL 226: ARSENIC PILOT PLANT (SECONDARY)	26,020
			W430	W742 WELL 236 BLENDING LINE (SECONDARY)	808,706

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6180) Water CIP	W430	W544 WELL 49 BLENDING LINE (SECONDARY)	579,166
			W430	W593 WELL 53 BLENDING LINE (SECONDARY)	488,000
			W430	W717 WELLHEAD CONTAMINANT STUDY (SECONDARY)	40,701
			W430	W368 WELLHEAD TREATMENT W21 PCE (SECONDARY)	25,299
			W430	W430 WELLHEAD TREATMENT & WELL REHABILITATION (PRIMARY)	2,470,000
			W430	W714 WELLHEAD TREATMENT WELL #3 - PCE (SECONDARY)	1,337,793
			W430	W720 WELLHEAD TREATMENT WELL 66 GALAS (SECONDARY)	11,430
			W430	W705 WHITMORE/W55 BLENDING LINE (SECONDARY)	511,065
		(6181) Fairview Interim Water Improv	W494	W494 DEVELOPER REIMBURSEMENT AGREEMENT-PRIMARY	233,692
		(6210) Wastewater Fund	B815	B815 9TH STREET REHABILITATION	286,035
			B001	B001 CASSWORKS	18,000
			A049	A049 CELESTE/ROSE/SCENIC SEWER IMPR	337,533
			B048	B048 CLARIFIER #1 AND #2 ARM RECOATING	500,000
			B575	B446 COFFEE-CLARATINA LIFT STATION (SECONDARY B575)	207,309
			B778	B778 COLLECTION SYSTEM - REHABILITATION IMPROVEMENTS	3,021,058

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Apr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6210) Wastewater Fund	B777	B777 COLLECTION SYSTEM -CAPACITY IMPROVEMENTS	2,631,398
			B781	B781 COLLECTION SYSTEM NEW SEWER SERVICE EXTENTIONS	650,438
			B574	B534 COLLECTION SYSTEM REHABILITATION - CARVER	106,059
			B627	B627 COLLECTION SYSTEM REHABILITATION 2006	204,375
			B780	B780 COLLECTION SYSTEM -RELIABILITY IMPROVEMENTS	211,680
			A215	A215 DAF DISSOLVED AIR FLOTATION	2,384,545
			B463	B463 DIGESTER GAS TREATMENT SYSTEM	500,000
			B808	B808 EMERALD TRUNK REHABILITATION	12,229,384
			A209	A209 ENGINEERING SYSTEM ANALYSIS	332,304
			B122	B122 GAP ANALYSIS - WDR COMPLIANCE	2,304,000
			B006	B006 GASEOUS CHLORINE CONVERSION	1,198,500
			B122	B123 GIS MAPPING (B122)	1,246,000
			B005	B005 JENNINGS ROAD OPERATIONS	55,000
			B609	B609 LA LOMA SEWER LIFT STATION	427,832
B060	B060 MANHOLES-ADJUSTED TO GRADE	130,000			

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Improv	(6210) Wastewater Fund	B812	B812 PRIMARY OUTFALL REHABILITATION	24,755,000
			B721	B721 RATE ANALYSIS ENG REPORT	40,000
			B490	B490 ROSE/CELESTE SEWER LIFT ST	145,920
			B491	B491 SCENIC LIFT STATION	2,013,822
			B082	B082 SECURITY UPGRADES JENNINGS TREATMENT PLANT	150,000
			B079	B079 SECURITY UPGRADES SUTTER TREATMENT PLANT	450,000
			B002	B002 SEWER LINE EXTENSION	1,037,318
			N143	N143 SHACKELFORD CROSSING	87,636
			A208	A208 WASTEWATER MASTER PLAN UPDATE	13,480
			B805	B805 WASTEWATER TREATMENT - PHASE 1A TERTIARY	22,739,691
			B807	B807 WASTEWATER TREATMENT - PHASE 1B PRIMARY WQC IMPROVEMENTS	4,217,850
			B806	B806 WASTEWATER TREATMENT - PHASE 1B TERTIARY	4,627,350
			B770	B770 WW TREATMENT-PHASE 1B SECONDARY WQC UPGRADES	1,020,600
			(6211) WASTEWATER DEVELOPMENT FEES	B050	B129 SEWER SUBTRUNK REIMBURSEMENT-KAISER MED CTR

