

ORDINANCE NO. 2568 -C.S.

AN ORDINANCE AMENDING SECTION MAP 28-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(443), PROPERTY LOCATED ON THE EAST CORNER OF 15TH AND G STREETS (HAROLD & DIANE RENO).

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

SECTION 1. ZONING CHANGE. Section 28-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(443):

All that certain real property situate in a portion of the southwest quarter of Section 28, Township 3, South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of Lots 30, 31, 32, and the northwestern 18.75 feet of 29 in the City of Modesto Block 119.

Including also the Southwestern 40.00 of "G" Street, Northeastern 40.00 feet of 15th Street and the Northeastern 10.00 feet of the alley in said Block 119 and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(443) 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. All permitted and conditional C-1 Zone uses.
2. Dwellings.
3. Off-street parking as shown on the approved plans.

SECTION 3. ZONING MAP. Section Map 28-3-9 of the Zoning Map of the City of Modesto is 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 5th day of January, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED:


CAROL WHITESIDE, Mayor

ATTEST:

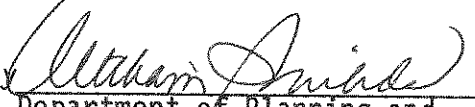
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Department of Planning and
Community Development

Ord. No. 2568-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 January, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 11, 1988

ORDINANCE NO. 2569-C.S.

AN ORDINANCE AMENDING SECTION MAP 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(444), PROPERTY LOCATED ON THE WEST SIDE OF COFFEE ROAD, SOUTH OF SYLVAN AVENUE (KINSEY-CONE, INC.)

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

SECTION 1. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(444):

All that certain real property situated in a portion of the Southeast 1/4 of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, more particularly described as follows:

Commencing at the quarter corner common to said Section 9 and Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence South 0°50'30" East along the Section line common to said sections, 264.00 feet; thence North 89°24'00" West, 20.00 feet to a point on the west right-of-way line of Coffee Road and the true Point of Beginning of this description; thence continuing North 89°24'00" West, 278.00 feet to a point on the West line of North Hampton Park No. 2 Subdivision, as shown in Volume 25 of Maps, at Page 6, Stanislaus County Records; thence South 0°50'30" East along said North Hampton Park No. 2 Subdivision, 241.00 feet; thence South 89°24'00" East 278.00 feet to a point on said West right-of-way line of Coffee Road; thence North 0°50'30" West along said West right-of-way line, 241.00 feet to the Point of Beginning of this description.

Including also all of the West 20.00 feet of Coffee Road located between the East line of said Section 9 and the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(444) 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:

All permitted and conditional P-0 zone uses.

SECTION 3. ZONING MAP. Section Map 9-3-9 of the Zoning Map of the City of Modesto is 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 5th day of January, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Irizarry, Muratore

APPROVED:



CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Department of Planning and
Community Development

Ord. No. 2569-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 19th day of January, 19 88, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Irizarry

APPROVED


MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 18, 1988

ORDINANCE NO. 2570 -C.S.

AN ORDINANCE AMENDING SECTION MAP 29-3-9 OF THE ZONING MAP TO REPEAL P-D(383) AND REZONE TO C-2, PROPERTY LOCATED AT 1013 10TH STREET, ON THE SOUTHWEST SIDE OF 10TH STREET BETWEEN J AND K STREETS. (PLANNING COMMISSION INITIATED)

WHEREAS, the City Council, by Ordinance No. 2367-C.S., which was adopted on September 10, 1985, and which became effective on October 10, 1985, amended Section Map 29-3-9 of the Zoning Map to reclassify from General Commercial Zone, C-2, to Planned Development Zone, P-D(383), for a church and private school as interim uses until June 30, 1987, property located at 1013 10th Street, on the southwest side of 10th Street between J and K Streets, as requested by Mid-Valley Church, and

WHEREAS, the Council, by Resolution No. 85-707, adopted on September 3, 1985, approved the development schedule for P-D(383) which specified the start of use on or before September 3, 1985, and termination of use on or before June 30, 1987, and

WHEREAS, this temporary use has been vacated, even prior to its termination date of June 30, 1987, and

WHEREAS, Section 10-2.1710(c) of the Modesto Municipal Code provides that if the owner or owners of property in P-D Zones have failed to meet the approved development schedule, the Planning Commission shall initiate proceedings to repeal the P-D Zone and rezone the property to the zone classification it held immediately prior to being zoned P-D, and

WHEREAS, the Planning Commission, by Resolution No. 87-186 adopted on November 16, 1987, initiated proceedings to review and extend the development schedule or to repeal P-D(383) and rezone the property to General Commercial Zone, C-2, and set November 30, 1987, as the date for public hearing, and

WHEREAS, said public hearing was held by the Planning Commission on November 30, 1987, in the City Council Chambers, City Hall, 801 11th Street, Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution No. 87-193, found and determined that the repeal of Planned Development Zone, P-D(383) and rezoning the property back to General Commercial Zone, C-2, is required by public necessity, convenience and general welfare for the following reasons:

1. P-D(383) had completed the time limits of the zone as originally established.
2. Section 10-2.1710(c) of the Municipal Code calls for repeal or modification of expired P-D zones.

and

WHEREAS, by Resolution No. 87-193, adopted November 30, 1987, the Planning Commission recommended to the Council that Section Map 29-3-9 of the Zoning Map be amended to repeal P-D(383) and rezone the property hereinafter described to General Commercial Zone, C-2, and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 7:30 p.m. on January 12, 1988, at which time evidence, both oral and documentary, was taken and introduced,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended rezoning of Planned Development Zone, P-D(383), to General Commercial Zone, C-2, is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 87-193, and quoted above.

SECTION 2. ZONING CHANGE. Section 29-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(383), to General Commercial Zone, C-2:

Property is in the State of California, County of Stanislaus, City of Modesto and is described as follows:

Lot 12 and the Northeasterly 75 feet of Lot 13 in Block 57 of the City of Modesto, as per map filed April 18, 1903 in Volume 1 of Maps at page 82 in the Office of the Recorder of Stanislaus County.

Also including that portion of the Northeastern one-half of the 20-foot wide public alley located in said Block 57 and that portion of the Southwest one-half of 80.00 foot wide Tenth Street immediately adjacent to the above-described property.

SECTION 3. ZONING MAP. Section 29-3-9 of the Zoning Map of the City of Modesto is 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 12 day of January, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED:


CAROL WHITESIDE, Mayor

ATTEST:


By


NORRINE COYLE, City Clerk

(SEAL)

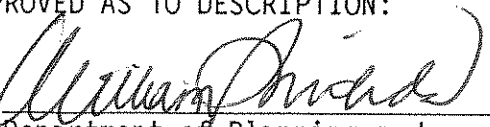
APPROVED AS TO FORM:

By


City Attorney's Office

APPROVED AS TO DESCRIPTION:

By


Department of Planning and
Community Development

Ord. No. 2570-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 19th day of January, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED


MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 18, 1988

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ORDINANCE NO. 2571 -C.S.

AN ORDINANCE AMENDING SECTION 4-4-9 OF THE ZONING MAP TO REPEAL AN M-1 PREZONING ON PROPERTY LOCATED BETWEEN FLORES AVENUE AND HOSMER AVENUE, WEST OF SOUTH 9TH STREET. (PLANNING COMMISSION INITIATED)

WHEREAS, in 1974, the Planning staff instituted a citywide program of rezonings and prezonings with the intent of bringing zoning into conformity with the General Plan, and

WHEREAS, an area outside the City limits located between Flores Avenue and Hosmer Avenue, west of South 9th Street, immediately west of the Union Pacific Railroad, had a County C-2 zoning designation, and

WHEREAS, the surrounding land on the north, south and west had a County "M" designation which area the General Plan identified as industrial, and consequently, by City Council Ordinance No. 1387-C.S., which became effective on November 6, 1974, the City prezoned the land to P-M-1, and

WHEREAS, the area south of the Tuolumne River has subsequently been placed within the City of Ceres sphere of influence, thus the area will never be a part of Modesto, and

WHEREAS, on November 16, 1987, by Resolution No. 87-187, the Planning Commission initiated proceedings to repeal the M-1 pre zoning, and set November 30, 1987, as the date for public hearing, and

WHEREAS, said public hearing was held by the Planning Commission on November 30, 1987, in the City Council Chambers, City Hall, 801 11th Street, Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution No. 87-192, found and determined that the repeal of the M-1 pre zoning as initiated is

required by public necessity, convenience and general welfare for the following reasons:

1. The area has been placed outside the City of Modesto sphere of influence and thus the area will never become part of the City of Modesto.
2. Repeal of the M-1 rezoning will allow this designation to be removed from the Modesto Zoning Map.

and

WHEREAS, by Resolution No. 87-192, adopted November 30, 1987, the Planning Commission recommended to the Council that the Planning Commission initiated proposal to amend Section 4-4-9 of the Zoning Map to repeal P-M-1 rezoning on property located between Flores Avenue and Hosmer Avenue, west of South 9th Street, be approved, and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 7:30 p.m. on January 12, 1988, at which time evidence, both oral and documentary, was taken and introduced,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended repeal of M-1 rezoning on property located between Flores Avenue and Hosmer Avenue, west of South 9th Street, is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 87-192, and quoted above.

SECTION 2. ZONING CHANGE. Section 4-4-9 of the Zoning Map is hereby amended to repeal the M-1 rezoning at the property located between Flores Avenue and Hosmer Avenue, west of South 9th Street, as shown on Section 4-4-9 of the Zoning Map of the City of Modesto.

SECTION 3. ZONING MAP. Section 4-4-9 of the Zoning Map of the City of Modesto is 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 12 day of January, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol Whiteside
CAROL WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Mike Hulse
City Attorney's Office

APPROVED AS TO DESCRIPTION:

By William Sanchez
Department of Planning and
Community Development

Ord. No. 2571-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 19th day of January, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 18, 1988

ORDINANCE NO. 2572-C.S.

AN ORDINANCE ADDING ARTICLE 3 TO CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO BUSINESS, PROFESSIONS AND TRADES TO PROVIDE REQUIREMENTS FOR INTRA-CITY BUS TRANSIT INSURANCE.

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

SECTION 1. AMENDMENT OF CODE. Article 3 is hereby added to Chapter 7 of Title VI of the Modesto Municipal Code to read as follows:

ARTICLE 3. INTRA-CITY BUS TRANSIT.

SEC. 6-7.301. INSURANCE REQUIRED.

It shall be unlawful to operate intra-city transit buses unless there is at all times in force and effect a commercial auto liability insurance policy or policies approved by the City Clerk and issued by an insurance company authorized to do business in the State of California with combined single limits of Five Million and no 100ths Dollars (\$5,000,000.00).

A liability insurance policy required by this section shall inure to the benefit of any persons who shall be injured or who shall sustain damage to property proximately caused by the negligence of the entity insured by such policy, its employees or agents.

Satisfactory evidence that the liability insurance required by this section is at all times in full force and effect shall be furnished the City Clerk. The certificate of insurance shall contain a provision against cancellation except upon thirty (30) days prior written notice to the City Clerk.

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 12 day of January, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2572-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 19th day of January, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED



MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 18, 1988

ORDINANCE NO. 2573 -C.S.

AN ORDINANCE REPEALING SECTION 3-2.1003(a) OF ARTICLE 10 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO PROHIBITION OF PARKING FOR CERTAIN PURPOSES.

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

SECTION 1. REPEAL. Section 3-2.1003(a) of Article 10 of Chapter 2 of Title III of the Modesto Municipal Code is hereby repealed. The Council further ordains that Section 3-2.1003(b) is not hereby repealed.

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 January, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2573-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 February, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Muratore, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Lang, McGrath, Patterson

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 3, 1988

ORDINANCE NO. 2574 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.1009 OF ARTICLE 10 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE, RELATING TO OUTDOOR DISPLAY OF PROPERTY FOR SALE.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.1009 of Article 10 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to add paragraph (g) thereto as follows:

SEC. 10-2.1009. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

(a) All merchandise or displays and all storage or sales areas shall be within a completely enclosed building or structure, except that the following may be conducted outdoors:

- (1) Newspaper vending.
- (2) Plant and floral display.
- (3) Plant sales, plant nursery.
- (4) Restaurant outdoor dining area.
- (5) Vehicular fuel sales.
- (6) Vending machines.
- (7) Outdoor displays authorized by the City Council such as the certified farmers market or sidewalk sales as specified below.
- (8) Other outdoor sales, displays or promotions which are permitted by the zone and for which a conditional use permit has been obtained.

(b) The display or sale of goods, merchandise or services which are customary indoor uses shall be allowed outdoors, limited to three (3) times in number during any twelve-month period for each business, subject to these conditions:

- (1) All sales shall be conducted by a business located on the property.

- (2) All merchandise or services displayed outdoors shall be of the same types ordinarily sold indoors at the business conducting the sale.
 - (3) Each display or sale shall be limited to a maximum of three (3) consecutive days.
 - (4) No display shall encroach on a public right-of-way.
 - (5) All display shall be subject to the sign regulations of this chapter, including the prohibition of temporary signs.
 - (6) Prior to any display or sale, a permit for such shall be obtained from the Director.
- (c) Outdoor promotions or events are permitted by a licensed business, merchant association, school, charitable or not-for-profit organization. Promotions or events shall not promote or display the goods or services of any business on the premises and shall be subject to all other limitations in the Modesto Municipal Code, including those governing carnivals, circuses, dances and outdoor sound equipment and noise. Examples of such promotions or events are carnivals, circuses, animal rides, car shows, sporting events, and other exhibitions.
 - (d) Outdoor fund-raising sales by school, charitable or not-for-profit organizations are permitted if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits to be derived from the sale. Such sales are not permitted solely by reason of sponsorship by a school, charitable or not-for-profit organization.
 - (e) Outdoor display or sale of goods or services by itinerant vendors as defined by the Modesto Municipal Code is prohibited.
 - (f) Use of a hot air balloon for a promotion or event shall be limited to three (3) times in number during any twelve-month period for each business.
 - (g) Outdoor display or sale of any item of personal property on vacant or unimproved land is prohibited and shall be punishable as an infraction. This prohibition shall not apply to sales of fireworks, Christmas trees, pumpkins, or other seasonal items as permitted under this Article.

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 January, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2574-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 15th day of March, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 14, 1988

ORDINANCE NO. 2575-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.603, 10-2.608 AND 10-2.703 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING TO INSURE PRIVACY TO R-1 DEVELOPMENT ADJACENT TO R-2 AND R-3 ZONES AND TO CONSOLIDATE DRIVEWAYS TO COLLECTOR AND MAJOR STREETS TO REDUCE TRAFFIC CONFLICTS.

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

SECTION 1. AMENDMENT OF CODE. Sections 10-2.603 and 10-2.608 of Article 6 of Chapter 2 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 10-2.603. PLOT PLAN USES.

The following uses are permitted upon securing a plot plan approval:

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.
- (c) Any development of residential uses taking vehicular access to a collector or major street. Plot plan review shall occur at time of consideration of approval of a tentative subdivision or parcel map. The plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner, and shall be subject to approval by the Commission.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Commission.

SEC. 10-2.608. SIDE AND REAR YARDS.

- (a) For any one-story building or portion of a building, side and rear yards are as required in the R-1 Zone.
- (b) The minimum side or rear yard for any two-story portion of a residential building not adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be ten (10) feet.

- (c) The minimum side or rear yard for any two-story portion of a residential building adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be forty (40) feet. This setback may be reduced to a minimum of ten (10) feet by plot plan approval by the Commission as long as compatibility with adjacent properties is maintained.

SECTION 2. AMENDMENT OF CODE. Section 10-2.703 of Article 7 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.703. PLOT PLAN USES.

The following uses are permitted upon securing a plot plan approval:

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.
- (c) Any development of residential uses taking vehicular access to a collector or major street. Plot plan review shall occur at time of consideration of approval of a tentative subdivision or parcel map. The plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner, and shall be subject to approval by the Commission.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Commission.

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 26 day of January, 1988, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2575-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 February, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Muratore, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Lang, McGrath, Patterson

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 3, 1988

clock

ORDINANCE NO. 2576 -C.S.

AN ORDINANCE AMENDING SECTIONS 3-10.21 AND 3-10.22 OF CHAPTER 10 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO TOWING SERVICES.

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

SECTION 1. AMENDMENT OF CODE. Section 3-10.21 of Chapter 10 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-10.21. REVOCATION OF ATTENDANT'S PERMIT.

The Chief of Police may suspend or revoke any attendant's permit on any one or more of the following grounds:

- (a) For the same reasons that the Chief of Police can deny a permit, as set forth in Section 3-10.19 of this chapter.
- (b) For failure on the part of the attendant to operate his tow truck in accordance with the provisions and requirements of this chapter and the California Vehicle Code.
- (c) Receipt by the Chief of Police of one or more complaints against the attendant which have been investigated by the Chief of Police and found to be justified concerning the services rendered to the Police Department, the City of Modesto, or a member of the public. In considering whether or not to suspend or revoke the attendant's permit pursuant to this subsection, the Chief of Police shall consider the following factors:
 - (1) The nature of the activity or conduct upon which the complaint is based.
 - (2) The extent to which the activity or conduct upon which the complaint is based had an adverse effect on public safety.
 - (3) The existence, on behalf of the attendant, of any mitigating factors.

SECTION 2. AMENDMENT OF CODE. Section 3-10.22 of Chapter 10 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-10.22. SUSPENSION OR REVOCATION OF TOWING SERVICE PERMIT.

The Chief of Police may remove any towing service from the rotation list on any one or more of the following grounds:

- (a) That the towing service operator fails to meet the requirements for the approval of an application by a towing service operator, as set forth in Section 3-10.10 of this chapter;
- (b) That the operator has failed to operate the towing service in accordance with the provisions and requirements of this chapter;
- (c) That the operator has ceased to operate the towing service for a period of ten (10) consecutive days without having obtained permission for cessation of such operation from the Chief of Police;
- (d) That any of the operator's insurance required by this chapter has been canceled, not renewed or been materially changed in coverage, terms or conditions;
- (e) That the operator has failed to respond to a towing service request made by the police pursuant to the provisions of this chapter;
- (f) When the towing service has been sold to a new owner; and
- (g) When the Chief of Police receives one or more complaints against the towing service operator and/or an employee thereof which have been investigated by the Chief of Police and found to be justified concerning the services rendered to the Police Department, the City of Modesto, or a member of the public. In considering whether to remove any towing service from the rotation list on either a permanent or temporary basis pursuant to this subsection, the Chief of Police shall consider the following factors:
 - (1) The nature of the activity or conduct upon which the complaint is based.
 - (2) The extent to which the activity or conduct upon which the complaint is based had an adverse effect on public safety.

- (3) The existence, on behalf of the towing service operator and/or an employee thereof, of any mitigating factors.

Written notice of the reasons for removal of an operator's service from the rotation list shall be given seventy-two (72) hours prior to actual suspension or revocation.

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 9 day of February, 1988, by Councilmember Sutton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Lang

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2576-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 16th day of February, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, McGrath, Muratore, Patterson,
Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Lang

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 17, 1988

Clerk (5)

ORDINANCE NO. 2577-C.S.