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
Comm Svcs & Fac	Improv	(6280) Storm Drainage Fund	N686	N686 9TH STREET STORM DRAINAGE	356,794	
			Q231	Q231 STORM DRAIN MASTER PLAN	66,780	
			D001	D001 STORM DRAIN RATE ANALYSIS	50,000	
			A213	A213 STORM DRAINAGE SYSTEM ANALYSIS	46,753	
		(6320) Special Aviation	A785	A785 AIRPORT IRRIGATION WELL	100,000	
			A007	A007 AIRPORT PLANNING STUDIES	250,000	
			A015	A015 AIRPORT SECURITY FENCE, 28R APPROACH END	34,000	
			A011	A011 APRON REHABILITATION DESIGN	125,000	
			A004	A004 ENHANCED RUNWAY 10R SAFETY AREA - DESIGN	125,000	
			A784	A784 NEW AIRPORT STORAGE HANGARS	799,493	
			A005	A005 REPLACE/UPDATE LIGHTED AIRFIELD WIND CONES	22,000	
		(6510) Bus Service - Fixed Route	A044	A044 AUTOMATIC VEHICLE LOCATION SYSTEM-MAX	1,033,608	
			(7130) Information Technology	M481	M481 INET - FIBER NETWORK	1
			Replace	(0510) Local Transportation	E691	E691 TRAFFIC OPS FACILITY
(1410) Streets Capital Facility Fee	E741	E741 INTERCHANGE FUND - 20% RESERVE FUND BALANCE		1,200,000		

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Replace	(1410) Streets Capital Facility Fee	E740	E740 PELANDALE INTERCHANGE @SR 99	1,033,881
		(6180) Water CIP	W428	W980 I ST. MAIN REPLACEMENT (SECONDARY)	437,654
			W428	W973 N WESTERN AVE MAINS & SERVICE	11,641
			W428	W616 OUTLYING SYSTEM IMPROVEMENTS (SECONDARY)	130,678
			W455	W623 REPLACE PUMPS - OUTLYING (SECONDARY)	1
			W455	W622 REPLACE PUMPS - SYSTEM WIDE (SECONDARY)	113,045
			W445	W445 UTILITY CUTS STREETS	1,000,000
			W441	W407 WELL #228 - REPLACEMENT WELL (SECONDARY)	1,965,000
		(6210) Wastewater Fund	B574	B574 COLLECTION SYSTEM R & R - PRIMARY	1,436,291
			B574	B261 ELLISON STREET REPAIRS (SECONDARY B574)	300,000
			B576	B182 FERRIC CHLORIDE PUMP (B576)	4,450
			B575	B437 JEFFERSON LIFT STATION (SECONDARY B575)	176,998
			B577	B255 JENNINGS TP CORROSION CONTROL (SECONDARY B577)	70,000
			B575	B575 LIFT STATION R & R - PRIMARY	347,194
			B576	B177 PUMPING PLANT 3 ACTUATOR(B576)	3,000

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget
Comm Svcs & Fac	Replace	(6210) Wastewater Fund	B577	B577 RENEWAL/REPLC JENNINGS TP - PRIMARY	1,128,730
			B576	B576 RENEWAL/REPLC SUTTER TP - PRIMARY	2,598,463
			B577	B988 SEGREGATION PUMP REPLACEMENT (SECONDARY B577)	30,992
			B576	B584 WQC LAB REMODEL (SECONDARY B576)	872,955
		(6320) Special Aviation	A001	A001 AIR RESCUE FIRE FIGHTING (ARFF) VEHICLE	850,000
		(6510) Bus Service - Fixed Route	A128	A131 BUD PURCHASES 08	1,950,000
			A128	A128 BUS PURCHASES	850,000
			A128	J401 BUS PURCHASES 06	2,066,330
			B911A	B911 NEW BUS MAINTENANCE FACILITY	16,576,192
			J792	J792 REPLACE VEHICLE WASHER	335,000
		(7130) Information Technology	M480	M480 FINANCIAL SOFTWARE UPGRADE	1
		(7200) Fleet Management	H028A	H028 FLEET MAINTENANCE FACILITY	786,445
		Element Total:			
Public Safety	Maint	(6210) Wastewater Fund	B040	B040 CHLORINE FACILITY	750,000
			Improv	(1300) Special Fund for Capital Outlay	M163D

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
Public Safety	Improv	(1300) Special Fund for Capital Outlay	M168	M168	POLICE TACTICAL TRAINING CENTER	274,837
		(1410) Streets Capital Facility Fee	H465	H465	CARPENTER ROAD BRIDGE-SEISMIC RETROFIT	397,000
		(7130) Information Technology	M483	M002	CAD-BYRNE JUSTICE GRANT 2005	116,260
			M483	M552	CAD-BYRNE JUSTICE GRANT 2006	5,746
			M483	M001	CAD-BYRNE JUSTICE GRANT 2007	142,462
			M483	M483	CAD-COMPUTER AIDED DISPATCH	1,280,047
			M483	M003	CAD-COPS 2005 TECH GRANT	78,931
		M483	M780	CAD-COPS 2006 TECH GRANT	335,241	
		Replace	(2300) Capital Grants	M203	M203	9TH STREET BRIDGE REPLACEMENT
	Element Total:					4,665,616
Env Rsracs & Opn Spcs	Maint	(6320) Special Aviation	A803	A803	NOISE STUDY	100,064
	Improv	(1350) Parks Capital Fac Fee	P503	P503	NEW PARKLAND ACQUISITION	1,170,485
		(2330) Capital Grants-Parks	P502	P502	MONTEROSSO TRAILHEAD	567,015
		(8910) Tuolumne River Regional Park-CIP	P844	P844	TRRP GATEWAY PHASE I & II	1,560,958
			N441C	N441	TRRP, GATEWAY PROJECT	272,419