AN ORDINANCE AMENDING SECTION MAP 28-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (J. WILMAR JENSEN)

WHEREAS, a verified application for an amendment to Section 28-3-9 of the Zoning Map was filed by J. Wilmar Jensen, Inc. on November 17, 1987, to reclassify from Medium High Density Residential Zone, R-3, to General Commercial Zone, C-2, the hereinafter described property, and

WHEREAS, after public hearing held on January 19, 1988, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-10, adopted on January 19, 1988, the Planning Commission recommended to the Council that the application of J. Wilmar Jensen, Inc. to amend Section 28-3-9 of the Zoning Map to reclassify the hereinafter described property from Medium High Density Residential Zone, R-3, to General Commercial Zone, C-2, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on 02/16/88, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, 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 following reasons:

1. The 1987 update of the Downtown Plan encourages redevelopment of properties in the Central Business District Core for offices. Provision for off-street parking areas are an essential supplemental part of this evolving redevelopment of downtown Modesto.
2. Provision of the applicant's parking lot entirely within the C-2 zone will allow potential use of the spaces to satisfy required parking for offices and businesses within a 400-foot walking distance.
3. Development requirements of the commercial zone will insure compatibility between the proposed C-2 development and the adjacent apartment house to the south.

SECTION 2. ZONING CHANGE. Section 28-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium High Density Residential Zone, R-3, to General Commercial Zone, C-2:

All that certain real property situate in a portion of Block 120 of the City of Modesto, as per Map thereof filed December 21, 1942, in Volume 15 of Maps, Stanislaus County Records, lying in Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of Lot 5 in said Block 120 of the City of Modesto.

Including also all of the Southwestern one-half of 80.00-foot wide 16th Street and the Northeastern one-half of the 20.00-foot wide alley in said Block 120 and all immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 28-3-9 of the Zoning Map of the City of Modesto is 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 16 day of February, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Lang

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By Gay Ann
Department of Planning and Community Development

Ord. No. 2577-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 23rd day of February, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 24, 1988

(3)

ORDINANCE NO. 2578 -C.S.

AN ORDINANCE AMENDING SECTION 3-10.26 OF CHAPTER 10 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO FEES FOR IMPOUNDED VEHICLES.

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

SECTION 1. AMENDMENT OF CODE. Section 3-10.26 of Chapter 10 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-10.26. PROTECTION OF VEHICLES.

Vehicles impounded by the Modesto Police Department shall be held by the operator until the vehicle is released in writing by the Modesto Police Department. A fee shall be collected from the person seeking the release in an amount set from time to time by resolution of the City Council to cover the costs of processing and issuing the written release. Contents of vehicles impounded shall not be removed without the prior written approval of the Modesto Police Department. Impounded vehicles shall be deemed to be in the custody of the Modesto Police Department until released in writing by the Modesto Police Department, and in the interim shall be stored for safekeeping by the operator. The Modesto Police Department may require such impounded vehicles to be stored inside a locked building. In such cases the next operator on the rotation list having such storage facilities available will be called, without loss of rotation turn to those passed over.

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 1 day of March, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Lang

APPROVED:


CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2578-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 March, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 7, 1988

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ORDINANCE NO. 2579 -C.S.

AN ORDINANCE AMENDING SECTION MAP 29-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, AND PROFESSIONAL OFFICE ZONE, P-0, TO PLANNED DEVELOPMENT ZONE, P-D(445), PROPERTY LOCATED ON THE NORTH SIDE OF NEEDHAM STREET BETWEEN POPLAR AVENUE AND PARK AVENUE (GRACEADA MANSION PARTNERSHIP - JOHN B. HINCHEY).

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

SECTION 1. ZONING CHANGE. Section 29-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, Medium High Density Residential Zone, R-3, and Professional Office Zone, P-0, to Planned Development Zone, P-D(445):

All that certain real property situate in a portion of the Southeast quarter of the Northeast quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

P-0 to P-D

Lots 15, 16, and 17 in Block 19 of the Wisecarver Addition, according to the official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on March 7, 1907, in Volume 2 of Maps, page 45.

Including also the northern 32.50 feet of original 65.00-foot wide Needham Street and eastern 37.50 feet of Poplar Avenue immediately adjacent to the above described property.

R-3 to P-D

Lots 18, 19, and 20 in Block 19 of the Wisecarver Addition, according to the official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on March 7, 1907, in Volume 2 of Maps, page 45.

Including also the northern 32.50 feet of original 65.00-foot wide Needham Street, western 37.50 feet of Park Avenue and the adjacent 18.00-foot wide alley and all immediately adjacent to the above described property.

R-1 to P-D

The East 71.50 feet of Lots 13 and 14 in Block 19 of the Wisecarver Addition, according to the official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on March 7, 1907, in Volume 2 of Maps, page 45.

Including also the West 9.00 feet of the 18.00-foot wide alley in said Block 19 immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(445) 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. Business/Professional Offices for all uses allowed in the P-0 zone.
2. Off-street parking as shown on the approved development plans.

SECTION 3. ZONING MAP. Section Map 29-3-9 of the Zoning Map of the City of Modesto is 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 8 day of March, 1988, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Driscoll
Department of Planning and
Community Development

Ord. No. 2579-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 15th day of March, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 14, 1988

ORDINANCE NO. 2580 -C.S.

AN ORDINANCE AMENDING SECTION MAP 10-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (JOHN STOCKER AND PETER SCOUTRIONO)

WHEREAS, the City Council, by Ordinance No. 1988-C.S. which was introduced on October 28, 1980, finally adopted on November 4, 1980, and which became effective on December 4, 1980, amended Section 10-3-9 of the Zoning Map to reclassify from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(277), property located on Princewood and Kingswood east of Coffee Road, to allow conversion of existing units to condominiums, and

WHEREAS, City Council Resolution No. 80-1105 was adopted on October 28, 1980, and approved the development plan containing the conditions of approval and the development schedule specifying construction to be in one phase, and

WHEREAS, the City Council, by Ordinance No. 1989-C.S. which was introduced on October 28, 1980, finally adopted on November 25, 1980, and which became effective on December 30, 1980, amended Section 10-3-9 of the Zoning Map to reclassify from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(278), property located on the south side of Sylvan Avenue east of Kingswood, to allow conversion of existing units to condominiums, and

WHEREAS, City Council Resolution No. 80-1106 was adopted on October 28, 1980, and approved the development plan containing the conditions of approval and the development schedule specifying construction to be in one phase, and

WHEREAS, a verified application for an amendment to Section 10-3-9 of the Zoning Map was filed by Mid-Valley Engineering on behalf of property owners John Stocker and Peter Scotriono to reclassify from Planned Development Zone, P-D(277) and P-D(278), to Medium Density Residential Zone, R-2, the hereinafter described property, and

WHEREAS, after a public hearing held on February 1, 1988, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-12, adopted on February 1, 1988, the Planning Commission recommended to the Council that the application of Mid-Valley Engineering on behalf of property owners John Stocker and Peter Scotriono to amend Section 10-3-9 of the Zoning Map to reclassify the hereinafter described property from Planned Development Zone, P-D(277) and P-D(278), to Medium Density Residential Zone, R-2, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on March 8, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, 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 following reasons:

1. That the rezoning back to R-2 is consistent with the Modesto General Plan. The site originally developed under the R-2 zone.

2. That the existing developed project complies with the current development standards of the R-2 zone.
3. That this rezoning will not adversely affect surrounding properties.

SECTION 2. ZONING CHANGE. Section 10-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(277) and P-D(278), to Medium Density Residential Zone, R-2:

P-D(277) to R-2

All that certain real property situate in a portion of Kingswood Estates No. 4, as filed in Book 28, of Maps, at Page 24, Stanislaus County Records, and being a portion of the Southwest Quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

LOTS 9 through 11 of Block 12555 and Lots 1 through 8 of Block 12569 of said Kingswood Estates No. 4

INCLUDING ALSO: All of Growdon Street, South one-half of Princewood Lane, East one-half of Kingswood Drive, South one-half of Buttonwillow Drive, and East one-half of Coffee Road immediately adjacent to the above described property.

P-D(278) TO R-2

All that certain real property situate in a portion of Kingswood Estates No. 4, as filed in Book 28, of Maps, at Page 24, Stanislaus County Records, and being a portion of the Southwest Quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

LOTS 13 through 27 of Block 12566 of said Kingswood Estates No. 4

INCLUDING ALSO: All of South one-half of Sylvan Avenue and East one-half of Kingswood Drive, immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 10-3-9 of the Zoning Map of the City of Modesto is 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 8 day of March, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Shields
Department of Planning and Community
Development

Ord. No. 2580-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 15th day of March, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 14, 1988

6

ORDINANCE NO. 2581 -C.S.

AN ORDINANCE GRANTING THAT PORTION OF THE APPEAL OF SANTINA & THOMPSON, INC. ON BEHALF OF NORA NARAGHI TO THE DECISION OF THE PLANNING COMMISSION RELATING TO AN AMENDMENT TO SECTION 14-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE ZONE, P-0, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MERLE AVENUE AND OAKDALE ROAD; AND DENYING THAT PORTION OF THE APPEAL TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1 TO PLANNED DEVELOPMENT ZONE, P-D, PROPERTY LOCATED ALONG THE NORTH SIDE OF MID LATERAL NO. 3. (NORA NARAGHI)

WHEREAS, a verified application for an amendment to Section 14-3-9 of the Zoning Map was filed by Nora Naraghi on May 12, 1987, to reclassify from Low Density Residential Zone, R-1, to Professional Office Zone, P-0, and Planned Development Zone, P-D, for a mini-warehouse development, property located on the east side of Oakdale Road between Merle Avenue and the MID Lateral No. 3, the hereinafter described property, and

WHEREAS, a public hearing was held by the Planning Commission on July 6, 1987, and continued to August 3, 1987, and August 31, 1987, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearings evidence both oral and documentary was received and considered, and

WHEREAS, after considering said evidence, the Planning Commission found and determined that rezoning of the property as requested is not required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 87-149, and

WHEREAS, an appeal to the decision of the Planning Commission's denial of the request to reclassify from Low Density Residential Zone, R-1, to Professional Office Zone, P-0, and Planned Development Zone, P-D, property

located on the east side of Oakdale Road between Merle Avenue and the MID Lateral No. 3 was filed with the Office of the City Clerk by Santina & Thompson, Inc. on behalf of Nora Naraghi by letters dated September 8, 1987, and October 13, 1987, and

WHEREAS, by Modesto City Council Resolution No. 87-1094 the Council set October 13, 1987 at 7:30 p.m. in the City Council Chambers in the City Hall, 801 11th Street, Modesto, California, as the time and place for a public hearing for consideration of said appeal, at which time said public hearing was continued to October 20, 1987 at 4:00 p.m., and

WHEREAS, on October 20, 1987, the City Council, by motion, declared its intent to approve the Professional Office Zone, P-O, subject to changes being made to the plan, and to deny the Planned Development Zone, P-D, and to approve the vesting tentative map of Noreen Park Subdivision, subject to certain conditions and the applicant making necessary site adjustments, and

WHEREAS, thereafter said appeal was continued to March 15, 1988 at 4:00 p.m., and

WHEREAS, at said meeting, after hearing evidence both oral and documentary, the Council found and determined that said appeal to the denial of the requested rezoning of the property from Low Density Residential Zone, R-1, to Professional Office Zone, P-O, property located on the southeast corner of Merle Avenue and Oakdale Road, should be granted for the following reasons:

1. P-O Zoning at the southeast corner of Merle Avenue and Oakdale Road is consistent with the Orchard Neighborhood Zoning and Development policy, most recently updated by the Planning Commission and City Council in 1981.

2. The proposed P-0 Zoning generally conforms to the purpose and intent of the zone as stated in the Modesto Municipal Code.

and

WHEREAS, at said meeting, after hearing evidence both oral and documentary, the Council found and determined that said appeal to the denial of the requested rezoning of the property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D, property located along the north side of MID Lateral No. 3, should be denied for the following reason:

The P-D for mini-warehouse development would be an intrusion well into residential land.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. APPEAL GRANTED. That portion of the appeal of Santina & Thompson, Inc. on behalf of Nora Naraghi to the decision of the Planning Commission to reclassify the following described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-0, property located on the southeast corner of Merle Avenue and Oakdale Road, is hereby granted for the reasons set forth above, and the decision of the Planning Commission denying said rezoning is hereby overruled.

SECTION 2. APPEAL DENIED. That portion of the appeal of Santina & Thompson, Inc. on behalf of Nora Naraghi, to the decision of the Planning Commission to reclassify the above described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D, is hereby denied, and the decision of the Planning Commission denying said rezoning is hereby affirmed.

SECTION 3. ZONING CHANGE. Section 14-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-0:

R-1 to P-0

All that certain real property situated in the southwest quarter of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being a portion of Lot 3 of the O. McHenry Ranch, as per map filed February 14, 1905, in Volume 2 of Maps at page 7, described as follows:

Commencing at the southwest corner of said Lot 3, also being the southwest corner of said Section 14; thence North 00° 19' 00" West along the centerline of Oakdale Road and the west line of Section 14, 449.04 feet, more or less, to the TRUE POINT OF BEGINNING; thence continuing along said west line and said centerline North 00° 19' 00" West 216.40 feet, thence North 89° 41' 00" East, 50.00 feet, to a point on the easterly right of way line of Oakdale Road; thence South 89° 26' 01" East, 227.55 feet; thence North 00° 13' 20" East, 187.69 feet; thence North 9° 19' 20" West, 32.91 feet; thence North 37° 50' 40" West, 24.57 feet; thence North 89° 30' 30" West, 209.20 feet, to a point on the easterly right of way line of Oakdale Road; thence South 89° 41' 00" West, 50.00 feet to a point on the centerline of Oakdale Road and the west line of Section 14; thence North 00° 19' 00" West, along said west line and said centerline 418.70 feet, more or less, to the centerline of Merle Avenue, said point being the northwest corner of the southwest quarter of the southwest quarter of said Section 14; thence South 89° 29' 55" East, 473.00 feet along said centerline of Merle Avenue and the north line of the southwest quarter of the southwest quarter of Section 14; thence South 00° 30' 05" West, 30.00 feet, to a point on the southerly right of way line of Merle Avenue; thence continuing South 00° 30' 05" West, 821.76 feet, more or less to a point on the northerly right of way line of Modesto Irrigation District Lateral No. 3, a 140.00 foot right of way as described in that certain deed recorded June 8, 1903, in Volume 87 at page 42, Official Records, Stanislaus County Records; thence North 82° 14' 18" West, 132.08 feet, to the beginning of a curve concave to the south having a radius of 543.10 feet and delta of 30° 11' 51"; thence along the arc of said curve arc 286.24 feet, to a point on the easterly right of way line of Oakdale Road; thence South 89° 41' 00" West, 50.00 feet, to the TRUE POINT OF BEGINNING.

SECTION 4. ZONING MAP. Section 14-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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 15 day of March, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Pruda
Department of Planning and
Community Development

Ord. No. 2581-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 5th day of April, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1988

ORDINANCE NO. 2582 -C.S.

AN ORDINANCE AMENDING SECTION MAP 23-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(441), PROPERTY LOCATED ON THE EAST SIDE OF OAKDALE ROAD NORTH OF SCENIC DRIVE (STEVE ANGELO).

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

SECTION 1. ZONING CHANGE. Section 23-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(441):

All that certain real property situated in a portion of the southwest quarter of Section 23, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, more particularly described as follows:

Commencing at the southwest corner of said Section 23, as shown on the map filed in Volume 3 of Surveys, at page 60, Stanislaus County Records; thence North 0° 45'00" west along the west line of said Section 23, 876.48 feet; thence North 89° 17'00" East, 41.50 feet to the true point of beginning of this description; thence continuing North 89° 17'00" East, 291.80 feet; thence South 0° 38'00" East, 526.19 feet; thence South 89° 15'00" West, 280.57 feet to a point on the East right-of-way line of Oakdale Road; thence North 0° 45'00" West along said East right-of-way line of Oakdale Road, 526.32 feet to the point of beginning of this description.

Including also all of the eastern portion of Oakdale Road located between said West line of Section 23 and immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(441) 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. All C-1, General Commercial zone uses; appliance store.
2. Off-street parking as shown on the approved revised development plan.

SECTION 3. ZONING MAP. Section Map 23-3-9 of the Zoning Map of the City of Modesto is 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 15 day of March, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William D. Smith
Department of Planning and
Community Development

Ord. No. 2582-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 5th day of April, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED 
MAYOR CAROL G. WHITESIDE

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1988

Clerk

ORDINANCE NO. 2583-C.S.

AN ORDINANCE GRANTING THE APPEAL OF RUSSELL NEWMAN ON BEHALF OF MERRILL L. STONE TO THE DECISION OF THE PLANNING COMMISSION RELATING TO AN AMENDMENT TO SECTION 9-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PROFESSIONAL OFFICE ZONE, P-0, PROPERTY LOCATED AT THE NORTHWEST CORNER OF SYLVAN AVENUE AND PROPOSED CLAREMONT AVENUE (STONE BROTHERS AND ASSOC.)

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by Stone Brothers and Associates on December 14, 1987, to reclassify from Medium High Density Residential Zone, R-3, to Professional Office Zone, P-0, property located at the northwest corner of Sylvan Avenue and proposed Claremont Avenue, the hereinafter described property, and

WHEREAS, a public hearing was held by the Planning Commission on February 22, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after considering said evidence, the Planning Commission found and determined that rezoning of the property as requested is not required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 88-19, and

WHEREAS, an appeal to the decision of the Planning Commission's denial of the request to reclassify from Medium High Density Residential Zone, R-3, to Professional Office Zone, P-0, property located at the northwest corner of Sylvan Avenue and proposed Claremont Avenue was filed with the Office of the City Clerk by Russell A. Newman on behalf of Merrill L. Stone by letter dated March 1, 1988, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the City Council Chambers in the City Hall, 801 11th Street, Modesto, California, on April 5, 1988, and

WHEREAS, after hearing evidence both oral and documentary the Council found and determined that said appeal to the denial of the requested rezoning of the property from Medium High Density Residential Zone, R-3, to Professional Office Zone, P-0, property located at the northwest corner of Sylvan Avenue and proposed Claremont Avenue, should be granted for the following reasons:

1. The proposed P-0 zoning pattern in the vicinity of the northwest corner of Sylvan Avenue and Coffee Road will constitute only a minor deviation from adopted City policies.
2. The proposed P-0 zoning will provide for compatible development with the surrounding uses through the plot plan review process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. APPEAL GRANTED. The appeal of Russell A. Newman on behalf of Merrill L. Stone to the decision of the Planning Commission to reclassify the above described property from Medium High Density Residential Zone, R-3, to Professional Office Zone, P-0, property located at the northwest corner of Sylvan Avenue and proposed Claremont Avenue, is hereby granted for the reasons set forth above, and the decision of the Planning Commission denying said rezoning is hereby overruled.

SECTION 2. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium High Density Residential Zone, R-3, to Professional Office Zone, P-0:

All that certain real property situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the southwest corner of Parcel "1" as shown on Map filed for record in Book 24 of Parcel Maps, Page 7, Stanislaus County records; thence North 0°39'10" East along the west line of said Parcel "1" a distance of 198.62 feet to the northwest corner of said Parcel "1", being also the southwest corner of Lot 43A of Sylvan Meadows No. 2, according to the official map thereof, filed for record in Volume 28 of Maps, Page 29, Stanislaus County Records; thence North 0°48' West along the west line of said Lot 43A a distance of 94.91 feet to the southeast corner of Lot 11, Block 12443 of said Sylvan Meadows No. 2; thence North 89°16' West along the south line of said Block 12443 and the westerly extension thereof, a distance of 546.66 feet to the centerline of Claremont Avenue, being a point on a non-tangent curve from which a radial line bears South 76°29'16" West to the center and being the true point of beginning of this description; thence Southerly 123.61 feet along said non-tangent curve, being also the centerline of a 60 foot Public Utility Easement as shown on said map of Sylvan Meadows No. 2 and the future centerline of Claremont Avenue, said curve being concave to the west, having a radius of 500.00 feet and a central angle of 14°09'54"; thence South 0°39'10" West along said centerlines of a 60 foot Public Utility Easement and future Claremont Avenue a distance of 201.90 feet to the north line of former 40.00 foot Sylvan Avenue; thence North 89°20'50" West along said north line of Sylvan Avenue parallel with and 20.00 feet north of the centerline of Sylvan Avenue a distance of 530.85 feet to the Southeast corner of North Hampton Park No. 3, according to the official map thereof, filed in Volume 26 of Maps, Page 3, Stanislaus County Records; thence North 0°48'40" West along the East line of said North Hampton Park No. 3, 325.10 feet to the Southwest corner of lot 2 in block 12444 as shown on said map of Sylvan Meadows No. 2; thence along the south line of Block 12444 also being the south line of said Sylvan Meadows No. 2, South 89°16'00" East 492.94 feet to the Southeast corner of lot 12 of Block 12444; thence continuing along the south line of Sylvan Meadows No. 2 31.02 feet to the centerline of aforementioned Claremont Avenue and the true point of beginning of this description.

Including also the northerly half of original 40.00-foot wide Sylvan Avenue immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 9-3-9 of the Zoning Map of the City of Modesto is 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 5th day of April, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Mayor Whiteside,
NOES: Councilmembers: Irizarry
ABSENT: Councilmembers: Sutton

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Priddy
Department of Planning and
Community Development

Ord. No. 2583-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 April, 1988, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: Irizarry

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Judy C. Hall
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: May 26, 1988

ORDINANCE NO. 2584-C.S.

AN ORDINANCE AMENDING SECTION 3-2.1401.1 OF ARTICLE 14 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO SPEED LIMITS IN THE CITY OF MODESTO.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.1401.1 of Article 14 of Chapter 2 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-2.1401.1. CHANGE IN SPEED LIMITS SET BY STATE LAW: FOR PURPOSE OF ENFORCEMENT USING RADAR OR OTHER ELECTRONIC DEVICE.

By authority of, and upon the basis of engineering and traffic surveys conducted pursuant to Vehicle Code and the Traffic Manual of the Department of Transportation, it is determined that the prima facie speed limits which follow would facilitate the orderly movement of vehicular traffic and would be reasonable and safe.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Poust and Carpenter Roads	40 miles per hour	December 5, 1984
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (east and westbound) between Tully Road and McHenry Avenue	45 miles per hour	January 27, 1984

BRIGGSMORE AVENUE, (westbound) between Coffee Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (east- bound) between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, (eastbound), between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	January 26, 1984
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	March 2, 1988
CALIFORNIA AVENUE, between Carpenter Road and N. Martin Luther King Drive within the City limits	35 miles per hour	February 24, 1987
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	45 miles per hour	February 8, 1984
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	45 miles per hour	June 14, 1984
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	January 26, 1984
CARVER ROAD, between M.I.D. Lateral No. 6 and Brixton Lane within the City limits	40 miles per hour	March 27, 1986

CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	May 26, 1987
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	30 miles per hour	May 8, 1987
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	35 miles per hour	May 26, 1987
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
CLAUS ROAD, between M.I.D. Lateral No. 3 and 200' south of Scenic Drive	45 miles per hour	February 3, 1984
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	45 miles per hour	April 17, 1986
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	35 miles per hour	January 26, 1984
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	January 26, 1984
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	March 8, 1984
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	June 2, 1987
CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	March 2, 1988
DALE ROAD, between Pelandale Avenue and Snyder Avenue within the City limits	35 miles per hour	September 2, 1987
DALE ROAD, between Snyder Avenue and Veneman Avenue	35 miles per hour	September 2, 1987

DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	January 26, 1984
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	September 19, 1985
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	April 20, 1984
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	March 2, 1988
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	30 miles per hour	March 8, 1988
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	35 miles per hour	September 18, 1985
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	30 miles per hour	March 7, 1988
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	May 26, 1987
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
FLOYD AVENUE, between Oakdale Road and Roselle Avenue within the City limits	35 miles per hour	August 26, 1987
GRANGER AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 8, 1988
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	March 7, 1988
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	March 19, 1986

KANSAS AVENUE, between Emerald Avenue and Eighth Street	35 miles per hour	January 26, 1984
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	30 miles per hour	September 18, 1985
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	January 26, 1984
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	August 27, 1986
LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	August 27, 1986
LAKESWOOD AVENUE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
LINCOLN AVENUE, between 650' north of M.I.D. Lateral No. 2 and Yosemite Boulevard	35 miles per hour	December 8, 1984
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	September 19, 1985
MERLE AVENUE, between Oakdale Road and Claus Road within the City limits	40 miles per hour	March 24, 1987
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	June 11, 1987
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	June 11, 1987
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	May 26, 1987
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	March 8, 1988
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	March 8, 1988

NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	March 2, 1988
NEEDHAM STREET, between 9th and and L Streets	35 miles per hour	March 2, 1988
N. MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	June 24, 1987
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue	50 miles per hour	May 29, 1984
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	50 miles per hour	June 15, 1984
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	December 8, 1984
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	April 11, 1985
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	35 miles per hour	March 9, 1988
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 31, 1988
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	March 17, 1986
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	November 19, 1984
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	December 6, 1984

PARADISE ROAD, between Vernon Avenue and N. Martin Luther King Drive within the City limits	35 miles per hour	September 24, 1984
PARADISE ROAD, between N. Martin Luther King Drive and Washington Street	30 miles per hour	May 29, 1984
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	January 26, 1984
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	December 8, 1984
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	35 miles per hour	September 19, 1985
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	May 26, 1987
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	May 26, 1987
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	March 7, 1988
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue within the City limits	35 miles per hour	October 31, 1985
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	June 26, 1987

RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	March 27-28, 1986
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	March 9, 1988
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	September 18, 1985
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive within the City limits	35 miles per hour	October 9, 1985
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	March 2, 1988
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	March 17, 1986
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	July 22, 1985
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	30 miles per hour	March 7, 1988
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	June 11, 1987
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	March 8, 1988
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	March 2, 1988
SISK ROAD, between 600' north of Vintage Drive and Standiford Avenue	40 miles per hour	December 9, 1985
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	40 miles per hour	March 28, 1986
SNYDER AVENUE, between Dale Road and Prescott Road within the City limits	35 miles per hour	September 30, 1987

SNYDER AVENUE, between Prescott Road and Carver Road within the City limits	40 miles per hour	September 30, 1987
STANDIFORD AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Prescott Road and Carver Road	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Carver Road and Tully Road	40 miles per hour	January 26, 1984
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 18, 1984
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	March 8, 1988
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	December 8, 1984
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	December 6, 1984
SUTTER AVENUE, between Paradise Road and Robertson Road within the City limits	30 miles per hour	June 24, 1987
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	March 9, 1984
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 8, 1984
SYLVAN AVENUE, between Coffee Road and Oakdale Road within the City limits	40 miles per hour	December 8, 1984

TENAYA DRIVE, between Santa Rita Avenue and South Riverside Drive within the City limits	35 miles per hour	October 9, 1985
TULLY ROAD, between M.I.D. Lateral No. 6 and Standiford Avenue	35 miles per hour	March 9, 1988
TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	June 2, 1987
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	June 24, 1987
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	June 2, 1987
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	March 7, 1988
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	March 27, 1986
WOODLAND AVENUE, between Morse Road and Shasta Avenue, within the City limits	45 miles per hour	January 26, 1984
WOODLAND AVENUE, between Shasta Avenue and Carpenter Road, within the City limits	40 miles per hour	December 5, 1984
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	August 28, 1986
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 9, 1988
WYLIE DRIVE, between Rose Avenue and Oakdale Road	35 miles per hour	February 7, 1984
9TH STREET, between Carpenter Road and 400' north of Tully Road within the City limits	45 miles per hour	December 2, 1986

9TH STREET, between P Street
and L Street

35 miles per hour March 19, 1986

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 12 day of April, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2584-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 19th day of April, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 19, 1988

CORRECTED 9/19/88

ORDINANCE NO. 2585-C.S.

AN ORDINANCE AMENDING ARTICLE 2 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE; AND AMENDING SECTIONS 10-2.503, 10-2.903, 10-2.1002, 10-2.1003, 10-2.1009, 10-2.1104, 10-2.1109, 10-2.1402, 10-2.1602 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO RECYCLING.

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

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

ARTICLE 2. DEFINITIONS

SEC. 10-2.201. DEFINITIONS.

The words and phrases used in this Chapter shall have the meanings respectively ascribed to them in this Article unless otherwise apparent from the context. Words not listed in this Article shall be interpreted as defined in a dictionary or other standard reference manual.

SEC. 10-2.202. ACCESSORY.

A building, structure or use which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot.

SEC. 10-2.203. ALLEY.

A public thoroughfare for the use of pedestrians and vehicles which serves or is designed to serve as the secondary means of access to abutting property.

SEC. 10-2.204. AMUSEMENT MACHINE CENTER.

A business which has nine (9) or more amusement machines as defined in Sections 4-1.103 and 4-1.104 of the Municipal Code.

SEC. 10-2.205. BED AND BREAKFAST HOME.

A single family dwelling in which overnight lodging and breakfast are provided for a fee.

SEC. 10-2.206. BOARD.

The Board of Zoning Adjustment of the City of Modesto.

SEC. 10-2.207. BOARDING.

The provision of meals for compensation on not less than a weekly basis.

SEC. 10-2.208. BUILDING.

A structure used or intended to be used for supporting or sheltering any use or occupancy.

SEC. 10-2.209. BUILDING, MAIN.

The principal building on a lot designed or used to accommodate the primary use to which the premises are devoted; where a permissible use involves more than one building designed or used for the primary purpose, each building on the lot shall be a main building.

SEC. 10-2.210. CAMPER.

A structure used as temporary housing which may contain cooking facilities, is designed for transport by a pickup truck, and has no wheels or foundation.

SEC. 10-2.211. CITY.

The City of Modesto.

SEC. 10-2.212. COMMISSION.

The Planning Commission of the City of Modesto.

SEC. 10-2.213. CONSTRUCTION, COMPLETION OF.

Construction shall be complete when the final required building inspection has been completed and approved by the Chief Building Official.

SEC. 10-2.214. CONSTRUCTION, START OF.

Construction shall be started when all of the following have been completed by the developer:

- (a) Filing of full sets of building plans with the Chief Building Official and issuance of a building permit including electrical, plumbing, and mechanical permits.

- (b) Performance of all conditions of approval specifying "prior to the issuance of a building permit" as found in any applicable resolutions adopted by the Council, Commission, or Board.
- (c) Payment of all required fees, including building permit fees, and the posting and acceptance of all public improvement securities, if applicable.
- (d) Compliance with any environmental review procedures of the City.

SEC. 10-2.215. DEPARTMENT.

The Planning and Community Development Department of the City of Modesto.

SEC. 10-2.216. DIRECTOR.

The Director of Planning and Community Development of the City of Modesto.

SEC. 10-2.217. DWELLING, MULTIPLE FAMILY.

A building designed for and/or occupied by two (2) or more families.

SEC. 10-2.218. DWELLING, SINGLE FAMILY.

A detached building designed for and/or occupied by one (1) family.

SEC. 10-2.219. FAMILY.

An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than five (5) persons, who are not related by blood, marriage, or adoption, excluding servants, living together as a single household unit in a dwelling unit.

SEC. 10-2.220. GARAGE SALE.

The retail sale of used or secondhand merchandise at dwellings and on residentially zoned property, also commonly known as patio sales or yard sales, etc.

SEC. 10-2.221. GRADE.

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

SEC. 10-2.222. HEIGHT.

The vertical distance above grade to the highest point of the structure.

SEC. 10-2.223. HOUSEHOLD PETS.

Animals or fowl ordinarily kept in a house for company or pleasure and not for profit.

SEC. 10-2.224. KENNEL.

A place where three (3) or more dogs of five (5) months of age or four (4) or more cats of four (4) months of age or older are kept.

SEC. 10-2.225. KITCHEN.

Any room and/or other space used or intended or designed to be used for cooking or for preparation of food for one family.

SEC. 10-2.226. LODGING.

The provision of sleeping accommodations for compensation on not less than a weekly basis.

SEC. 10-2.227. LOT.

Land occupied, or to be occupied by a building or use.

SEC. 10-2.228. LOT AREA.

The total horizontal area within the boundaries of a lot.

SEC. 10-2.229. LOT, CORNER.

A lot situated at the intersection or interception of two (2) or more streets, which streets have an angle of intersection or interception of not more than one hundred thirty-five (135) degrees.

SEC. 10-2.230. LOT, INTERIOR.

A lot other than a corner lot.

SEC. 10-2.231. LOT LINE, FRONT.

For an interior lot, a line separating the lot from the street. For a corner lot, the front lot line shall be the line separating the narrowest street frontage of the lot from the street.

SEC. 10-2.232. LOT LINE, REAR.

A lot line which is opposite and most distant from the front lot line. Any lot line which has an angle of more than forty-five (45) degrees from a side lot line in the rear one-third (1/3) of the lot shall be considered a rear lot line.

SEC. 10-2.233. LOT LINE, SIDE.

A lot line along the boundary of a lot between the front and rear lot lines.

SEC. 10-2.234. LOT WIDTH.

The horizontal distance between the side lot lines measured at the front yard setback line.

SEC. 10-2.234.1. MOBILE RECYCLING UNIT.

A mobile recycling unit means an automobile, truck, trailer or van, licensed by the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, and used for the collection of recyclable materials.

SEC. 10-2.235. MOTOR HOME.

A self-propelled motor vehicle which is designed for human habitation and which may contain plumbing, heating or electrical equipment.

SEC. 10-2.236. NONCONFORMING USE.

A use which was lawfully established and maintained but which, because of the application of this Chapter, no longer conforms to the use regulations of the zone in which it is located.

SEC. 10-2.237. PET STORE.

A shop for the sale of small animals and other household pets which may include services such as grooming, but excludes exterior runs or other outdoor uses.

SEC. 10-2.238. PREZONED LAND.

Land outside the City with a City zoning classification.

SEC. 10-2.239. PROPRIETOR.

An owner, lessee, or occupant who has legal control or responsibility over the entire premises.

SEC. 10-2.240. RACING HOMER PIGEON.

A pigeon trained to return home from a distance and which is identified by a nonremovable seamless leg band issued by a nationally recognized Racing Homer Association.

SEC. 10-2.241. RECREATIONAL VEHICLE.

A collective term which may refer to any or all of the following: airplane, boat, boat trailer, camper, motor home, motorcycle trailer, travel trailer and similar vehicles.

SEC. 10-2.241.1. RECYCLABLE MATERIAL.

Recyclable material is reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with Section 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

SEC. 10-2.241.2. RECYCLING COLLECTION FACILITY.

A collection facility is a recycling facility for the acceptance by donation, redemption, or purchase, of recyclable materials from the public. Such a facility does not use power-driven processing equipment except for reverse vending machines. Collection facilities may include the following:

- (a) Reverse Vending Machine(s);
- (b) Small collection facilities which occupy an area of not more than 500 square feet, and may include:
 - (1) A mobile recycling unit;
 - (2) Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
 - (3) Kiosk type units which may include permanent structures;
 - (4) Unattended containers placed for the donation of recyclable materials.
- (c) Large collection facilities which may occupy an area of more than 500 square feet and may include permanent structures.

SEC. 10-2.241.3. RECYCLING FACILITY.

A recycling facility is a center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer.

SEC. 10-2.241.4. RECYCLING PROCESSING FACILITY.

A processing facility is a recycling facility in a building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Processing facilities include the following:

- (a) A light processing facility occupies an area of under 45,000 square feet of gross collection, processing and storage area and has up to an average of two (2) outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
- (b) A heavy processing facility is any processing facility other than a light processing facility.

SEC. 10-2.241.5: Reverse Vending Machine(s).

A reverse vending machine is an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to metal cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the state. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

SEC. 10-2.242. SECRETARY.

The Secretary of the Planning Commission and Board of Zoning Adjustment of the City of Modesto.

SEC. 10-2.243. SETBACK LINE.

A line parallel to a lot line and at a distance therefrom equal to the required depth of the yard.

SEC. 10-2.244. SIGN.

Signs are as defined in Article 21.

SEC. 10-2.245. STORY.

A story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement or unused under-floor space shall be considered as a story.

SEC. 10-2.246. STREET.

A thoroughfare which has been dedicated to or acquired by the public and which is the principal means of access to abutting property. Easements, walkways and alleys shall not be considered "streets" for the purpose of this Chapter.

SEC. 10-2.247. STREET, SIDE.

Street bordering a corner lot adjacent to the side lot line.

SEC. 10-2.248. STRUCTURE.

That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Walls or fences six (6) feet or less in height shall not be considered structures for the purpose of this Chapter.

SEC. 10-2.249. STRUCTURAL ALTERATION.

A change in the supporting members of a building such as the foundation, bearing walls, columns, beams, floor or roof joists, girders or rafters, or a change in roof or exterior lines.

SEC. 10-2.250. SWIMMING POOL.

A structure designed to contain water in excess of eighteen (18) inches in depth, located above or below grade or ground surface, commonly constructed of concrete, metal, wood, fiberglass, and/or plastic, and designed and used for recreation or therapy.

SEC. 10-2.251. TRUCK.

- (a) A motor vehicle, including a commercial vehicle or truck tractor as defined in the Vehicle Code of the State of California, designed or used for the transportation of persons, commodities or materials and having one or more of the following characteristics:
 - (1) The vehicle exceeds a maximum gross weight of more than six thousand (6,000) pounds.
 - (2) The vehicle is rated as one and one-half (1.5) ton or greater capacity.
 - (3) The vehicle extends nine (9) feet or more to the rear of the driving compartment.
- (b) Notwithstanding the provisions of paragraph (a) herein, this definition shall not include any passenger vehicle with a capacity of fewer than ten (10) passengers.

SEC. 10-2.252. TRUCK TRAILER.

A vehicle without motive power designed to be drawn by a truck.

SEC. 10-2.253. USE.

The purpose for which either land or a structure is or may be occupied or maintained.