CIP Budget by Element, Classification, and Fund (EXP)

Fiscal Year 2008-09

Element	Classification	Fund	Appr.	Project	2008-09 Budget	
					Element Total:	3,670,941
Grand Total						328,401,191

**MULTI-YEAR CAPITAL BUDGETING PROGRAMS
FISCAL YEAR 2008-09**

Fund	Agy	Org	Description	REVENUE			EXPENSE					Curr Rev - Curr Exp	REVENUE Increase or (Decrease)	EXPENSE Increase or (Decrease)
				Current Modified Budget	Recognized Amount	Balance	Current Modified Budget	Pre-Enc.	Enc. Amt.	Expended as of 04-25-08	Available			
1	0330	430	4305 KAISER IMPROVEMENTS	\$66,993	\$86,119	(\$19,126)	\$216,048	\$0	\$32,863	\$145,636	\$37,549	(\$149,055)	\$70,000	\$70,000
2	0330	480	4714 DEVELOPER TREES	\$183,851	\$188,033	(\$4,182)	\$183,851	\$0	\$0	\$132,143	\$51,708	\$0	\$50,000	\$50,000
3	0330 Total			\$250,844	\$274,152	(\$23,308)	\$399,899	\$0	\$32,863	\$277,779	\$89,257	(\$149,055)	\$120,000	\$120,000
4	0350	040	0402 OUTSIDE LITIGATION			\$0	\$2,101,509	\$0	\$0	\$1,641,132	\$460,377	(\$2,101,509)		\$250,000
5	0350	700	0402 OUTSIDE LITIGATION-TRANSFER	\$2,101,509	\$1,101,509	\$1,000,000					\$0	\$2,101,509	\$250,000	
6	0350 Total			\$2,101,509	\$1,101,509	\$1,000,000	\$2,101,509	\$0	\$0	\$1,641,132	\$460,377	\$0	\$250,000	\$250,000
7	0400	190	2902 06 BJAG GRANT	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
8	0400	190	2922 SLESF 2005/06 ALLOCATION	\$165,167	\$199,942	(\$34,775)	\$165,167	\$0	\$1,667	\$162,791	\$709	\$0		
9	0400	190	2924 SLESF 2007/08 ALLOCATION	\$402,222	\$404,173	(\$1,951)	\$402,222	\$0	\$0	\$0	\$402,222	\$0		
10	0400	190	2978 CLETEP PROGRAM	\$0	\$6,034	(\$6,034)	\$0	\$0	\$0	\$0	\$0	\$0		
11	0400	440	4419 BLOCK GRANT #9	\$6,122	\$8,083	(\$1,961)	\$8,209	\$0	\$0	\$7,309	\$900	(\$2,087)		
12	0400	440	4423 DOC 04/05	\$0	\$2,598	(\$2,598)	\$2,598	\$0	\$0	\$49	\$2,549	(\$2,598)		
13	0400	440	4425 USED OIL BLK GRANT #10	\$55,832	\$55,833	(\$1)	\$55,832	\$0	\$0	\$55,304	\$528	\$0		
14	0400	440	4427 DOC 05/06	\$57,792	\$57,792	(\$0)	\$57,792	\$0	\$0	\$57,790	\$2	\$0		
15	0400	440	4430 SOLID WASTE DISPOSAL ACT GRANT	\$49,850	\$27,357	\$22,493	\$49,850	\$0	\$0	\$28,842	\$21,008	\$0		
16	0400	355	4434 DOC 06/07	\$57,320	\$57,320	(\$0)	\$57,320	\$0	\$18,000	\$34,575	\$4,745	\$0		
17	0400	355	4437 DEPT OF CONSERVATION GRANT	\$55,308	\$55,308	\$0	\$55,308	\$0	\$0	\$29,775	\$25,533	\$0		
18	0400	355	4439 TIRE CLEAN UP GRANT #8	\$41,407	\$0	\$41,407	\$41,407	\$0	\$0	\$13,430	\$27,977	\$0		
19	0400 Total			\$891,020	\$874,441	\$16,579	\$895,705	\$0	\$19,667	\$389,865	\$486,173	(\$4,685)	\$0	\$0
20	0410	190	2901 AVOID THE 12	\$516,054	\$298,683	\$217,371	\$516,054	\$0	\$0	\$363,133	\$152,921	\$0		
21	0410	190	2903 SAFE NEIGHBORHOOD GRANTS PROG	\$306,628	\$256,641	\$49,987	\$291,109	\$0	\$0	\$286,615	\$4,494	\$15,519		
22	0410	190	2905 GREAT GANG RESIST. ED & TRAIN	\$250,000	\$236,257	\$13,743	\$316,305	\$0	\$0	\$311,895	\$4,410	(\$66,305)		
23	0410	190	2906 PSN GANG REDUCTION GRANT	\$123,000	\$0	\$123,000	\$123,000	\$0	\$0	\$19,451	\$103,549	\$0		
24	0410	190	2907 PSN GUN REDUCTION GRANT	\$100,000	\$439	\$99,561	\$100,000	\$0	\$0	\$37,517	\$62,483	\$0		
25	0410	190	2908 2007 GREAT GANG RESIS ED & TRA	\$150,000	\$38,799	\$111,201	\$228,244	\$0	\$0	\$107,497	\$120,747	(\$78,244)		

**MULTI-YEAR OPENING PROGRAMS
FISCAL YEAR 2008-09**

	Fund	Agy	Org	Description	REVENUE			EXPENSE				Curr Rev - Curr Exp	REVENUE Increase or (Decrease)	EXPENSE Increase or (Decrease)	
					Current Modified Budget	Recognized Amount	Balance	Current Modified Budget	Pre-Enc.	Enc. Aml.	Expended as of 04-25-08				Available
26	0410	190	2965	SAFE NEIGHBORHOOD GRANTS PROG	\$306,828	(\$18,093)	\$324,721	\$288,535	\$0	\$0	\$0	\$288,535	\$18,093		
27	0410	190	2966	VEHICLE IMPOUND/DUI/STEP GRANT	\$1,000,000	\$536,698	\$463,302	\$1,000,000	\$0	\$0	\$689,436	\$310,564	\$0		
28	0410	190	2969	BUCKLE UP STANISLAUS GRANT	\$297,900	\$91,538	\$206,362	\$300,466	\$0	\$0	\$126,163	\$174,303	(\$2,566)		
29	0410	380	3827	04-05 TIRE AMNESTY TR43-04-3	\$20,000	\$11,934	\$8,066	\$20,000	\$0	\$0	\$11,934	\$8,066	\$0		
30	0410	440	4422	CHRYSLER PARK PLAYGROUND COVER	\$24,995	\$21,986	\$3,009	\$24,995	\$0	\$0	\$21,986	\$3,009	\$0		
31	0410	440	4424	TIRE AMNESTY TR34-03-9	\$19,990	\$4,246	\$15,744	\$9,214	\$0	\$0	\$4,246	\$4,968	\$10,776		
32	0410	440	4428	TIRE ENFORCEMENT GR 11TH CYCLE	\$87,179	\$61,178	\$26,001	\$87,179	\$0	\$0	\$57,578	\$29,603	\$0		
33	0410	440	4429	TIRE CLEANUP #6	\$32,492	\$28,372	\$4,120	\$32,492	\$0	\$0	\$28,978	\$3,514	\$0		
34	0410	355	4431	USED OIL BLOCK GRANT #11	\$53,740	\$25,125	\$28,615	\$53,740	\$0	\$610	\$43,525	\$9,605	\$0		
35	0410	355	4432	WASTE TIRE	\$79,985	\$10,754	\$69,231	\$79,985	\$0	\$0	\$11,784	\$68,201	\$0		
36	0410	355	4433	USED OIL BLOCK GRANT #12	\$52,336	\$0	\$52,336	\$52,336	\$0	\$0	\$0	\$52,336	\$0		
37	0410	355	4435	WASTE TIRE CLEAN UP #7	\$22,783	\$13,482	\$9,301	\$22,783	\$0	\$0	\$14,390	\$8,393	\$0		
38	0410	355	4436	WASTE TIRE CLEAN UP #7	\$51,300	\$0	\$51,300	\$51,300	\$0	\$51,300	\$0	\$0	\$0		
39	0410	355	4438	TIRE ENFORCEMENT GRANT	\$81,200	\$0	\$81,200	\$81,200	\$0	\$0	\$8,519	\$72,681	\$0		
40	0410 Total				\$3,576,210	\$1,618,039	\$1,958,171	\$3,678,937	\$0	\$51,910	\$2,144,644	\$1,482,383	(\$102,727)	\$0	\$0
41	0420	190	2007	BEAT HEALTH PD/CDD			\$0	\$100,000	\$0	\$0	\$3,194	\$96,806	(\$100,000)		
42	0420	700	2007	BEAT HEALTH PD/CDD-TRANSFER	\$100,000	\$0	\$100,000				\$0	\$100,000			
43	0420	190	2008	POLICE JR CADET PROGRAM	\$25,000	\$15,148	\$9,852	\$25,000	\$0	\$0	\$10,622	\$14,378	\$0		
44	0420	190	2093	PARTY PATROL-FY 07/08 STN CTY	\$41,500	\$0	\$41,500	\$41,500	\$0	\$0	\$5,155	\$36,345	\$0		
45	0420 Total				\$166,500	\$15,148	\$151,352	\$166,500	\$0	\$0	\$18,971	\$147,529	\$0	\$0	\$0
46	0700	160	1621	RESTRIPPING VAR NEW LOCATIONS			\$0	\$1,210	\$0	\$0	\$1,210	\$0	(\$1,210)	\$0	\$0
47	0700	160	1630	LED REPLACEMENT PROGRAM			\$0	\$428,313	\$48,198	\$0	\$138,612	\$241,503	(\$428,313)	\$50,000	\$50,000
48	0700	410	4120	GAS TAX STREET MAINTENANCE			\$0	\$58,205	\$0	\$3,266	\$54,765	\$173	(\$58,205)	(\$173)	(\$173)
49	0700	430	4380	ANNUAL SLURRY SEAL			\$0	\$2,259,989	\$0	\$0	\$894,470	\$1,365,519	(\$2,259,989)	\$0	\$0
50	0700	700	4380	SLURRY SEAL FY 03-TRANSFER	\$550,702	\$0	\$550,702				\$0	\$550,702	\$0	\$0	\$0
51	0700	480	4615	8TH ST PARKING RESTRIPPING			\$0	\$17,384	\$0	\$0	\$0	\$17,384	(\$17,384)	(\$17,384)	(\$17,384)
52	0700	480	4617	REPAVING MAINTENANCE (GARBAGE)	\$1,628,961	\$1,504,934	\$124,027	\$1,628,961	\$0	\$0	\$974,953	\$654,008	\$0	\$800,000	\$800,000