SEC. 10-2.254. VETERINARY HOSPITAL, SMALL ANIMAL.

A business for the care and treatment of household pets.

SEC. 10-2.255. VETERINARY HOSPITAL, LARGE ANIMAL.

A business for the care and treatment of livestock and other commercial animals.

SEC. 10-2.256. WINDMILL.

A device designed to convert wind power to another form of energy such as electricity or heat.

SEC. 10-2.257. YARD.

An open space on a lot, unoccupied and unobstructed from the ground upward, except as permitted in this Chapter.

SEC. 10-2.258. YARD, FRONT.

An area extending across the full width of the lot and lying between the front lot line and a line parallel thereto, and having a distance between such parallel lines equal to the required front yard depth as prescribed in each zone. Depth of the front yard shall be measured by a line at right angles to the front lot line, or by the radial line in the case of a curved front lot line. When a lot lies partially within a street indicated on a precise plan the depth of the front yard shall be measured from the contiguous edge of the planned street in the manner prescribed in this definition.

SEC. 10-2.259. YARD, REAR.

An area between the rear lot line and a line parallel to the rear lot line to a depth as prescribed in the respective zones.

SEC. 10-2.260. YARD, SIDE.

An area extending from the rear line of the required front yard, or from the front lot line, where no front yard is required, to the rear lot line, and lying between the side lot line and a line parallel thereto, within the lot, and having a distance between such parallel lines equal to the side yard width as prescribed in each zone. The width of the side yard shall be measured in the same manner as the depth of the front yard. When a lot lies partially within a street indicated on a precise plan, the width of the side yard shall be measured from the contiguous edge of the planned street in the manner prescribed in this definition.

SECTION 2. AMENDMENT OF CODE. Section 10-2.503 of Chapter 2 of

Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.503. PLOT PLAN USES.

The following uses are permitted upon securing plot plan approval from the Board:

- (a) Two (2) dwelling units are allowed on all interior lots subject to these conditions:

- (1) The property owner shall live in one of the units.
 - (2) One of the units shall have no more than six hundred and forty (640) square feet.
 - (3) Three (3) off-street parking spaces shall be provided.
 - (4) If there is an existing unit prior to plan approval, the unit must be brought into conformance with the Housing Code prior to occupancy of the second unit.
 - (5) Maintaining a single family dwelling appearance shall be given special consideration in plan review through means such as:
 - (aa) Attaching the second unit to the first on small or typical sized lots. On large or deep lots detached units are acceptable.
 - (ab) Putting the second unit entrance to the side or rear of the building so it is not readily visible from the same street as the first unit's entrance.
 - (ac) Locating parking so that all three (3) spaces are not readily visible from the same street. Alley access for both units is acceptable.
 - (ad) Employing construction materials and architectural styles which blend the units so they appear as a single residence if attached or a single residence and accessory building if detached.
- (b) A dish-type, satellite antenna, subject to the setback, size, and code requirements for a dish-type, satellite antenna as a permitted use but higher than fifteen (15) feet subject to these conditions:
- (1) Evidence, satisfactory to the Board, that a low, ground mounting of a satellite antenna will not produce a usable satellite signal.
 - (2) The satellite antenna shall not exceed a height of thirty-five (35) feet at the highest point of the antenna.
 - (3) The satellite antenna shall have rear yard or rear-of-house orientation unless these options preclude a usable satellite signal.

- (4) Evidence, satisfactory to the Board, that available technologies have been explored such as the feasibility of smaller dishes to reduce the visual mass; use of perforated metals, radar mesh, or wire screen to reduce the visual mass; and selection of a subdued flat color to minimize the visual impact.
- (c) For uses permitted subject to conditional use permit by subsections (a), (b), (c), and (1) of Section 10-2.504 a dish-type satellite antenna not meeting the provisions of Section 10-2.502(j) and not larger than thirteen (13) feet in diameter and not exceeding a height of thirty-five (35) feet at the highest point of the antenna.
- (d) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use.

SECTION 3. AMENDMENT OF CODE. Section 10-2.603 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.603. PLOT PLAN USES.

The following uses are permitted upon securing a plot plan approval from the Board:

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.
- (c) Any development of residential uses taking vehicular access to a collector or major street. Plot plan review shall occur at time of consideration of approval of a tentative subdivision or parcel map. The plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner, and shall be subject to approval by the Commission.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Commission.

- (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 on the same site as a church, school, or governmental use.

SECTION 4. AMENDMENT OF CODE. Section 10-2.703 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.703. PLOT PLAN USES.

The following uses are permitted upon securing a plot plan approval from the Board:

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.
- (c) Any development of residential uses taking vehicular access to a collector or major street. Plot plan review shall occur at time of consideration of approval of a tentative subdivision or parcel map. The plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner, and shall be subject to approval by the Commission.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Commission.
- (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 on the same site as a church, school, or governmental use.

SECTION 5. AMENDMENT OF CODE. Section 10-2.903 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.903. PLOT PLAN USES BY BOARD.

The following uses are allowed upon securing plot plan approval by the Board:

- (a) Business office (including government office, insurance sales and services, real estate sales and services, stock broker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions).
- (b) Medical and dental office or laboratory.
- (c) Pharmacy (excluding manufacture or distribution of pharmaceuticals).
- (d) Professional office (including accountant, architect, attorney, chiropractor, chiropodist, engineer, optometrist, surveyor).
- (e) For nonresidential uses, a dish-type, satellite antenna not meeting the provisions of Section 10-2.902(c) and not larger than thirteen (13) feet in diameter and not exceeding a height of thirty-five (35) feet at the highest point of the antenna.
- (f) For residential uses, a dish-type, satellite antenna, subject to the setback, size, and code requirements for a dish-type, satellite antenna as a permitted use but higher than fifteen (15) feet subject to these conditions:
 - (1) Evidence, satisfactory to the Board, that a low, ground mounting of a satellite antenna will not produce a usable satellite signal.
 - (2) The satellite antenna shall not exceed a height of thirty-five (35) feet at the highest point of the antenna.
 - (3) The satellite antenna shall have rear yard or rear-of-house orientation unless these options preclude a usable satellite signal.
 - (4) Evidence, satisfactory to the Board, that available technologies have been explored such as the feasibility of smaller dishes to reduce the visual mass; use of perforated metals, radar mesh, or wire screen to reduce the visual mass; and selection of a subdued flat color to minimize the visual impact.

- (g) 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.

SECTION 6. AMENDMENT OF CODE. Section 10-2.1002 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1002. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted use in the P-0 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 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) Signs subject to the provisions of Article 21.
- (ay) Sporting goods store.
- (az) Tailor and seamstress shop.
- (ba) Tobacco store.
- (bb) Toy or hobby store.
- (bc) Travel agency.

SECTION 7. AMENDMENT OF CODE. Section 10-2.1003 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1003. PLOT PLAN USES.

- (a) Subject to plot plan approval by the Board, a dish-type, satellite antenna not meeting the provisions of Section 10-2.902(c) and not larger than thirteen (13) feet in diameter and not exceeding a height of thirty-five (35) feet at the highest point of the antenna.

- (b) Subject to plot plan approval by the Director, a small recycling collection facility not exceeding 500 square feet in area. In conducting the plan review, the Director shall consider the following:
 - (1) the recycling collection facility may not reduce parking below that required by this Code for the site.
 - (2) the recycling facility shall maintain compatibility with any residential use adjacent to the site through means such as screening.
 - (3) the recycling facility shall be designed to insure that all recyclable materials will be kept inside covered containers or structures.
 - (4) the recycling facility may not impair any landscaping otherwise required for the site.

SECTION 8. AMENDMENT OF CODE. Section 10-2.1009 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1009. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

- (a) All merchandise or displays and all storage or sales areas shall be within a completely enclosed building or structure, except that the following may be conducted outdoors:
 - (1) Newspaper vending.
 - (2) Plant and floral display.
 - (3) Plant sales, plant nursery.
 - (4) Restaurant outdoor dining area.
 - (5) Vehicular fuel sales.
 - (6) Vending machines.
 - (7) Outdoor displays authorized by the City Council such as the certified farmers market or sidewalk sales as specified below.
 - (8) Other outdoor sales, displays or promotions which are permitted by the zone and for which a conditional use permit has been obtained.

- (9) Small recycling collection facility.
- (b) The display or sale of goods, merchandise or services which are customary indoor uses shall be allowed outdoors, limited to three (3) times in number during any twelve (12) month period for each business, subject to these conditions:
- (1) All sales shall be conducted by a business located on the property.
 - (2) All merchandise or services displayed outdoors shall be of the same types ordinarily sold indoors at the business conducting the sale.
 - (3) Each display or sale shall be limited to a maximum of three (3) consecutive days.
 - (4) No display shall encroach on a public right-of-way.
 - (5) All display shall be subject to the sign regulations of this chapter, including the prohibition of temporary signs.
 - (6) Prior to any display or sale, a permit for such shall be obtained from the Director.
- (c) Outdoor promotions or events are permitted by a licensed business, merchant association, school, charitable or not-for-profit organization. Promotions or events shall not promote or display the goods or services of any business on the premises and shall be subject to all other limitations in the Modesto Municipal Code, including those governing carnivals, circuses, dances and outdoor sound equipment and noise. Examples of such promotions or events are carnivals, circuses, animal rides, car shows, sporting events, and other exhibitions.
- (d) Outdoor fund-raising sales by schools, charitable or not-for-profit organizations are permitted if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits to be derived from the sale. Such sales are not permitted solely by reason of sponsorship by a school, charitable or not-for-profit organization.
- (e) Outdoor display or sale of goods or services by itinerant vendors as defined by the Modesto Municipal Code is prohibited.

- (f) Use of a hot air balloon for a promotion or event shall be limited to three (3) times in number during any twelve (12) month period for each business.
- (g) Outdoor display or sale of any item of personal property on vacant or unimproved land is prohibited and shall be punishable as an infraction. This prohibition shall not apply to sales of fireworks, Christmas trees, pumpkins, or other seasonal items as permitted under this Article.

SECTION 9. AMENDMENT OF CODE. Section 10-2.1104 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1104. CONDITIONAL USES.

The following uses are allowed upon securing a conditional use permit from the Board:

- (a) Any conditional use in the C-1 zone which is not a permitted use in the C-2 zone.
- (b) Bus terminal.
- (c) Car wash.
- (d) Funeral home.
- (e) Kennel.
- (f) Large recycling collection facility.
- (g) Massage and bath service, massage school, hot tub rental.
- (h) Recreation services (bumper cars, miniature golf, skateboard park, tennis club or similar outdoor uses).
- (i) Theatre (outdoor).

SECTION 10. AMENDMENT OF CODE. Section 10-2.1109 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1109. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

Outdoor display, sales and promotions are as permitted in the C-1 Zone except that the following additional activities may be conducted outdoors:

- (a) Automobile and recreational vehicle display and sales.
- (b) Building materials or farm supply sales and displays which are screened so as not to be visible from a public street or parking lot.
- (c) Recycling collection facility.

SECTION 11. AMENDMENT OF CODE. Section 10-2.1402 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1402. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted or conditional use in the C-M zone (except for certain dish-type, satellite antennas not otherwise permitted as noted).
- (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 semi-precious 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.

SECTION 12. AMENDMENT OF CODE. Section 10-2.1602 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1602. PERMITTED USES.

The following are permitted uses:

- (a) Employment-intensive offices: Office buildings designed for 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) 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.
- (f) Reverse vending machines or unattended containers for the donations of recyclable paper or beverage containers, occupying no more than 50 square feet, in conjunction with and on the same site as any other permitted or conditional use.

SECTION 13. 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 14. 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 19 day of April, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2585-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 April, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Judy C. Hall
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: May 26, 1988

Clerk

Corrected 4/27/88

ORDINANCE NO. 2586-C.S.

AN ORDINANCE AMENDING SECTION MAP 25-3-9 OF THE ZONING MAP TO REZONE FROM HIGHWAY COMMERCIAL ZONE, C-3, TO PLANNED DEVELOPMENT ZONE, P-D(446), NORTH PORTION OF PROPERTY LOCATED ON THE NORTH SIDE OF YOSEMITE BOULEVARD AT MARIPOSA ROAD (MID-CAL LAND DEVELOPMENT).

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

SECTION 1. ZONING CHANGE. Section 25-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Highway Commercial Zone, C-3, to Planned Development Zone, P-D(446):

Portion of Parcels B and C of a parcel map recorded in Book 22 of Parcel Maps at page 79, Stanislaus County Records and Parcels F and M of a parcel map recorded in Book 27 of Parcel Maps at page 115, Stanislaus County Records. All situated in Section 25, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, and more particularly described as follows:

Beginning at the southwest corner of Section 25, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence easterly along the south line of said Section 25 on a bearing of North 89°34'28" east, a distance of 912.98 feet; thence North 0°32'24" west, a distance of 67.00 feet, said point being located on the north right-of-way line of Yosemite Boulevard; thence North 0°32'24" west, a distance of 160.87 feet; thence North 89°33'48" east, a distance of 9.00 feet; thence North 0°32'24" west, a distance of 47.86 feet to the true point of beginning of this description; thence North 0°32'24" West, a distance of 222.49 feet; thence North 89°23'53" east, a distance of 336.19 feet to a point on the west right-of-way line of Mariposa Road; thence South 0°36'07" east, along the west right-of-way line of Mariposa Road, a distance of 102.25 feet; thence north 89°34'28" east, a distance of 60.00 feet to a point on the east right-of-way line of Mariposa Road; thence North 0°36'07" west, along the east right-of-way line of Mariposa Road, a distance of 97.44 feet; thence North 89°23'53" east, a distance of 418.00 feet; thence South 0°36'07" east, a distance of 220.00 feet; thence South 89°34'28" west a distance of 814.43 feet to the true point of beginning of this description.

Also including all of 60.00-foot wide Mariposa Road located between the above described Parcels F and M.

SECTION 2. USES. The following uses shall be permitted in said P-D(446) 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. Zero-lot line single-family homes.

SECTION 3. ZONING MAP. Section Map 25-3-9 of the Zoning Map of the City of Modesto is 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 19 day of April, 1988, by Councilmember Irizarry, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Piccola
Department of Planning and
Community Development

Ord. No. 2586-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 3rd day of May, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 2, 1988

Clerk (6)

ORDINANCE NO. 2587 -C.S.

AN ORDINANCE AMENDING SECTION MAP 12-3-8 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-0, AND PLANNED DEVELOPMENT ZONE, P-D(400), TO PLANNED DEVELOPMENT ZONE, P-D(447), PROPERTY LOCATED ON THE EAST SIDE OF DALE ROAD NORTH OF VENEMAN AVENUE (AUTUMN SHELTERS, INC.)

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

SECTION 1. ZONING CHANGE. Section 12-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Professional Office Zone, P-0, and Planned Development Zone, P-D(400), to Planned Development Zone, P-D(447):

P-0 to P-D(447)

All that certain real property situate in portions of Parcels "B" and "C" as shown on map filed for record in Book 26 of Parcel Maps at Page 26, Stanislaus County Records, lying in the Northwest Quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at the Northwest Corner of said Parcel "C", being a point on the east line of Dale Road; thence SOUTH along the west line of said Parcel "C" and said east line of Dale Road a distance of 290.00 feet to the TRUE POINT OF BEGINNING of this description; thence continuing SOUTH along said east line of Dale Road a distance of 293.00 feet; thence North 89°36'27" East a distance of 200.00 feet; thence NORTH a distance of 125.00 feet; thence North 89°36'27" East 300.00 feet to the east line of said Parcel "B"; thence NORTH along said east line of Parcel "B" and the east line of Parcel "C" a distance of 168.00 feet; thence South 89°36'27" West 500.00 feet to the point of beginning.

Including also all of the East 50.00 feet of Dale Road immediately adjacent to the above described property.

P-D(400) to P-D(447)

All that certain real property situate in a portion of Parcel "B" as shown on map filed for record in Book 26 of Parcel Maps at Page 26, Stanislaus County Records, lying in the Northwest Quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the Southwest corner of said Parcel "B", being a point on the East line of Dale Road; thence NORTH along said East line of Dale Road and said West line of Parcel "B" a distance of 75.00 feet; thence North 89°36'27" East a distance of 200.00 feet; thence NORTH a distance of 125.00 feet; thence North 89°36'27" East a distance of 300.00 feet to the East line of said Parcel "B"; thence south along the East line of said Parcel "B" a distance of 200.00 feet to the Southeast corner of said Parcel "B"; thence South 89°36'27" West along the South line of said Parcel "B" a distance of 500.00 feet to the point of beginning.

Including also all of the East 50.00 feet of Dale Road immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(447) 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. Elderly housing complex
2. Off-street parking as shown on the approved plan

SECTION 3. ZONING MAP. Section Map 12-3-8 of the Zoning Map of the City of Modesto is 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 17 day of May, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: McGrath, Sutton

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Judy C. Hall
JUDY C. HALL, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Prichard
Department of Planning and Community
Development

Ord. No. 2587-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 May, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Patterson, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath, Muratore, Sutton

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Judy C. Hall
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: June 23, 1988

ORDINANCE NO. 2588 -C.S.

AN ORDINANCE AMENDING SECTION 5-4.207.4 OF ARTICLE 2 OF CHAPTER 4 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO ANIMAL WASTES.

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

SECTION 1. AMENDMENT OF CODE. Section 5-4.207.4 of Article 2 of Chapter 4 of Title V of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 5-4.207.4. ANIMAL WASTE.

- a. It shall be unlawful for any person owning, or having charge, care, control or custody of any animal to allow animal waste or fecal matter produced by said animal to accumulate or remain on the ground or about the premises or property for more than three (3) days without said animal waste or fecal matter being placed in an airtight bag or other container and removed from the property within seven (7) days.
- b. Notwithstanding the above, any person owning, or having charge, care, control or custody of any animal shall at all times prevent urine and/or feces odors of said animal's waste from hindering, hampering, impeding, interfering with, infringing upon, or detracting from another person's enjoyment of their real or personal property.

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 14 day of June, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Acting Mayor McGrath

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Whiteside

APPROVED: Patrick McGrath
PATRICK MCGRATH, Acting Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2588-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 21st day of June, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: July 21, 1988

ORDINANCE NO. 2589-C.S.

AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1989, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed budget for the 1988-1989 fiscal year has been submitted to the City Council by the City Manager, and the City Council has made such revisions as it has deemed advisable, and

WHEREAS, in accordance with the City Charter, a public hearing has been held upon the adoption of the proposed budget after due notice, as provided by law, and

WHEREAS, copies of the proposed budget 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. That the "City of Modesto Proposed Budget 1988-89", presented by the City Manager to the City Council at its meeting held May 3, 1988, and as thereafter amended by the City Council, a copy of which budget, as amended, is on file in the office of the City Clerk, is hereby adopted as the budget for the City of Modesto for the fiscal year ending June 30, 1989, and the several amounts stated therein as proposed expenditures are hereby appropriated for the various objects therein described.

SECTION 2. That funds of the City of Modesto encumbered on June 30, 1988, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the budget for the fiscal year 1988-1989 adopted hereby.