**MULTI-YEAR CAPITAL BIDDING PROGRAMS.
FISCAL YEAR 2008-09**

Fund	Agy	Org	Description	REVENUE			EXPENSE					REVENUE	EXPENSE	
				Current Modified Budget	Recognized Amount	Balance	Current Modified Budget	Pre-Enc.	Enc. Amt.	Expended as of 04-25-08	Available	Curr Rev - Curr Exp	Increase or (Decrease)	Increase or (Decrease)
53	0700 Total			\$2,179,663	\$1,504,934	\$674,729	\$4,394,062	\$48,198	\$3,266	\$2,064,010	\$2,278,587	(\$2,214,399)	\$832,443	\$832,443
54	0800	140	1440	GENERAL PLAN COMPRE REWRITE		\$0	\$1,057,718	\$0	\$375,299	\$680,372	\$2,047	(\$1,057,718)		
55	0800	700	1440	GENERAL PLAN COMPRE REWRITE-TRANSFER	\$636,520	\$625,000	\$11,520			\$0	\$636,520			
56	0800	140	1444	ROSELLE/CLARIBEL SPECIFIC PLAN	\$973,284	\$973,284	\$0	\$1,130,017	\$0	\$40,743	\$1,078,997	\$10,278	(\$156,733)	
57	0800	140	1447	PELANDALE-MCHENRY SPECIFIC PLN	\$572,140	\$503,680	\$68,460	\$648,868	\$0	\$45,137	\$586,060	\$17,671	(\$76,728)	
58	0800	140	1451	KIERNAN BUS PARK EAST SPEC PLN	\$130,000	\$130,000	\$0	\$139,099	\$0	\$11,998	\$120,817	\$6,284	(\$9,099)	
59	0800	140	1452	WOODGLEN SP (FITZPATRICK HMS)	\$330,000	\$330,000	\$0	\$330,000	\$0	\$126,492	\$186,722	\$16,787	\$0	
60	0800	140	1454	KIERNAN BUS PARK EAST ED LOAN	\$500,000	\$288,788	\$211,212	\$500,000	\$0	\$194,314	\$288,888	\$16,798	\$0	
61	0800	140	1456	NARAGHI LAKES GENERAL PLAN AMD	\$5,000	\$5,000	\$0	\$5,000	\$0	\$225	\$2,156	\$2,619	\$0	
62	0800	140	1457	KAISER DA										
63	0800	140	1470	LANDSCAPE ASSESSMENT										
64	0800 Total			\$3,146,944	\$2,855,752	\$291,192	\$3,810,702	\$0	\$794,208	\$2,944,012	\$72,482	(\$663,758)	\$0	\$0
65	1130	320	3214	05-06 ADA CURB RAMPS	\$232,875	\$214,630	\$18,245	\$232,875	\$0	\$41	\$232,790	\$44	\$0	(\$44)
66	1130	320	3215	06-07 ADA CURB RAMPS	\$75,000	\$0	\$75,000	\$75,000	\$0	\$0	\$0	\$75,000	\$0	
67	1130	320	3220	SHADE STRUCTURE AT NGHBR PARKS	\$15,000	\$12,592	\$2,408	\$78,684	\$0	\$1,202	\$62,499	\$14,983	(\$63,684)	(\$14,983)
68	1130	320	3230	KKMC MAINTENANCE	\$0	\$0	\$0	\$5,791	\$0	\$0	\$0	\$5,791	(\$5,791)	
69	1130	320	3231	KKMC COLLABORATIVE	\$175,000	\$0	\$175,000	\$175,000	\$0	\$0	\$0	\$175,000	\$0	
70	1130	320	3232	SALVATION ARMY SHELTER ROOF	\$95,000	\$0	\$95,000	\$95,000	\$0	\$0	\$58,428	\$36,572	\$0	
71	1130	320	3235	KING KENNEDY ROOFING UPGRADE	\$93,535	\$66,964	\$26,571	\$93,535	\$0	\$0	\$74,367	\$19,168	\$0	
72	1130	320	3236	PIKE PARK PLAY EQUIPMENT	\$50,000	\$50,000	\$0	\$50,000	\$0	\$0	\$50,000	\$0	\$0	
73	1130	320	3237	ADA ACCESSABILITY PROJECTS			\$0	\$23,633	\$0	\$0	\$21,980	\$1,653	(\$23,633)	
74	1130	320	3238	HOUSING REHAB ACCESS PROGRAM	\$100,410	\$0	\$100,410	\$100,410	\$0	\$0	\$0	\$100,410	\$0	
75	1130	320	3239	ACCESS FEATURES CITY FACILITY	\$10,000	\$0	\$10,000	\$10,000	\$0	\$0	\$0	\$10,000	\$0	\$10,000
76	1130	320	3274	HOMEOWNER DISPLACEMENT PROGRAM	\$50,000	\$0	\$50,000	\$50,000	\$0	\$0	\$0	\$50,000	\$0	
77	1130 Total			\$896,820	\$344,186	\$552,634	\$989,928	\$0	\$1,242	\$500,065	\$488,621	(\$93,108)	\$10,000	(\$15,027)
78	1151	320	3271	RLF-PROPERTY ACQUISITION			\$0	\$1,466,919	\$0	\$0	\$750,000	\$716,919	(\$1,466,919)	
79	1151	320	3272	RLF-ECONOMIC DEVELOPMENT	\$50,000	\$0	\$50,000	\$150,000	\$0	\$0	\$0	\$150,000	(\$100,000)	\$50,000
80	1151	700	3272	RLF-ECONOMIC DEVELOPMENT-TRANSFER	\$50,000	\$50,000	\$0				\$0	\$50,000		
81	1151	320	3273	RLF-NEIGHBORHOOD REVITALIZATON	\$100,000	\$0	\$100,000	\$393,535	\$0	\$0	\$0	\$393,535	(\$293,535)	
82	1151	700	3273	RLF-NEIGHBORHOOD REVITALIZATON-TRANSFER	\$343,535	\$343,535	\$0				\$0	\$343,535		
83	1151 Total			\$543,535	\$393,535	\$150,000	\$2,010,454	\$0	\$0	\$750,000	\$1,260,454	(\$1,466,919)	\$50,000	\$0
84	1390	140	0266	2008 STREETS CFF UPDATE			\$0	\$98,720	\$0	\$74,686	\$24,034	\$0	(\$98,720)	
85	1390 Total			\$0	\$0	\$0	\$98,720	\$0	\$74,686	\$24,034	\$0	(\$98,720)	\$0	\$0

**MULTI-YEAR OPERATING PROGRAMS
FISCAL YEAR 2008-09**

	Fund	Agy	Org	Description	REVENUE			EXPENSE				Curr Rev - Curr Exp	REVENUE Increase or (Decrease)	EXPENSE Increase or (Decrease)	
					Current Modified Budget	Recognized Amount	Balance	Current Modified Budget	Pre-Enc.	Enc. Amt.	Expended as of 04-25-08				Available
86	1400	310	3142	FUND DEVELOPMENT/SPECIAL PROJ.			\$0	\$70,000	\$0	\$344	\$61,888	\$7,768	(\$70,000)		
87	1400 Total				\$0	\$0	\$0	\$70,000	\$0	\$344	\$61,888	\$7,768	(\$70,000)	\$0	\$0
88	1430	310	3122	NON-MOTORIZED TRAIL SYSTEM			\$0	\$167,043	\$0	\$0	\$19,451	\$147,592	(\$167,043)		(\$147,592)
89	1430 Total				\$0	\$0	\$0	\$167,043	\$0	\$0	\$19,451	\$147,592	(\$167,043)	\$0	(\$147,592)
90	2900	020	0261	KIERNAN BUS PK EAST IFP/FMP	\$263,000	\$0	\$263,000	\$263,000	\$0	\$26,443	\$173,237	\$63,320	\$0		
91	2900	020	0262	KIERNAN BUS PK SOUTH IFP/FMP	\$250,000	\$0	\$250,000	\$250,000	\$0	\$55,215	\$176,641	\$18,144	\$0		
92	2900	020	0263	PELANDALE-MCHENRY IFP/FMP	\$194,948	\$0	\$194,948	\$194,948	\$0	\$26,421	\$121,739	\$46,788	\$0		
93	2900	020	0264	WOODGLEN IFP/FMP	\$568,230	\$0	\$568,230	\$568,230	\$0	\$235,434	\$211,992	\$120,804	\$0		
94	2900	020	0265	TIVOLI IFP/FMP	\$800,000	\$0	\$800,000	\$800,000	\$0	\$16,760	\$631,610	\$151,630	\$0		
95	2900 Total				\$2,076,178	\$0	\$2,076,178	\$2,076,178	\$0	\$360,273	\$1,315,219	\$400,686	\$0	\$0	\$0
96	6100	480	5020	GAC NITRATE TESTING			\$0	\$70,149	\$0	\$0	\$25,364	\$44,785	(\$70,149)	\$70,149	\$70,149
97	6100 Total				\$0	\$0	\$0	\$70,149	\$0	\$0	\$25,364	\$44,785	(\$70,149)	\$70,149	\$70,149
98	6510	165	1677	BUS STOP IMPROVEMENTS	\$876,142	\$394,900	\$481,242	\$996,142	\$0	\$21,860	\$395,956	\$578,326	(\$120,000)	\$270,000	\$150,000
99	6510	165	1678	FEDERAL EQUIPMENT	\$888,124	\$34,328	\$653,796	\$688,124	\$56,000	\$12,200	\$280,955	\$338,969	\$0	\$0	\$0
100	6510 Total				\$1,564,266	\$429,228	\$1,135,038	\$1,684,266	\$56,000	\$34,060	\$676,911	\$917,295	(\$120,000)	\$270,000	\$150,000
101	6530	165	1681	1029 9TH ST. FIRE	\$247,370	\$505,495	(\$258,125)	\$247,370	\$0	\$0	\$1,425	\$245,945	\$0		
102	6530 Total				\$247,370	\$505,495	(\$258,125)	\$247,370	\$0	\$0	\$1,425	\$245,945	\$0	\$0	\$0
103	8850	190	2970	SDEA COPS METH GRANT \$450K	\$450,000	\$0	\$450,000	\$450,000	\$0	\$17,676	\$117,917	\$314,407	\$0		
104	8850 Total				\$450,000	\$0	\$450,000	\$450,000	\$0	\$17,676	\$117,917	\$314,407	\$0	\$0	\$0
105	Grand Total				\$18,090,859	\$9,916,418	\$8,174,441	\$23,311,422	\$104,198	\$1,390,195	\$12,972,687	\$8,844,342	(\$5,220,563)	\$1,602,592	\$1,259,973