SECTION 3. That Capital Projects carried over from fiscal year 1987-1988 are hereby re-appropriated as a part of the budget for the fiscal year 1988-1989 adopted hereby. The amount of said appropriations will equal the Reserve for Appropriated Carryover Projects established in the General Ledger Accounts of the City of Modesto for all funds as of June 30, 1988.

SECTION 4. That the City Council is authorized by resolution to transfer funds from one department to another department and to transfer and authorize the expenditure of funds from the Reserved Fund Balances for specific purposes.

SECTION 5. That the City Manager is authorized to transfer funds within departmental budgets between the following classifications, to wit: Employee Services, Professional and Contractual Services, Materials and Supplies, other operating expenses and Capital Appropriations; and to transfer appropriations for capital items budgeted within the same department within the same capital fund.

SECTION 6. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall take effect upon adoption.

SECTION 7. 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 adoption and the places where this ordinance is posted.

The foregoing ordinance was introduced and adopted at a regular meeting of the Council of the City of Modesto held on the 21 day of June, 1988, by Councilmember McGrath, who moved its adoption and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

ORDINANCE NO. 2590 -C.S.

AN ORDINANCE AMENDING CHAPTER 4 OF TITLE IX OF THE MODESTO MUNICIPAL CODE RELATING TO FLOOD DAMAGE PREVENTION.

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

SECTION 1. AMENDMENT OF CODE. Chapter 4 of Title IX of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 4 - FLOOD DAMAGE PREVENTION

ARTICLE 1. GENERAL PROVISIONS

SEC. 9-4.101. DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) Appeal means a request for a review of the Chief Building Official's interpretation of any provision of this chapter or a request for a variance.
- (b) Area of shallow flooding means a designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
- (c) Area of special flood hazard means the land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year.
- (d) Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (e) Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- (f) Existing manufactured home park or manufactured home subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for

rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of this chapter.

- (g) Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.
- (h) Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters; and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (i) Flood Insurance Rate Map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (j) Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
- (k) Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- (l) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (m) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel

trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

- (n) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (o) New construction means structures for which the start of construction commenced on or after the effective date of this chapter.
- (p) "Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (q) Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - (1) Before the improvement or repair is started; or
 - (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(aa) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety laws or ordinances which are solely necessary to assure safe living conditions; or

(ab) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(r) Variance means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

SEC. 9-4.102. LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Modesto.

SEC. 9-4.103. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Modesto," dated February 1980, revised August 17, 1982, with accompanying Flood Insurance Rate Maps and final base flood elevations within Zones A1 thru A30, is hereby adopted by reference and declared to be a part of this chapter. Copies of said Flood Insurance Study and Maps are on file in the office of the City Clerk, the Planning and Community Development Department, and the office of the Chief Building Official.

SEC. 9-4.104. COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the provisions of this chapter and other applicable regulations.

SEC. 9-4.105. ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another law, ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SEC. 9-4.106. INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the City of Modesto; and
- (c) Deemed neither to limit nor repeal any other powers granted under other state or local laws or ordinances.

SEC. 9-4.107. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Modesto, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE 2. ADMINISTRATION

SEC. 9-4.201. BUILDING PERMIT REQUIRED.

A building permit shall be obtained before construction or development begins within any area of special flood hazard established by Section 9-4.103 of this chapter. Application for a building permit shall be made on forms furnished by the Chief Building Official and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the following required information:

- (a) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all structures;
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (c) Certification by a registered civil engineer or licensed architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection (c) of Section 9-4.401 of this chapter; and
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

SEC. 9-4.202. DESIGNATION OF THE CHIEF BUILDING OFFICIAL.

The Chief Building Official is hereby appointed to administer and implement this chapter by granting or denying building permits in accordance with the provisions of this chapter.

SEC. 9-4.203. DUTIES AND RESPONSIBILITIES OF THE CHIEF BUILDING OFFICIAL.

Duties of the Chief Building Official shall include, but not be limited to:

- (a) Permit Review.
 - (1) Review all building permits to determine that the permit requirements of this chapter have been satisfied.
 - (2) Review all building permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all building permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point.
 - (4) Review all building permits to determine if the proposed site is reasonably safe from flooding.
- (b) Obtain and maintain certificates if required by ordinance for public inspection and make available as needed:
 - (1) The certification required in Section 9-4.401(c)(1) (floor elevations);
 - (2) The certification required in Section 9-4.401(c)(2)(ac) (elevation or floodproofing of nonresidential structures);
 - (3) The certification required in Section 9-4.401(c)(3)(aa) or 9-4.401(c)(3)(ab) (wet floodproofing standard);

- (4) The certified elevation required in Section 9-4.403(a) and (b) (subdivision standards);
 - (5) The certification required in Section 9-4.405(a) (floodway encroachments);
- (c) Alteration of Watercourses.
- (1) Notify adjacent communities and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (d) Interpretation of FIRM Boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 3 of this chapter.

ARTICLE 3. APPEALS AND VARIANCES

SEC. 9-4.301. BOARD OF BUILDING APPEALS.

The Board of Building Appeals established by Section 204 of the Building Code of the City of Modesto shall hear and decide appeals and requests for variances from the requirements of this chapter.

SEC. 9-4.302. APPEALS.

The Board of Building Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Chief Building Official in the enforcement or administration of this chapter.

SEC. 9-4.303. CONSIDERATION OF APPEALS.

In passing upon such appeals, the Board of Building Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;

- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, where applicable;
- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

SEC. 9-4.304. VARIANCES.

Generally, variances may be issued by the Board of Building Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (k) in Section 9-4.303 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

SEC. 9-4.305. CONSIDERATION OF VARIANCES.

Upon consideration of the factors of Section 9-4.303 of this chapter and the purposes of this chapter, the Board of Building Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

SEC. 9-4.306. CONDITIONS FOR VARIANCES.

- (a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, adversely affect the public as identified in Section 9-4.303 of this chapter, or conflict with existing state or local laws or ordinances.
- (e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SEC. 9-4.307. MAINTENANCE OF RECORDS.

The Chief Building Official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon written request.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

SEC. 9-4.401. GENERAL STANDARDS.

In all areas of special flood hazards the following standards are required:

(a) Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
- (2) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (aa) Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;
 - (ab) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - (ac) All components of the anchoring system be capable of carrying a force of forty-eight hundred (4,800) pounds; and
 - (ad) Any additions to the manufactured home be similarly anchored.

(b) Construction Materials and Methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Elevation and Floodproofing

- (1) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in Section 9-4.401(c)(2). Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Chief Building Official.
- (2) New construction or substantial improvement of any commercial, industrial or any other nonresidential structure shall either be elevated in conformance with Section 9-4.401(c)(1) or together with attendant utility and sanitary facilities:
 - (aa) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; and
 - (ab) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ac) Provide that where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of 9-4.401(a), (b) and (c) of this section, and a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the Chief Building Official.
- (3) All new construction and substantial improvements that have fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on

exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (aa) There shall be a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
- (ab) It shall comply with a local floodproofing standard approved by the Federal Insurance Administration.

(4) Manufactured homes shall also meet the standards in Section 9-4.404.

SEC. 9-4.402 STANDARDS FOR UTILITIES.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SEC. 9-4.403. STANDARDS FOR SUBDIVISIONS.

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Chief Building Official.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

SEC. 9-4.404 STANDARDS FOR MANUFACTURED HOMES.

- (a) Manufactured homes shall be anchored in accordance with subsection (a)(2) of Section 9-4.401 of this chapter.
- (b) New manufactured home parks and manufactured home subdivisions; expansions to existing manufactured home parks and manufactured home subdivisions; existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and manufactured homes not placed in a manufactured home park or manufactured home subdivision, require that:
 - (1) Stands or lots be elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level; and
 - (2) Adequate surface drainage and access for a hauler be provided; and
 - (3) In the instance of elevation on pilings, that:
 - lots be large enough to permit steps; and
 - piling foundations be placed in stable soil no more than ten (10) feet apart; and
 - reinforcement be provided for pilings more than six (6) feet above the ground level.
- (c) No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision.
- (d) Standards for Utilities shall be the same as those specified in Section 9-4.402.

SEC. 9-4.405. FLOODWAYS.

Located within the areas of special flood hazard established by Section 9-4.103 of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (a) Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited unless certification by a registered civil engineer or licensed architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If subsection (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

SEC. 9-4.406. SHALLOW FLOODING.

Located within the areas of special flood hazard established by Section 9-4.103 of this chapter are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade to or above the depth number specified on the FIRM, or at least two (2) feet if no depth number is specified.
- (b) All new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor, including basement, elevated above the highest adjacent grade to or above the depth number specified on the FIRM or at least two (2) feet if no depth number is specified; or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components

having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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 28 day of June, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2590-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 July, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Acting Mayor McGrath

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Whiteside

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 11, 1988

ORDINANCE NO. 2591-C.S.

AN ORDINANCE GRANTING THE APPEAL OF JOHN B. HINCHEY TO THE DECISION OF THE PLANNING COMMISSION RELATING TO AN AMENDMENT TO SECTION 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED ON THE NORTH SIDE OF RUMBLE ROAD WEST OF COFFEE ROAD (JOHN B. HINCHEY)

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by John B. Hinchey on June 9, 1988, to reclassify from Low Density Residential Zone, R-1, to Professional Office Zone, P-O, property located on the north side of Rumble Road west of Coffee Road, the hereinafter described property, and

WHEREAS, a public hearing was held by the Planning Commission on May 16, 1988 and continued to June 6, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing the Planning Commission was unable to reach a majority vote to approve or deny the amendment request which effected a denial of the application, and

WHEREAS, an appeal to the decision of the Planning Commission's denial of the request to reclassify from Low Density Residential Zone, R-1, to Professional Office Zone, P-O, property located on the north side of Rumble Road west of Coffee Road was filed with the Office of the City Clerk by John B. Hinchey by letter dated June 9, 1988, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the City Council Chambers in the City Hall, 801 11th Street, Modesto, California, on July 5, 1988, and

WHEREAS, after hearing evidence both oral and documentary the Council found and determined that said appeal to the denial of the requested

rezoning of the property from Low Density Residential Zone, R-1, to Professional Office Zone, P-0, property located on the north side of Rumble Road west of Coffee Road, should be granted for the following reason:

The proposed rezoning from R-1 to P-0 at this major/collector street intersection will conform to a desirable land-use transition, separating the business/professional offices from residential areas to the north and west.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. APPEAL GRANTED. The appeal of John B. Hinchey to the decision of the Planning Commission to reclassify the above described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-0, property located on the north side of Rumble Road west of Coffee Road, is hereby granted for the reason set forth above, and the decision of the Planning Commission denying said rezoning is hereby overruled.

SECTION 2. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-0:

All that certain real property situate in a portion of the southeast quarter of the southeast quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at a point established by the intersection of the centerline of 100.00 foot wide Coffee Road and 60.00 foot wide Rumble Road. Said point also being the southeast corner of said Section 9; thence along said centerline of Rumble Road, north 89°37'00" west 298.00 feet to a point established by the southern prolongation of an east line of the Somerset Park Subdivision recorded in Volume 20 of Maps at Page 84, Stanislaus County Records; thence along said southern prolongation and an east line of said Somerset Park Subdivision, north 0°50'30" west 104.50 feet; thence leaving said east line, south 89°37'00" east 298.00 feet to the

centerline of said Coffee Road; thence along said centerline, south 0°50'30" east 104.50 feet to the point of beginning of this description.

SECTION 3. ZONING MAP. Section 9-3-9 of the Zoning Map of the City of Modesto is 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 5th day of July, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: *Carol G. Whiteside*
CAROL G. WHITESIDE, Mayor

ATTEST:

By *Norrine Coyle*
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Stan T. Yamamoto*
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By *William J. ...*
Department of Planning and
Community Development

Ord. No. 2591-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 July, 19 88, Councilmember Patterson moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton
NOES: Councilmembers: Mayor Whiteside
ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 25, 1988

ORDINANCE NO. 2592 -C.S.

AN ORDINANCE AMENDING SECTION MAP 8-4-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (KAUFMAN AND BROAD)

WHEREAS, a verified application for an amendment to Section 8-4-9 of the Zoning Map was filed by Kaufman and Broad on March 15, 1988, to reclassify from Medium Density Residential Zone, R-2, to Low Density Residential Zone, R-1, the hereinafter described property, and

WHEREAS, after public hearing held on May 9, 1988, and continued to June 6 and June 20, 1988, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-72, adopted on June 20, 1988, the Planning Commission recommended to the Council that the application of Kaufman and Broad to amend Section 8-4-9 of the Zoning Map to reclassify the hereinafter described property from Medium Density Residential Zone, R-2, to Low Density Residential Zone, R-1, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on July 12, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, 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 following reasons:

1. The proposed R-1 zoning will allow single-family residential development backed up to a major street, a contemporary development standard employed throughout the City.
2. Low density residential development allowed under proposed R-1 zoning conforms to the Modesto Urban Area General Plan.

SECTION 2. ZONING CHANGE. Section 8-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, to Low Density Residential Zone, R-1:

The south 260 feet of the following described property:

All that portion of the Southeast quarter of the Southwest quarter of Section 8, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Commencing at the quarter corner on the south line of said Section 8, which is a 1/2 inch pipe in the center line of Whitmore Avenue, and the true point of beginning of this description; thence North $0^{\circ}8'$ East and along the North-South mid-section line, 1,321.75 feet to the Northeast corner of the property conveyed to O. J. Laffoon and others by deed dated May 1, 1947, and recorded May 13, 1947, as Instrument No. 13200; thence North $89^{\circ}20'$ West along the North line of said Laffoon property, 314.69 feet to a point that is 344 feet east of the Northwest corner thereof; thence South and parallel with the said North-South mid-section line 151 feet to a point; thence continuing South and parallel with the North-South mid-section line to the South line of said Section 8; thence East 314.69 feet to the true point of beginning.

SECTION 3. ZONING MAP. Section 8-4-9 of the Zoning Map of the City of Modesto is 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 12 day of July, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Acting Mayor McGrath

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Whiteside

APPROVED: 
PATRICK MCGRATH, Acting Mayor

ATTEST:

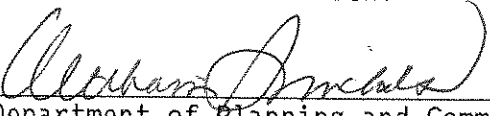
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Department of Planning and Community
Development

Ord. No. 2592-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 19th day of July, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 18, 1988

CORRECTED 9/21/88

ORDINANCE NO. 2593 -C.S.

AN ORDINANCE AMENDING SECTION 4-1.801 OF ARTICLE 8 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE AND ADDING SECTION 4-1.802 THERETO RELATING TO BATHING IN RIVER OR STREAM.

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

SECTION 1. AMENDMENT OF CODE. Section 4-1.801 of Article 8 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-1.801. BATHING IN CANAL. PERMISSIBLE HOURS.

Swimming or bathing or diving in any ditch, canal, pond or lake, within the corporate limits of the City, or the use of any ditch, canal, pond or lake, within the corporate limits of the City, for swimming, bathing or diving between the hours of 10:00 p.m. and 7:00 a.m. is hereby prohibited.

It shall be unlawful for any person to swim or bathe or dive in any ditch, canal, pond or lake, within the corporate limits of the City, between 10:00 p.m. and 7:00 a.m.

SECTION 2. AMENDMENT OF CODE. Section 4-1.802 is hereby added to Article 8 of Chapter 1 of Title IV of the Modesto Municipal Code to read as follows:

SEC. 4-1.802. BATHING IN RIVER OR STREAM PROHIBITED.

It shall be unlawful for any person to swim, dive or bathe in any river, stream or creek within the corporate limits of the City.

SECTION 3. EMERGENCY PROVISIONS. DECLARATION OF URGENCY. The Council of the City of Modesto hereby finds and declares that the foregoing ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and the following is a statement of reasons for its urgency:

1. A drought in the San Joaquin Valley of California has greatly decreased the level of water within the rivers, streams and creeks, increasing the risk that persons diving into the water will hit bottom or hidden underwater projections.
2. It is now the summer season when the chance that people will attempt to use the rivers, streams or creeks for swimming or bathing is greatest.
3. The public peace, health and safety can best be preserved by enacting an immediate ban on swimming, bathing and diving in rivers, streams or creeks within the City limits.

SECTION 4. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go into effect and be in full force and operation as of the date of its adoption.

SECTION 5. 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 adoption 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 12 day of July, 1988, by Councilmember Lang, who moved its introduction and adoption which motion being duly seconded by Councilmember Sutton, was upon roll call carried by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Acting Mayor McGrath

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Whiteside

APPROVED




PATRICK MCGRATH, Acting Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Clerk

ORDINANCE NO. 2594 -C.S.

AN ORDINANCE AMENDING SECTION MAP 15-3-9 OF THE ZONING MAP TO REZONE FROM A PORTION OF PLANNED DEVELOPMENT ZONE, P-D(343), TO PLANNED DEVELOPMENT ZONE, P-D(448), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF FLOYD AVENUE AND OAKDALE ROAD. (RESOURCE DEVELOPMENT)

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

SECTION 1. ZONING CHANGE. Section 15-3-9 of the Zoning Map is hereby amended to reclassify from a portion of Planned Development Zone, P-D(343), to Planned Development Zone, P-D(448), the following described property:

All that certain real property situated in a portion of the Northeast quarter of Section 15, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, more particularly described as follows:

Being Parcel "1", as shown on the map recorded in Book 34 of Parcel Maps, at page 80, Stanislaus County Records.

Including also all of the southern 35.00 feet of Floyd Avenue and the western 50.00 feet of Oakdale Road immediately adjacent to the above-described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(448) 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. Two fast-food restaurants.
2. Off-street parking as shown on the approved plan.

SECTION 3. ZONING MAP. Section Map 15-3-9 of the Zoning Map of the City of Modesto is 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 19 day of July, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Irizarry, Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By Albert J. ...
Department of Planning and
Community Development

Ord. No. 2594-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 July, 19 88, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Irizarry, Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 25, 1988

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12

ORDINANCE NO. 2595 -C.S.

AN ORDINANCE AMENDING SECTION 5-5.02 OF CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL CODE AND ADDING SECTION 5-5.41 THERETO RELATING TO GARBAGE DISPOSAL TO PROHIBIT UNAUTHORIZED REMOVAL OF SALVAGEABLE WASTE FROM DESIGNATED COLLECTION LOCATIONS, TO PROHIBIT THEFT OF CITY-PROVIDED RECYCLING CONTAINERS, AND TO DEFINE CERTAIN TERMS AND PHRASES.

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

SECTION 1. AMENDMENT OF CODE. Section 5-5.02 of Chapter 5 of Title V of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 5-5.02. DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- (a) "Director of Finance" means the Director of Finance of the City of Modesto or his/her duly authorized agent.
- (b) "Director of Public Works" means the Director of Public Works of the City of Modesto or his/her duly authorized agent.
- (c) "Health Officer" means the Health Officer of the City of Modesto or his/her duly authorized agent.
- (d) "Disposal Area" as used in this chapter shall mean any area designated or provided by the City Council from time to time for the purpose of disposal of garbage.
- (e) "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.
- (f) "Customer" shall mean any person, firm or corporation receiving garbage service under the provisions of this chapter.
- (g) "Garbage" means any and all matter and materials which are rejected, abandoned, or discarded by the owners or producers thereof as offensive, or useless, or no longer desired by said owners or producers thereof, and/or which by their presence or

accumulation may injuriously affect the health, comfort or safety of the community. It shall include rubbish, waste matter, swill, and similar substances or materials of the nature described above, but shall not include salvageable waste as defined herein nor garden refuse as defined in Section 4-7.1102 of this Code.

- (h) "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.
- (i) "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.
- (j) "Salvageable waste" means matter and material which will be reused and which has a property value.
- (k) "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.
- (l) "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. "Industrial garbage" also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.
- (m) "Garbage collector" means an agent or employee of the City or any person, or the agents, assignees or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of garbage as hereinafter set forth.
- (n) "Swill collector" means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of swill.
- (o) "Industrial garbage collector" means an agent or employee of the City, or any person, or the employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of industrial garbage.

- (p) "Standard container" means a galvanized metal can, watertight and with a close fitting cover, cover handle and side handles, of not less than ten (10) nor more than thirty-three (33) gallons net capacity of a design satisfactory to the Director of Public Works or such other disposal unit of like capacity approved by the Director of Public Works.
- (q) "Detachable container" means a metal container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one cubic yard in capacity, as approved by the Director of Public Works, and furnished by a licensed collector.
- (r) "Drop box container" means a metal box designed for loading upon a vehicle for transportation to the disposal area, with a minimum of twenty (20) cubic yards capacity, of a design approved by the Director of Public Works, and furnished by a licensed collector.
- (s) "Authorized curbside recycling collector" means a person, firm, organization, or company which the City has authorized to provide curbside recycling service in residential areas and other locations designated by the Utility Services Director.
- (t) "Designated recycling collection location" means the location where an authorized curbside recycling collector has agreed with the City to pick up segregated salvageable waste. This location will customarily be the curbside of streets in residential neighborhoods, a specifically identified area within a multi-family residential development, or other locations designated by the Utility Services Director.
- (u) "City-sponsored recycling container" means any container provided by the City, recycling program sponsors, or authorized curbside recycling collectors to participants in the curbside recycling program for the purpose of segregating salvageable waste from household garbage, and containing salvageable waste at a designated recycling collection location for collection by an authorized curbside recycling collector. City-sponsored 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 curbside recycling are punishable under the Municipal Code.

SECTION 2. AMENDMENT OF CODE. Section 5-5.41 is hereby added to Chapter 5 of Title V of the Modesto Municipal Code to read as follows:

SEC. 5-5.41. SALVAGEABLE WASTE 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 recycling collection location. Placement of salvageable waste at a designated recycling collection location shall constitute consent to its collection by an authorized curbside recycling collector.
- (b) Theft of City-sponsored recycling containers or diversion of said containers to uses other than their designated purpose shall be punishable as an infraction.

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 19 day of July, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2595-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 July, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 25, 1988

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ORDINANCE NO. 2596 -C.S.

AN ORDINANCE AMENDING SECTION 3-2.1401.1 OF ARTICLE 14 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO SPEED LIMITS IN THE CITY OF MODESTO.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.1401.1 of Article 14 of Chapter 2 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-2.1401.1. CHANGE IN SPEED LIMITS SET BY STATE LAW: FOR PURPOSE OF ENFORCEMENT USING RADAR OR OTHER ELECTRONIC DEVICE.

By authority of, and upon the basis of engineering and traffic surveys conducted pursuant to Vehicle Code and the Traffic Manual of the Department of Transportation, it is determined that the prima facie speed limits which follow would facilitate the orderly movement of vehicular traffic and would be reasonable and safe.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Poust and Carpenter Roads	40 miles per hour	December 5, 1984
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (east and westbound) between Tully Road and McHenry Avenue	45 miles per hour	January 27, 1984

BRIGGSMORE AVENUE, (westbound) between Coffee Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (east- bound) between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, (eastbound), between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	January 26, 1984
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	March 2, 1988
CALIFORNIA AVENUE, between Carpenter Road and N. Martin Luther King Drive within the City limits	35 miles per hour	February 24, 1987
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	45 miles per hour	February 8, 1984
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	45 miles per hour	June 14, 1984
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	January 26, 1984
CARVER ROAD, between M.I.D. Lateral No. 6 and Brixton Lane within the City limits	40 miles per hour	March 27, 1986

CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	May 26, 1987
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	30 miles per hour	May 8, 1987
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	35 miles per hour	May 26, 1987
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
CLAUS ROAD, between M.I.D. Lateral No. 3 and 200' south of Scenic Drive	45 miles per hour	February 3, 1984
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	45 miles per hour	April 17, 1986
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	35 miles per hour	January 26, 1984
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	January 26, 1984
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	March 8, 1984
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	June 2, 1987
CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	March 2, 1988
DALE ROAD, between Pelandale Avenue and Snyder Avenue within the City limits	35 miles per hour	September 2, 1987
DALE ROAD, between Snyder Avenue and Veneman Avenue	35 miles per hour	September 2, 1987

DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	January 26, 1984
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	September 19, 1985
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	April 20, 1984
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	March 2, 1988
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	30 miles per hour	March 8, 1988
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	30 miles per hour	June 23, 1988
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	30 miles per hour	March 7, 1988
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	May 26, 1987
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
FLOYD AVENUE, between Oakdale Road and Roselle Avenue within the City limits	35 miles per hour	August 26, 1987
GRANGER AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 8, 1988
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	March 7, 1988
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	March 19, 1986

KANSAS AVENUE, between Emerald Avenue and Eighth Street	35 miles per hour	January 26, 1984
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	30 miles per hour	September 18, 1985
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	January 26, 1984
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	August 27, 1986
LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	August 27, 1986
LAKWOOD AVENUE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
LINCOLN AVENUE, between 650' north of M.I.D. Lateral No. 2 and Yosemite Boulevard	35 miles per hour	December 8, 1984
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	September 19, 1985
MERLE AVENUE, between Oakdale Road and Claus Road within the City limits	40 miles per hour	March 24, 1987
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	June 11, 1987
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	June 11, 1987
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	May 26, 1987
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	March 8, 1988
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	March 8, 1988

NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	March 2, 1988
NEEDHAM STREET, between 9th and and L Streets	35 miles per hour	March 2, 1988
N. MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	June 24, 1987
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue	50 miles per hour	May 29, 1984
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	50 miles per hour	June 15, 1984
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	April 21, 1988
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	April 21, 1988
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	April 11, 1985
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	35 miles per hour	March 9, 1988
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 31, 1988
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	March 17, 1986
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	November 19, 1984
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	December 6, 1984

PARADISE ROAD, between Vernon Avenue and N. Martin Luther King Drive within the City limits	35 miles per hour	September 24, 1984
PARADISE ROAD, between N. Martin Luther King Drive and Washington Street	30 miles per hour	May 29, 1984
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	January 26, 1984
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	December 8, 1984
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	35 miles per hour	September 19, 1985
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	May 26, 1987
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	May 26, 1987
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	March 7, 1988
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue within the City limits	35 miles per hour	October 31, 1985
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	June 26, 1987

RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	March 27-28, 1986
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	March 9, 1988
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	September 18, 1985
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive within the City limits	35 miles per hour	October 9, 1985
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	March 2, 1988
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	March 17, 1986
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	July 22, 1985
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	30 miles per hour	March 7, 1988
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	June 11, 1987
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	March 8, 1988
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	March 2, 1988
SISK ROAD, between 600' north of Vintage Drive and Standiford Avenue	40 miles per hour	December 9, 1985
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	40 miles per hour	March 28, 1986
SNYDER AVENUE, between Dale Road and Prescott Road within the City limits	35 miles per hour	September 30, 1987

SNYDER AVENUE, between Prescott Road and Carver Road within the City limits	40 miles per hour	September 30, 1987
STANDIFORD AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Prescott Road and Carver Road	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Carver Road and Tully Road	40 miles per hour	January 26, 1984
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 18, 1984
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	March 8, 1988
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	December 8, 1984
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	December 6, 1984
SUTTER AVENUE, between Paradise Road and Robertson Road within the City limits	30 miles per hour	June 24, 1987
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	March 9, 1984
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 8, 1984
SYLVAN AVENUE, between Coffee Road and Oakdale Road within the City limits	40 miles per hour	December 8, 1984

TENAYA DRIVE, between Santa Rita Avenue and South Riverside Drive within the City limits	35 miles per hour	October 9, 1985
TULLY ROAD, between M.I.D. Lateral No. 6 and Standiford Avenue	35 miles per hour	March 9, 1988
TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	June 2, 1987
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	June 24, 1987
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	June 2, 1987
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	March 7, 1988
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	March 27, 1986
WOODLAND AVENUE, between Morse Road and Shasta Avenue, within the City limits	45 miles per hour	January 26, 1984
WOODLAND AVENUE, between Shasta Avenue and Carpenter Road, within the City limits	40 miles per hour	December 5, 1984
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	August 28, 1986
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 9, 1988
WYLIE DRIVE, between Rose Avenue and Oakdale Road	35 miles per hour	February 7, 1984
9TH STREET, between Carpenter Road and 400' north of Tully Road within the City limits	45 miles per hour	December 2, 1986

9TH STREET, between P Street
and L Street

35 miles per hour March 19, 1986

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 19 day of July, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2596-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 July, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 25, 1988

33216
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ORDINANCE NO. 2597 -C.S.

AN ORDINANCE AMENDING SECTION 3-1.123 OF CHAPTER 1 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO THE FIRE CODE.

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

SECTION 1. AMENDMENT OF CODE. Section 3-1.123 of Chapter 1 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-1.123. PROHIBITED USE OF LIQUEFIED PETROLEUM GAS.

That Section 82.107 of the Fire Code be amended to read as follows:

Section 82.107. Prohibited Use of Liquefied Petroleum Gas.

- (a) Liquefied petroleum gas shall not be used for the purpose of operating any devices or equipment unless such equipment or device is approved for use with a liquefied petroleum gas.
- (b) Liquefied petroleum gas shall not be released to the atmosphere except through an approved liquid level gauge or other approved device.
- (c) The use of stoves and other similar fuel-burning appliances using liquefied petroleum gas for cooking, lighting or heating is prohibited inside of a building in the City of Modesto except as permitted in subsection (d) of this section.
- (d) The storage and use of liquefied petroleum gas may be permitted by the Chief on construction sites and residential property when the prohibition of such storage would cause an undue hardship. When permitted, the total aggregate storage of liquefied petroleum gases on any one (i) property shall not exceed two hundred fifty (250) gallons. The use of liquefied petroleum gases when permitted shall be limited to approved devices used for cooking and heating.

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 26 day of July, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2597-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 August, 19 88, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 1, 1988

Clerk

CORRECTED 9/21/88

ORDINANCE NO. 2598 -C.S.

AN ORDINANCE AMENDING ARTICLE 5 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO CURBS, GUTTERS, SIDEWALKS, DRIVEWAY APPROACHES AND ALLEYS WITH BUILDING PERMITS.

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

SECTION 1. AMENDMENT OF CODE. Article 5 of Chapter 1 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

ARTICLE 5. CURBS, GUTTERS, SIDEWALKS, DRIVEWAY APPROACHES AND ALLEYS WITH BUILDING PERMITS

SEC. 7-1.501. PURPOSE.

In enacting this article, the Council hereby finds that land development and increases in population density causes existing streets, highways and alleys to become inadequate in width and development to provide minimum acceptable standards to the lands being developed, and therefore the public is being denied streets, sidewalks and alleys of minimum urban standards for safe and convenient vehicular and pedestrian use and travel.

SEC. 7-1.502. REQUIRED LOCATIONS.

Curbs, gutters, sidewalks, driveway approaches and alley improvements shall be provided and/or repaired along all street and alley frontages of property in accordance with current standard drawings and specifications approved by the Council from time to time by resolution and on file in the offices of the City Clerk and Director of Engineering Services for all new buildings or structures, property development, or any building or structure altered or expanded in excess of fifty (50%) per cent of the value of such building or structure or for any building or structure in which there is a change from a lesser to a more restrictive occupancy where a building permit is required, with the following exceptions:

- (a) Sidewalks shall be required in the Low Density Residential (R-1) Zone and Medium Density Residential (R-2) Zone only when one of the following conditions exists as to the front footage on the side of the block on which the property is located:
 - (1) More than fifty (50%) per cent of the front footage has sidewalks which are existing or are to be installed under some proceeding or requirement of law.

- (2) More than fifty (50%) per cent of the front footage is undeveloped property.
 - (3) More than fifty (50%) per cent of the front footage cumulatively has sidewalks or is undeveloped property as set forth in subparagraphs (1) and (2) above.
- (b) In commercial or manufacturing zones, as defined in Title X of this Code, sidewalks, curbs, gutters, driveway approaches and alley improvements shall be provided and/or repaired, except that in C-M, M-1 and M-2 Zones, special permits may be issued to omit the sidewalk upon approval of the Council.
- (c) On large sized properties on which only a portion of the property is to be occupied by the construction of a building, structure or property development, the providing and/or repairing of sidewalks, curbs, gutters, driveway approaches and alley improvements may be confined, upon approval of the Director of Engineering Services, to that portion of the street and alley frontage abutting the portion of the property being developed, including areas used for parking or motor vehicles.

SEC. 7-1.503. APPROVAL BY THE CHIEF BUILDING OFFICIAL.

The Chief Building Official shall deny final approval of any building or its occupancy until the work required by this article is completed or construction is guaranteed within a specified time limit approved by the Director of Engineering Services by an improvement security in the form of cash, a savings and loan certificate, or an instrument of credit. If the person required to make improvements pursuant to this section can prove to the satisfaction of the Director of Engineering Services that providing improvement security would result in a severe hardship and the failure to provide improvements would not be detrimental to the public health, safety or welfare, the Director may grant a waiver to the improvement requirements. The waiver may be conditioned to require dedication and/or improvement at a later date. Improvement security shall be approved by the City Attorney and the Director of Finance in an amount to be fixed by the Director of Engineering Services. The improvement security shall be returned to the depositor upon the completion of the work. In the event the work is not completed within the specified time limit, the City may perform the required work, in which case the improvement security shall be applied by the City toward the cost of the work.

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 26 day of July, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2598-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 August, 1988, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 1, 1988

Link

ORDINANCE NO. 2599-C.S.

AN ORDINANCE AMENDING SECTION MAP 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(450), PROPERTY LOCATED AT THE SOUTHEAST CORNER OF STANDIFORD AVENUE AND CARVER ROAD (SUMMERVIEW ASSOCIATES)

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

SECTION 1. ZONING CHANGE. Section 7-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(450):

R-1 to P-D(450)

All that certain real property situate in a portion of the Southwest quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus and State of California, described as follows:

Beginning at the Southwest corner of Lot 6, of Block 13216 as shown on the official map of Tully Manor No. 6, recorded in Volume 23 of Maps at Page 55, Stanislaus County Records; thence North 89°08' West, 519.00 feet to the centerline of Carver Road; thence North 0°52' West, along said centerline of Carver Road a distance of 542.00 feet to the centerline of Standiford Avenue and the East-West quarter section line of said Section 7; thence South 89°08' East, along said centerline of Standiford Avenue a distance of 519.00 feet; thence South 0°52' East, 542.00 feet to the point of beginning.

Containing 6.46 acres (gross)

SECTION 2. USES. The following uses shall be permitted in said P-D(450) 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. All permitted and conditional P-0 zone uses.
2. Restaurant.

SECTION 3. ZONING MAP. Section Map 7-3-9 of the Zoning Map of the City of Modesto is 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.

1. All permitted and conditional P-0 zone uses.
2. Restaurant.
3. Multi-family condominium units.

SECTION 3. ZONING MAP. Section Map 7-3-9 of the Zoning Map of the City of Modesto is 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.

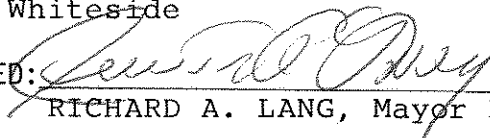
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2 day of August, 1988, by Councilmember Patterson, who moved its adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Patterson, Sutton

NOES: Councilmembers: Irizarry

ABSENT: Councilmembers: McGrath, Mayor Whiteside

APPROVED: 
RICHARD A. LANG, Mayor Pro Tempore

ATTEST:

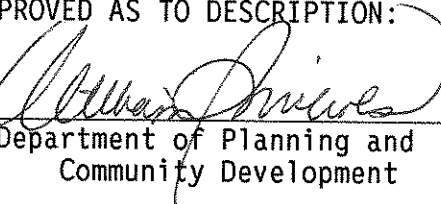
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Department of Planning and
Community Development

Ord. No. 2599-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 9th day of August, 19 88, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: Irizarry

ABSENT: Councilmembers: McGrath

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 8, 1988

Clark 3

ORDINANCE NO. 2600 -C.S.

AN ORDINANCE AMENDING SECTION MAP 14-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(449), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF OAKDALE ROAD AND MANOR OAK DRIVE (HASHEM NARAGHI).

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

SECTION 1. ZONING CHANGE. Section 14-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(449):

ALL that certain real property shown as "Remainder" on the map of Manor Oak Estates, filed in Book 32 of Maps, at Page 46, Stanislaus County Records, and lying in the southwest quarter of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, State of California.

Including also all of the east 50.00 feet of Oakdale Road and south one half of Manor Oak Drive and both immediately adjacent to the above property referred to as "Remainder".

SECTION 2. USES. The following uses shall be permitted in said P-D(449) 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. Two-story residential condominiums.
2. Off-street parking as shown on the approved development plan.

SECTION 3. ZONING MAP. Section Map 14-3-9 of the Zoning Map of the City of Modesto is 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 2 day of August, 1988, by Councilmember Irizarry, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William J. Smith
Department of Planning and
Community Development

Ord. No. 2600-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 9th day of August, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None


ABSENT: Councilmembers: McGrath

APPROVED



MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 8, 1988

ORDINANCE NO. 2601 -C.S.

AN ORDINANCE AMENDING SECTION 4-1.1303 OF ARTICLE 13 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO THE REGULATION OF PICTURE ARCADES.

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

SECTION 1. AMENDMENT OF CODE. Section 4-1.1303 of Article 13 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-1.1303. VISIBILITY OF INTERIOR.

It shall be unlawful for any person, partnership, corporation or other entity to own, operate, maintain or manage a picture arcade, unless the complete interior of the portion of the premises where the pictures can be viewed is continuously open and fully visible to any person upon entering the premises containing such picture arcade. Booths within picture arcades wherein still or motion pictures are viewed are hereby prohibited.

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 9th day of August, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2601-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 16th day of August, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED



MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 15, 1988

ORDINANCE NO. 2602-C.S.