Mayor's 2008-09 Proposed Budget Goals

Focus resources on vital public services. In keeping with this goal, I will be convening a special workshop of the City Council later this summer to develop an organization vision and mission statement. This is in keeping with the Charter amendments approved by voters in February and will provide direction for future budget decisions. Additionally, I am seeking the Council's commitment to place a measure on the November 2009 ballot that will provide a long-term stable source of funding for public safety which will include youth programs designed to catch our youth before they have chosen a life with gangs, crime, and drug usage.

Begin efforts which will result in long-term structural budget changes. We need to change the current dynamic of making service cuts each year only to turn around and do it again the following year. To that end I am calling for a community-wide budget survey and a series of "Town Hall Meetings" this fall to assure we elicit community participation in the budget process and that we understand the community's priorities.

Reduce deferred maintenance. Master Plans are now in place for the water and wastewater utilities. The Stormwater Master Plan is moving toward completion. We must fund these utilities at adequate levels to ensure not only appropriate operations and maintenance efforts, but also a commitment to infrastructure improvements. Likewise, we must focus our efforts on rebuilding our roads, parks, and public facilities. The City of Modesto, and our neighboring communities, has a tremendous opportunity later this fall as voters consider the half-cent sales tax for transportation. We can no longer rely on financial crumbs coming from the state and federal government. We need to take more control of our own financial destiny and to do that we must have control of our financial resources.

Increase the City's economic opportunities. We must find a way to complete the comprehensive update of the General Plan. I know this is a controversial item, but the General Plan is the City's fiscal planning tool. Proper land use planning including transportation and utilities, positions the City to respond appropriately and effectively to development opportunities when they arise. In order for this community to retain its economic competitiveness we must ensure that the backbone infrastructure is there when economic opportunities are presented. We must plan for a successful future. We do that through comprehensive planning efforts. We do that through ensuring funding is available when it is needed.

Mayor's 2008-09 Proposed Budget Principles

1. Annually Adopt a Structurally Balanced Budget

A structurally balanced budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

2. Use of One-Time Resources

Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-reoccurring expenditures.

3. Budget Revisions

New programs, services, or staffing requests are considered in light of the Council's priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

4. Reserves

All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which a minimum of 8% of the operating budget shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

5. Debt Issuance

Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

6. Employee Compensation

Recognizing that employees are the City's major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City's fiscal condition, revenue growth, and changes in the cost of living.

7. Capital Improvement Projects

Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City's core services.

8. Fees and Charges

The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.

9. Grants

Staff will seek out, apply for, and effectively administer grants that address the City's priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of on-going programs.

10. General Plan

The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City's financial capabilities.

11. Performance Measurement

All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.

ORDINANCE NO. 3490-C.S.

ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF MODESTO AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) TO EXCLUDE CITY COUNCIL MEMBERS FROM CALPERS MEMBERSHIP

The Council of the City of Modesto does ordain as follows:

SECTION 1. That an amendment to the contract between the City of Modesto and the Board of Administration, California Public Employees' Retirement System (CalPERS) effective August 1, 2008, to exclude City Council members from CalPERS membership is hereby authorized, a copy of said amendment being attached hereto, marked as an "Exhibit," and by such reference made a part hereof as though herein set out in full.