AN ORDINANCE AMENDING SECTION MAP 8-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(452), PROPERTY LOCATED AT 605 STANDIFORD AVENUE (BIG VALLEY GRACE COMMUNITY CHURCH)

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

SECTION 1. ZONING CHANGE. Section 8-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(452):

R-1 to P-D(452)

ALL that certain real property situate in a portion of the Southwest quarter of the Northeast quarter of Section 8, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

COMMENCING at the Southeast corner of Lot "1", Block 13050 of the Greenwood Estates No. 3 subdivision, as shown on the map filed in Volume 22 of Maps, at Page 44, Stanislaus County Records; thence South 0°19'40" West, 407.30 feet; thence North 89°35'00" West, 526.61 feet to the point of beginning of a tangent curve, concave to the Northeast, having a radius of 15.00 feet and a central angle of 93°01'01"; thence Northwesterly along the arc of said curve, 24.35 feet to the point of a compound curve, said curve having a radius of 300.00 feet and a central angle of 45°48'03"; thence Northeasterly along the arc of said curve, 239.81 feet; thence North 49°14'04" East, 286.37 feet to the point of beginning of a tangent curve, concave to the Northwest, having a radius of 360.00 feet and a central angle of 5°36'27"; thence Northeasterly along the arc of said curve, 35.25 feet; thence South 74°35'00" East, 122.21 feet; thence South 89°40'20" East, 80.00 feet to the Point of Beginning of this description.

Including also the Northerly one-half of Standiford Avenue and the Westerly one-half of Columbine Drive all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(452) 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. Office use.
2. Townhouse condominium lots with a common area.

SECTION 3. ZONING MAP. Section Map 8-3-9 of the Zoning Map of the City of Modesto is 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 resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 1988, by Councilmember McGrath, who moved its adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Dickson
Department of Planning and
Community Development

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 September, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Judy C. Hall
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: October 6, 1988

ORDINANCE NO. 2603-C.S.

AN ORDINANCE AMENDING SECTION MAP 7-3-9 OF THE ZONING MAP TO REZONE FROM A PORTION OF PLANNED DEVELOPMENT ZONE, P-D(351), TO PLANNED DEVELOPMENT ZONE, P-D(451), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF STANDIFORD AVENUE AND CARVER ROAD. (ERNEST P. GRAHAM DEVELOPMENT COMPANY)

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

SECTION 1. ZONING CHANGE. Section 7-3-9 of the Zoning Map is hereby amended to reclassify from a portion of Planned Development Zone, P-D(351), to Planned Development Zone, P-D(451), the following described property:

ALL that certain real property shown as Parcel "2", as shown on the map filed in Book 38 of Parcel Maps, at Page 94, Stanislaus County Records, and lying in the Southwest quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, State of California.

Including also the west one-half of Carver Road and the south one-half of Standiford Avenue and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(451) 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. maximum three-story office complex.
2. two freestanding commercial pads containing restaurants and/or banks or financial institutions.
3. off-street parking as shown on the approved plans.

SECTION 3. ZONING MAP. Section Map 7-3-9 of the Zoning Map of the City of Modesto is 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 23 day of August, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William D. ...
Department of Planning and
Community Development

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 September, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Judy C. Hall*
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: October 6, 1988

ORDINANCE NO. 2604 -C.S.

AN ORDINANCE AMENDING SECTIONS 4-2.07, 4-2.11.1, 4-2.24, AND 4-2.28 OF CHAPTER 2 OF TITLE IV OF THE MODESTO MUNICIPAL CODE; SECTIONS 4-5.02, 4-5.08, AND 4-5.10 OF CHAPTER 5 OF TITLE IV OF THE MODESTO MUNICIPAL CODE; SECTIONS 4-7.101, 4-7.106, 4-7.107, 4-7.401, 4-7.601, 4-7.1103, AND 4-7.1303 OF CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE; AND SECTIONS 4-9.103, 4-9.104, AND 4-9.105 OF CHAPTER 9 OF TITLE IV OF THE MODESTO MUNICIPAL CODE TO PROVIDE THAT VIOLATIONS THEREOF ARE UNLAWFUL AND PUNISHABLE AS INFRACTIONS.

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

SECTION 1. AMENDMENT OF CODE. Sections 4-2.07, 4-2.11.1, 4-2.24, and 4-2.28 of Chapter 2 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-2.07. FIREWORKS.

- (a) It shall be unlawful and punishable as an infraction to possess, fire, discharge or set off, within the City of Modesto, unless by virtue of a written permit of the Fire Chief, any fireworks or pyrotechnic device, other than those fireworks and pyrotechnic devices which have been examined by the State Fire Marshal, classified as "safe and sane," and which bear the State Fire Marshal's Seal of Registration.
- (b) Provided further that nothing herein contained shall prohibit or prevent any person from using "model rockets" and "model rocket engines" in accordance with the regulations of the State Fire Marshal as set forth in Title 19 of the California Administrative Code.

SEC. 4-2.11.1. ABANDONED, WRECKED OR JUNKED VEHICLES OR PART(S) THEREOF: UNLAWFUL TO LEAVE ON PRIVATE PROPERTY.

- (a) It shall be unlawful and punishable as an infraction to park, store, or leave or to permit the parking, storing or leaving of any licensed or unlicensed motor vehicle of any kind or part(s) thereof, which is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city limits of the City of Modesto for a period of time in excess of seventy-two (72) hours, unless such vehicle or part(s) thereof is completely enclosed within a building or is stored in

connection with a used car junk area lawfully established pursuant to the zoning regulations of the City of Modesto.

- (b) The accumulation and storage of one (1) or more of such vehicles or part(s) thereof, as defined in subsection (a) above, on private property shall constitute a nuisance detrimental to the health, safety and welfare of the inhabitants of the City of Modesto; and it shall be the duty of the owner of the private property or lessee or other person in possession of private property upon which such vehicle or part(s) thereof is located to remove the same from such property or to have the same housed in a building where it will not be visible from the street or other private property.

SEC. 4-2.24. PUSHCARTS PROHIBITED.

It shall be unlawful and punishable as an infraction for any person to stop, stand, park or propel any pushcart through, along or upon any street or sidewalk in the City.

SEC. 4-2.28. SOLICITING MAGAZINE SALES IN PUBLIC PLACES.

It shall be unlawful and punishable as an infraction for any person on any of the public streets or sidewalks in the City, or in any area or doorway or entrance-way immediately abutting thereon, or in any park or other public place within said City, to solicit or attempt to effect or effect the sale of any subscription to any magazine, periodical or like publication for future delivery.

SECTION 2. AMENDMENT OF CODE. Sections 4-5.02, 4-5.08, and 4-5.10 of Chapter 5 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-5.02. GARBAGE CONTAINERS IN STREETS PROHIBITED.

It shall be unlawful and punishable as an infraction to allow to stand or remain in any such street or alley, any can, bucket, barrel or other receptacle used for holding swill or garbage.

SEC. 4-5.08. ADVERTISING MERCHANDISE ON SIDEWALK PROHIBITED.

It shall be unlawful and punishable as an infraction for any person owning or occupying any premises fronting on a public street to place any goods, wares or merchandise, for the purpose of exhibition, display or advertisement, on any portion of the sidewalk in front of said premises, nor suffer any goods, wares or merchandise to remain thereon, nor suspend any goods, wares or

merchandise, or any advertising banner or device over any portion thereof. The provisions of this section shall not apply to sales promotion events of community-wide interest and importance when sponsored by a bona fide merchants' association provided that such sales promotion activities are first approved by the Council. In granting its approval, the Council may impose such conditions, restrictions and requirements as it deems necessary or desirable in order to protect the public interest and promote the general welfare.

SEC. 4-5.10. ADVERTISING BANNERS PROHIBITED.

No advertising flag, canvas, banner, or other advertising device of any description shall be stretched across any street. Violation of this Section shall be unlawful and punishable as an infraction.

SECTION 3. AMENDMENT OF CODE. Sections 4-7.101, 4-7.106, 4-7.107, 4-7.401, 4-7.601, 4-7.1103, and 4-7.1303 of Chapter 7 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-7.101. PERMIT REQUIRED.

It shall be unlawful and punishable as an infraction for any person to operate or to park, or cause to be operated or parked, any vehicle on any street or public place in the City for the sole purpose of commercial advertising without first obtaining a permit so to do from the Council; provided, however, that in the case of undertakings sponsored by charitable, benevolent, religious, or bona fide incorporated non-profit organizations, the City Manager shall be authorized to issue temporary permits for the use of vehicles for such purposes where no charge to the sponsor is made for the use of the vehicle.

In granting any such permits, the City Manager may impose such limitations and restrictions as may be conducive to the public welfare.

SEC. 4-7.106. HANDBILL DISTRIBUTION IN PUBLIC PLACES UNLAWFUL.

It shall be unlawful and punishable as an infraction for any person to distribute, or cause to be distributed to or among pedestrians along or upon any public street, alley, park or other public place in said City, or to place in any automobile or other vehicle parked on or along a public street, alley, park or other public place in said City, any advertising samples, handbill, dodger, circular, booklet or other notice of commercial advertising.

SEC. 4-7.107. DISTRIBUTION ON PRIVATE PROPERTY AND EXCEPTIONS.

It shall be unlawful and punishable as an infraction for any person to distribute or throw upon any street, alley or public place or upon any private yard, lawn, driveway or sidewalk, porch or steps of any residence or upon any vacant property in said City any advertising sample, handbill, dodger, circular, booklet, or other notice of commercial advertising; provided however, that nothing in this section contained shall prohibit the distribution and delivery of any newspaper which is capable of being entered as second class matter under the provisions of the United States post office regulations of March 3, 1879, and other United States statutes, or any regularly issued magazine, into dwelling houses of residents of said City who are subscribers to such newspaper or magazine. Provided, further, that the provisions of this section shall not prohibit the distribution and delivery to dwelling houses of residents of the City of any regularly published medium composed of multiple advertisements of merchants and news items distributed by a business licensed by the City.

SEC. 4-7.401. SOLICITORS.

The practice of going to, in and upon private residences, homes and/or apartments in the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested so to do by the owner or owners, occupant or occupants of said residences, apartments or premises, for the purpose of soliciting orders for the sale of goods, wares and/or merchandise and/or for the purpose of disposing of and/or peddling and/or hawking the same, is hereby declared to be a nuisance and punishable as an infraction.

SEC. 4-7.601. WEEDS, RUBBISH AND DEBRIS DECLARED A NUISANCE.

All weeds, rubbish, and debris located upon any private property or any public street, sidewalk, easement or alley abutting thereon within the City, which constitutes a fire menace, or which is otherwise a menace to health or safety is hereby declared to be a public nuisance, which nuisance shall be abated as provided in this article, or punishable as an infraction.

SEC. 4-7.1103. PLACEMENT FOR COLLECTION.

The following regulations shall govern the placement of garden refuse for collection by the City. Failure to comply with any regulation shall be unlawful and punishable as an infraction.

- (a) Place. Persons desiring to have garden refuse collected by the City shall place it in the abutting alley, if one exists. Where alleys do not exist, garden refuse shall be placed in the abutting street for collection.

- (b) Location. Garden refuse placed in streets shall be placed in a compact manner and shall not extend into the street more than four (4) feet, nor shall the closest edge of the pile be placed less than one (1) foot from the face of the curb, or in case no curb exists, from the low point of the gutter, so as to permit drainage. Garden refuse placed in alleys shall be placed in a compact manner and shall not extend into the alley more than three (3) feet.
- (c) Piling. Garden refuse shall be placed in a single compact pile, and only in front of, in the rear of, or on the side of, as the case may be, the property where it was accumulated.
- (d) Quantity. Not more than two (2) cubic yards of garden refuse shall be placed in the street or alley for any one collection.
- (e) Size. All tree limbs, cuttings or shrubbery put out for collection shall not exceed eight (8') feet in length or six (6") inches in diameter, and no single piece shall weigh more than fifty (50) pounds.
- (f) Containers. When practicable, all small refuse, (grass, clippings, leaves, twigs, etc.) shall be placed in containers of not more than twenty (20) gallons capacity; provided, however, that between October 1 and December 31 of each year, leaves need not be placed in containers. Containers used for small refuse shall be removed from the street or alley on the same day they are emptied.
- (g) Time. Garden refuse shall be put out for collection not later than 7 o'clock a.m. on collection day, and shall not be placed in the street more than one (1) day prior to the day of collection.

SEC. 4-7.1303. NONCOMMERCIAL USE OF SOUND TRUCKS.

- (a) Registration Required. No person shall use, or cause to be used, a sound truck with its sound-amplifying equipment in operation, or sound-amplifying equipment in the streets or public places in the City before filing a registration statement with the City Clerk in writing. This registration statement shall be filed in duplicate and shall state the following:
 - (1) Name and home address of the applicant.
 - (2) Address of place of business of applicant.
 - (3) License number and motor number of the sound truck to be used by applicant, if any.

- (4) Name and address of person who owns the sound trucks, or sound-amplifying equipment.
 - (5) Name and address of person having direct charge of sound truck, or sound-amplifying equipment.
 - (6) Names and addresses of all persons who will use or operate the sound truck, or sound-amplifying equipment.
 - (7) The purpose for which the sound truck or sound-amplifying equipment will be used.
 - (8) A general statement as to the section or sections of the City in which the sound truck or sound-amplifying equipment will be used.
 - (9) The proposed hours of operation of the sound truck, or sound-amplifying equipment.
 - (10) The number of days of proposed operation of the sound truck, or sound-amplifying equipment.
 - (11) A general description of the sound-amplifying equipment which is to be used.
 - (12) The maximum sound-producing power of the sound-amplifying equipment to be used. State the following:
 - (aa) The wattage to be used.
 - (ab) The volume in decibels of the sound which will be produced.
 - (ac) The approximate maximum distance for which sound will be thrown from its source.
- (b) Registration Statement Amendment. All persons using or causing to be used sound trucks or sound-amplifying equipment for noncommercial purposes shall amend any registration statement filed pursuant to subsection (a) of this section within forty-eight (48) hours after any change in the information therein furnished.
- (c) Registration and Identification. The City Clerk shall return to each applicant under subsection (a) of this section one (1) copy of said registration statement duly certified by the City Clerk as a correct copy of said application. Said certified copy of application shall be in the possession of any truck or sound amplifying equipment at all times while the sound-amplifying equipment is in operation, and said copy shall

be promptly displayed and shown to any policeman of the City of Modesto upon request. The City Clerk shall also furnish one (1) copy of the registration statement duly certified to the Chief of Police.

- (d) Regulations for Use. Noncommercial use of sound-amplifying equipment in operation shall be subject to the following additional regulations:
- (1) The only amplified sounds permitted are music or human speech.
 - (2) Operation shall be permitted only between the hours of 9:00 a.m. and 6:00 p.m.
 - (3) Sound-amplifying equipment shall not be operated on a truck unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when said truck is stopped or impeded by traffic. Where stopped by traffic, the sound-amplifying equipment shall not be operated for longer than one (1) minute at each such stop.
 - (4) Sound-amplifying equipment shall not be operated within one thousand (1,000) feet of hospitals, schools when in session, and churches when services are being conducted.
 - (5) No sound truck or sound-amplifying equipment shall be erected, maintained or operated in any area zoned as residential by the zoning regulations of this Code.
 - (6) No sound truck or sound-amplifying equipment shall be erected, maintained or operated within two hundred (200) feet of the boundary of any area zoned as residential by the zoning regulations of this Code.
 - (7) The amplified human speech or music shall not be profane, lewd, indecent or slanderous.
 - (8) The volume of sound shall be controlled so that it will not be audible for a distance in excess of two hundred (200) feet from its source and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
 - (9) No sound-amplifying equipment shall be operated with an excess of fifteen (15) watts of power in the last stage of amplification.

- (e) It shall be unlawful and punishable as an infraction for any person to use a sound truck or sound-amplifying equipment in violation of the provisions of this Section.

SECTION 4. AMENDMENT OF CODE. Sections 4-9.103, 4-9.104, and 4-9.105 of Chapter 9 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-9.103. RESIDENTIAL PROPERTY NOISE LIMITS.

- (a) No person shall produce, suffer or allow to be produced by any means, or any combination of means, on residential property, a noise level more than 5 dBA above the local ambient at any point outside of the property plane.
- (b) No person shall produce, suffer or allow to be produced by any machine, animal, or device, or any combination of same, on multi-family residential property, a noise level more than 5 dBA above the local ambient three (3') feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and doors of said dwelling unit are closed, except within the dwelling unit in which the noise source or sources may be located.
- (c) It shall be unlawful and punishable as an infraction for any person to produce or allow to be produced any noise level in violation of this Section.

SEC. 4-9.104. COMMERCIAL AND INDUSTRIAL PROPERTY NOISE LIMITS.

No person shall produce, suffer or allow to be produced by any means, or any combination of means, on commercial or industrial property, a noise level more than 10 dBA above the local ambient at any point outside of the property plane, except that where such commercial or industrial property is located adjacent to residential property in a residential zone the noise level shall not be more than 5 dBA above the local ambient at any point outside of the property plan adjacent to said residential property. It shall be unlawful and punishable as an infraction for any person to produce or allow to be produced any noise level in violation of this Section.

SEC. 4-9.105. PUBLIC PROPERTY NOISE LIMITS.

- (a) Unless otherwise provided in this chapter, no person shall produce, suffer or allow to be produced by any means, or any combination of means, on public property, a noise level more than 15 dBA above the local ambient at a distance of

twenty-five (25') feet or more from the noise source or sources, except that where such public property is located adjacent to residential property located in a residential zone the noise level shall not be more than 5dBA above the local ambient at any point outside of the property plane adjacent to said residential property, or where such public property is located adjacent to commercial or industrial property located in a commercial or industrial property located in a commercial or industrial zone the noise level shall not be more than 10 dBA above the local ambient at any point outside of the property plane adjacent to said commercial or industrial property.

- (b) Scheduled events, including sound performances, which produce a noise level not exceeding 80 dBA measured at a distance of fifty (50') feet from the noise source or sources are exempt from this article when approval thereof has been obtained from the appropriate governmental entity, or official.
- (c) Vehicle horns, or other devices primarily intended to create a loud noise for warning purposes, shall not be used when he vehicle is at rest, or when a situation endangering life, health, or property is not imminent.
- (d) It shall be unlawful and punishable as an infraction for any person to produce or allow to be produced any noise level in violation of this Section.

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 20 day of September, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2604-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 September, 19 88, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 27, 1988

ORDINANCE NO. 2605 -C.S.

AN ORDINANCE AMENDING SECTION 7-1.104 OF ARTICLE 1 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO ENCROACHMENTS IN SIDEWALK PLANTING STRIPS.

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

SECTION 1. AMENDMENT OF CODE. Section 7-1.104 of Article 1 of Chapter 1 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-1.104. ENCROACHMENTS IN SIDEWALK-PLANTING STRIP.

- (a) It shall be unlawful and punishable as an infraction for any person, firm or corporation to place, erect or maintain, or to permit the placing, erection, maintenance or existence of any encroachment, as hereinabove defined, upon, over or under the sidewalk-planting strip, without an encroachment permit from the City of Modesto, granted as herein provided, unless such an encroachment is specifically allowed by Section 7-1.103 of this article.
- (b) Any person, firm or corporation desiring to place, erect or maintain an encroachment in the sidewalk-planting strip which is not specifically allowed by Section 7-1.103 of this article shall make application for an encroachment permit at the office of the Director of Public Works. The application shall be in writing on a form furnished by the City for that purpose and shall specify the information set forth in Section 7-1.106 of this article.
- (c) The Director of Public Works may issue permits for encroachments in the sidewalk-planting strip in accordance with resolutions passed by the Council from time to time which establish conditions under which the permit may be issued. In each case the applicant shall agree in writing to the conditions of the permit. In the event that the Council has not established conditions for a particular type of encroachment, the application shall be submitted to the Council for action.
- (d) The Council may require removal of any encroachment or may revoke any encroachment permit at any time. The Director of Public Works shall give notice to remove or of revocation in the form and manner specified in subsection (h) of this section to the person maintaining said encroachment.