SECTION 2. The City Manager of the City of Modesto is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Modesto.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Approved: 
JIM RIDENOUR, Mayor

Attest: 
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3490-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 31, 2008

ORDINANCE NO. 3491-C.S.

ORDINANCE APPROVING THE THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND KAISER FOUNDATION HOSPITALS RELATED TO DEVELOPMENT OF A MEDICAL CENTER ON PROPERTY LOCATED ON THE WEST SIDE OF DALE ROAD NORTH OF BANGS AVENUE AND SOUTH OF HEALTH CARE WAY

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, on August 10, 2004, the City Council introduced Ordinance No. 3357-C.S. which approved a Development Agreement with Kaiser Foundation Hospitals to allow development of the site, processing of future entitlements, payment of fees and taxes, installation of public infrastructure, and implementation of environmental mitigation measures, and

WHEREAS, on August 8, 2006, the City Council introduced Ordinance No. 3422-C.S. which approved a First Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to allow a change in the completion date for a new domestic water well, change in the completion date for the Kiernan/Dale intersection

improvements, change in the completion date for formation of the Community Facilities District and a delay in opening Health Care Way, and

WHEREAS, on June 26, 2007, the City Council introduced Ordinance No. 3447-C.S. which approved a Second Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to allow Kaiser to use up to 5,000 square feet of the Phase A hospital for MRI and CT scan services (“Limited Radiology Space”), modify provisions related to the domestic water well, modify the construction and funding provisions related to the intersection improvements at SR219 and Dale Road, and approve a minor site plan modification related to the bus turnout on Dale Road, and

WHEREAS, Kaiser Foundation Hospitals and the City now desire to enter into a Third Amendment to said Development Agreement to revise the completion deadline for improvements to the Bangs/American intersection to correspond with EIR mitigation requirements and provide for Kaiser to contribute or reimburse a negotiated share of construction costs for these improvements should they be constructed by others prior to Kaiser’s obligation to construct them, revise the completion date for certain of the City Build Traffic Improvements to correspond with actual projected opening date of the hospital building, and modify the provision to temporarily delay the opening to public traffic of Health Care Way with regard to certification of the traffic signal, which is already installed but not yet operational, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on May 5, 2008, in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, for the purpose of making a recommendation to the City Council

concerning the Third Amendment to said Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 2008-25 adopted on May 5, 2008, recommended to the City Council approval of the proposed Third Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m., on June 10, 2008, in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of considering the Third Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to revise the completion deadline for improvements to the Bangs/American intersection to correspond with EIR mitigation requirements and provide for Kaiser to contribute or reimburse a negotiated share of construction costs for these improvements should they be constructed by others prior to Kaiser's obligation to construct them, revise the completion date for certain of the City Build Traffic Improvements to correspond with actual projected opening date of the hospital building, and modify the provision to temporarily delay the opening to public traffic of Health Care Way with regard to certification of the traffic signal, which is already installed but not yet operational, and,

WHEREAS, Section 65867.5 of the Government Code provides that a development agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement or any amendment thereto, shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

NOW, THEREFORE, BE IT RESOLVED the Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. The proposed Third Amendment to the Development Agreement is consistent with the General Plan and the Kiernan Business Park Specific Plan of the City of Modesto because the resulting development would be consistent with the land uses of the Kiernan Business Park Specific Plan and the proposed Third Amendment to the Development Agreement will continue to ensure that adequate infrastructure planning and construction is done prior to development, as required by the General Plan.
2. The proposed Third Amendment to the Development Agreement is consistent with the specific content and other requirements of City Council Resolution No. 97-492, which establishes procedures and requirements for the consideration of development agreements; the City's subdivision and zoning provisions of the Modesto Municipal Code; and Government Code Section 65864, et seq.
3. The proposed Third Amendment to Development Agreement is generally within the scope of and adequately described by the Kaiser Medical Center Final Environmental Impact Report (State Clearing House No. 2003072085) but requires some minor and insubstantial changes or additions to the EIR. Pursuant to CEQA Guidelines Section 15164, a

Third Addendum to the EIR was prepared for purposes of CEQA. No further environmental documentation is required.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The Third Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to revise the completion deadline for improvements to the Bangs/American intersection to correspond with EIR mitigation requirements and provide for Kaiser to contribute or reimburse a negotiated share of construction costs for these improvements should they be constructed by others prior to Kaiser's obligation to construct them, revise the completion date for certain of the City Build Traffic Improvements to correspond with actual projected opening date of the hospital building, and modify the provision to temporarily delay the opening to public traffic of Health Care Way with regard to certification of the traffic signal, which is already installed but not yet operational, is hereby approved. A copy of the Third Amendment to the Development Agreement is on file in the Office of the City Clerk.

SECTION 3. EXECUTION BY CITY. The City Manager or his authorized designee is hereby authorized to execute said Third Amendment to the Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said Third Amendment to the Development Agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Third Amendment to the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, by Councilmember Olsen, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

By 
JIM RIDENOUR, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3491-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008 Councilmember Marsh moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 24, 2008