- (e) Any person, firm or corporation whose property encroaches in any manner upon, over or under the sidewalk-planting strip, who is required to and has not obtained a permit for the placing, erection and/or maintenance of such encroachment, shall remove the same after written notice by the Director of Public Works.
- (f) In case of an immediate hazard or danger, the Director of Public Works may cause such an encroachment to be summarily removed without notice.
- (g) It shall be unlawful for a person, firm or corporation to place, erect or maintain or to permit the placing, erection, maintenance or existence of an encroachment upon, over or under the sidewalk-planting strip if an encroachment permit is required and has not been obtained, has expired or has been revoked and the time specified in the notice from the Director of Public Works for removal of the same has expired.
- (h) Notice of such removal shall be by registered or certified mail, addressed to the post office address of the owner or occupant of the premises where the encroachment exists, or by personal service of such notice upon the owner or occupant by a person authorized by the Director of Public Works to deliver such notice. The time required for removal of such encroachment shall be specified in the notice.

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 20 day of September, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton
NOES: Councilmembers: Mayor Whiteside
ABSENT: Councilmembers: None

APPROVED: _____

Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2605-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 September, 1988, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 27, 1988

Clerk

ORDINANCE NO. 2606 -C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.505, 10-2.506, 10-2.507, 10-2.1009, 10-2.1109, 10-2.1208, 10-2.1309, 10-2.1408, 10-2.1508, 10-2.1608, 10-2.2108, AND 10-2.2307 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE TO PROVIDE THAT VIOLATIONS THEREOF ARE UNLAWFUL AND PUNISHABLE AS INFRACTIONS.

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

SECTION 1. AMENDMENT OF CODE. Sections 10-2.505, 10-2.506, 10-2.507, 10-2.1009, 10-2.1109, 10-2.1208, 10-2.1309, 10-2.1408, 10-2.1508, 10-2.1608, 10-2.2108, and 10-2.2307 of Chapter 2 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 10-2.505. HOME BUSINESS.

- (a) Conducting a business in or from a dwelling is a permitted use of an accessory nature which is subject to the following conditions:
- (1) The person conducting the business shall reside on the premises on a regular full-time basis and the business shall be clearly incidental and secondary to the residential use.
 - (2) The residential appearance of the premises shall not be altered through remodeling or new construction so as to give the appearance of other than normal residential premises or to call attention to the premises.
 - (3) The business shall be conducted entirely within buildings designed and built for normal residential use and there shall be no outside activity, storage or display.
 - (4) No parking or traffic shall be generated by the business in greater volumes than would normally be expected for a residence.
 - (5) No trucks or construction equipment shall be parked or stored on or near the premises.
 - (6) No more than one (1) business vehicle shall be parked or used in connection with the business on or near the premises. All business pick ups and deliveries to and

from the premises shall be only by the one (1) allowed business vehicle. "Business vehicle" means a car, pickup or small van used for home business purposes and driven by a person living on the premises.

- (7) Employees shall not work at or be dispatched from the premises nor otherwise be on or about the premises for business purposes.
 - (8) There shall be no delivery of merchandise to customers at the premises other than that incidental to a service conducted on the premises.
 - (9) Sales or services conducted away from the premises may be advertised in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
 - (10) Sales or services conducted on the premises shall not be listed in any commercial telephone directory (yellow pages) nor be advertised in any newspaper, circular or other commercial media, including radio and television.
 - (11) Signs shall not be used to identify the business, its products or services.
 - (12) The business shall not create a disturbance or nuisance by reason of noise, odor, fumes, dust, vibration, smoke, electrical interference or other causes.
 - (13) Notwithstanding the above limitations, any person who is severely impaired or handicapped as defined by State law may employ a maximum of two (2) people on the premises who do not reside there and may advertise in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
- (b) All businesses conducted in and from a dwelling shall comply with the licensing requirements for businesses in the City.
 - (c) Prior to receipt of a license to conduct a business in or from a dwelling, a permit shall be obtained from the Director.
 - (d) It shall be unlawful and punishable as an infraction for any person to conduct a home business not in compliance with the provisions of this Section.

SEC. 10-2.506. GARAGE SALES.

Garage sales are permitted uses subject to these conditions:

- (a) No garage sale shall be conducted on the same premises for more than three (3) consecutive days.
- (b) Not more than two (2) garage sales may be conducted on the same premises in any calendar year.
- (c) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.507. ANIMALS AND FOWL.

- (a) The keeping of the following animals and fowl is a permitted use:
 - (1) A maximum of two (2) dogs, five (5) months or older, per dwelling unit.
 - (2) A maximum of three (3) cats, three (3) months or older, per dwelling unit.
 - (3) A maximum of twelve (12) other domestic fowl (hens only), rabbits, hares, or other domestic animals customarily considered to be household pets per dwelling unit.
- (b) The following animals and fowl are permitted upon securing a conditional use permit from the Board:
 - (1) A maximum of fifty (50) racing homer pigeons maintained in pens or lofts on a lot which contains at least one (1) dwelling unit.
 - (2) A maximum of two (2) exotic pets.
 - (3) Additional numbers of the animals and fowl permitted in (a)(3) above.
- (c) There shall be a minimum of forty (40) feet between the window or door of any building used for human habitation and pens, coops, cages or similar housings where animals and fowl, except household pets, are kept.
- (d) There shall be a minimum separation equal to the required side yard between any property line and any pens, coops, cages or similar housings for animals and fowl.
- (e) All animals and fowl shall be kept in conformance with all other laws, ordinances and regulations governing them, including licensing regulations.

- (f) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.1009. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

- (a) All merchandise or displays and all storage or sales areas shall be within a completely enclosed building or structure, except that the following may be conducted outdoors:
 - (1) Newspaper vending.
 - (2) Plant and floral display.
 - (3) Plant sales, plant nursery.
 - (4) Restaurant outdoor dining area.
 - (5) Vehicular fuel sales.
 - (6) Vending machines.
 - (7) Outdoor displays authorized by the City Council such as the certified farmers market or sidewalk sales as specified below.
 - (8) Other outdoor sales, displays or promotions which are permitted by the zone and for which a conditional use permit has been obtained.
 - (9) Small recycling collection facility.
- (b) The display or sale of goods, merchandise or services which are customary indoor uses shall be allowed outdoors, limited to three (3) times in number during any twelve (12) month period for each business, subject to these conditions:
 - (1) All sales shall be conducted by a business located on the property.
 - (2) All merchandise or services displayed outdoors shall be of the same types ordinarily sold indoors at the business conducting the sale.
 - (3) Each display or sale shall be limited to a maximum of three (3) consecutive days.
 - (4) No display shall encroach on a public right-of-way.
 - (5) All display shall be subject to the sign regulations of this chapter, including the prohibition of temporary signs.

- (6) Prior to any display or sale, a permit for such shall be obtained from the Director.
- (c) Outdoor promotions or events are permitted by a licensed business, merchant association, school, charitable or not-for-profit organization. Promotions or events shall not promote or display the goods or services of any business on the premises and shall be subject to all other limitations in the Modesto Municipal Code, including those governing carnivals, circuses, dances and outdoor sound equipment and noise. Examples of such promotions or events are carnivals, circuses, animal rides, car shows, sporting events, and other exhibitions.
- (d) Outdoor fund-raising sales by school, charitable or not-for-profit organizations are permitted if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits to be derived from the sale. Such sales are not permitted solely by reason of sponsorship by a school, charitable or not-for-profit organization.
- (e) Outdoor display or sale of goods or services by itinerant vendors as defined by the Modesto Municipal Code is prohibited.
- (f) Use of a hot air balloon for a promotion or event shall be limited to three (3) times in number during any twelve-month period for each business.
- (g) Outdoor display or sale of any item of personal property on vacant or unimproved land is prohibited. This prohibition shall not apply to sales of fireworks, Christmas trees, pumpkins, or other seasonal items as permitted under this Article.
- (h) It shall be unlawful and punishable as an infraction for any person to display, sell, or promote for sale any item in violation of the provisions of this Section.

SEC. 10-2.1109. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

Outdoor display, sales and promotions are as permitted in the C-1 Zone except that the following additional activities may be conducted outdoors:

- (a) Automobile and recreational vehicle display and sales.
- (b) Building materials or farm supply sales and displays which are screened so as not to be visible from a public street or parking lot.

- (c) Recycling collection facility.
- (d) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.1208. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

Outdoor display, sales and promotion are as permitted in the C-2 Zone. Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.1309. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

Outdoor display, sales and promotions are as permitted in the C-3 Zone except that outdoor sales, displays and promotions are permitted outdoors provided they are screened so as not to be visible from a street or parking lot. Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.1408. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

- (a) Outdoor display or sale of goods or services is permitted.
- (b) Outdoor display or sale of goods or services by itinerant vendors as defined by the Modesto Municipal Code is prohibited.
- (c) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.1508. OUTDOOR DISPLAY, SALES AND PROMOTIONS.

Outdoor display, sales and promotions are as permitted in the M-1 zone. Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

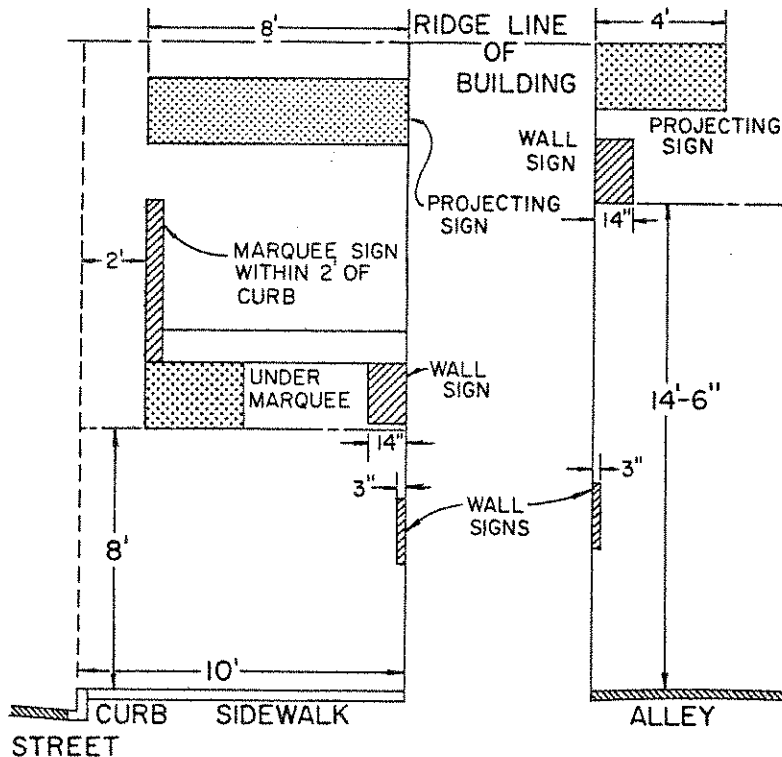
SEC. 10.2-1608. OUTDOOR DISPLAY, SALES, AND PROMOTIONS.

- (a) Outdoor display, sales, and promotions are as permitted in the C-1 zone.
- (b) Outside storage of materials and equipment incidental to the primary activity is permitted provided the outside storage area is screened by a view-obscuring wall or fence.
- (c) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.2108. GENERAL REQUIREMENTS.

- (a) Height Limitation. The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed thirty-five (35) feet in height, except for freestanding signs along Freeway 99 permitted by Section 10-2.2110(a)(3)(ab) and Section 10-2.2110(b)(3)(ab).
- (b) Rotating, Moving, Flashing, Changing or Blinking Signs. No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing, blinking, fluctuating or otherwise animated light. The provisions of this subsection shall not be applied so as to prohibit the following types of signs:
 - (1) A conventional clock face.
 - (2) A sign showing digital time with changes in time not more often than once a minute.
 - (3) A sign showing digital temperature with changes in temperature only when there is a rise or fall of one (1) degree or more. Changes from Fahrenheit readings to Centigrade readings shall occur not more frequently than five (5)-second intervals.
 - (4) A sign showing time and temperature subject to changes not more frequently than at five (5)-second intervals.
 - (5) An on-premises barber pole of a length not to exceed thirty (30) inches of traditional design which shall be permitted to revolve during the time that a barbershop is open for business. Said sign shall not exceed ten (10) feet in height.
- (c) Projections. All signs, if otherwise authorized, are permitted to project into required front, side and rear yards. The permitted projection of an authorized sign into any street or alley right-of-way is as follows:
 - (1) Freestanding sign: No projection.
 - (2) Wall sign: Up to fourteen (14) inches in thickness.
 - (3) Marquee sign: Not closer than two (2) feet from the face of the curb.
 - (4) Projecting sign: Up to eight (8) feet into any street right-of-way and up to four (4) feet into any alley right-of-way, but not closer than two (2) feet from the face of the curb.

- (5) Bus bench sign: Entirely within street right-of-way.



PROJECTION OF SIGNS INTO STREET AND ALLEY RIGHT-OF-WAY

- (d) Vertical Clearance. No sign shall be less than eight (8) feet above a public or private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic except wall signs not exceeding three (3) inches in thickness.
- (e) Obstructions to Doors, Windows or Fire Escapes. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, fire escape or exit way.
- (f) Construction Standards. All signs, including all parts, portions, units and material comprising the same, together with the frames, backgrounds, supports and anchorage therefor shall be manufactured, fabricated, assembled, constructed and erected in accordance with applicable Building, Electrical and Fire Prevention Codes of the City of Modesto.

- (g) **Illuminated Signs.** Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity; and no sign shall be illuminated by or contain flashing intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- (h) **Signs Not to Constitute Vehicular Traffic Hazard.** No sign, as regulated in this article, shall be erected at the intersection of any street, or at any railroad grade crossing, or at any driveway in such a manner as to obstruct free and clear vision of operators of motor vehicles, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "DANGER", or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse motorists.
- (i) **Sign Company Identification.** It shall be unlawful for any person to change copy on or to erect, alter, or relocate any sign without printing or causing to be printed in the lower right-hand corner of the sign in clearly legible letters the name of the person, firm or company doing such work, the date of such work, and the City of Modesto building permit number. Said information shall not exceed sixteen (16) square inches in area. If said information is not printed in the lower right-hand corner of a sign, the Chief Building Official may remove the sign pursuant to the provisions of Section 10-2.2103(k) of this article.
- (j) **Temporary Signs.** It shall be unlawful for any person to erect, install or maintain any temporary sign.
- (k) **Bench Signs.** It shall be unlawful for any person to erect, install or maintain any bench sign, except on public property pursuant to a franchise granted by the City of Modesto.
- (l) **Wall Signs, Additional Standards.** No wall sign shall exceed fourteen (14) inches in thickness; no display or messages shall be permitted on the edges of wall signs except the sign company's identification as required by paragraph (i) of this section.
- (m) **Ridgeline Limitation.** A wall, canopy, marquee or projecting sign shall not project above the ridgeline of the building on which the sign is mounted.

- (n) Building Outlining. Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposed incandescent lighting or other artificial lighting, or an equivalent effect, is prohibited. "Outlining" means delineation, with a row or band of lights, of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs nor temporary Christmas displays.
- (o) No Signs on Street Trees, Utility Poles or Structure in Street Right-of-Way. No signs will be attached to any city street tree, or any poles such as utility poles, street signals, street lights, street name signs, or traffic warning signs, or on any bus shelter.
- (p) It shall be unlawful and punishable as an infraction for any person to place or cause to be placed any sign not in conformity with this Section.

SEC. 10-2.2307. PERMITTED LOCATIONS OF RECREATIONAL VEHICLES.

It shall be unlawful and punishable as an infraction for any person to place, keep or maintain or permit to be placed, kept or maintained any recreational vehicle upon any lot, except as follows:

- (a) Within a residential zone:
 - (1) Any number wholly within a structure lawfully existing on the premises.
 - (2) A maximum of two (2) recreational vehicles in addition to those kept pursuant to subsection (a)(1) hereof upon any lot, provided all of the following:
 - (aa) No portion of the recreational vehicle overhangs any portion of the public sidewalk or lacking a public sidewalk, no portion of the recreational vehicle is within five (5) feet of the curbline.
 - (ab) No portion of the recreational vehicle is closer than three (3) feet to any building used for human habitation.
 - (ac) No portion of the recreational vehicle is within a clear vision zone of a corner lot as defined in Section 10-2.2314.
 - (3) Any number within a mobile home park or a trailer park.
- (b) Within a nonresidential zone:

- (1) Any number within a mobile home park or a trailer park.
- (2) Any number for storage, sale or business use as permitted in such zone.
- (c) A motor home or mounted camper which is not more than seventy-eight (78) inches in height and seventy-two (72) inches in width shall be exempt from the provisions of this section.

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 20 day of September, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson
Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: Carol Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2606-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 September, 1988, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 27, 1988

ORDINANCE NO. 2607 -C.S.

AN ORDINANCE AMENDING SECTION 11-1.14 OF CHAPTER 1 OF TITLE XI OF THE MODESTO MUNICIPAL CODE RELATING TO RULES AND REGULATIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 11-1.14 of Chapter 1 of Title XI of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 11-1.14 RULES AND REGULATIONS.

In addition to all other provisions and requirements of this chapter, the following additional rules and regulations for the use of water are hereby established. Failure to comply with any provision, requirement, rule, or regulation under this Chapter shall be unlawful and punishable as an infraction.

- (a) Consumers shall not waste water. The City shall have the right, after giving written notice of water waste, to take one (1) or more of the following actions at the discretion of the Director of Utility Services, if the waste continues:
 - (1) Install a water meter at the consumer's expense.
 - (2) Install a flow-restrictive device at the consumer's expense in accordance with guidelines established by the Director of Utility Services and on file in the office of the City Clerk and Director of Utility Services.
 - (3) Install or require the installation of any other water conservation device required by resolution of the City Council.
- (b) All water services installed shall have a wheel valve where the service pipe enters the house and/or structure.
- (c) In making plumbing connections, the consumer shall comply with the regulations of the State and County Department of Public Health. Such regulations prohibit (1) unprotected cross-connections between a public supply and any unapproved source of water and (2) water service to premises where there is a possibility of contaminated water backflowing into the public water system. In addition, approved double check valves or other protective devices shall be installed on water services when (1) another source of water, whether cross-connected or not, is in use or is available for use; or

- (2) contaminating liquid substances of any kind are used, produced or processed. The Director of Utility Services shall determine the type, design and layout of backflow control devices required at each premises, and the devices shall be installed at the expense of the consumer. The control devices shall be inspected, tested and approved by the Director of Utility Services as a condition of service to the premises.
- (d) Regulations of the California State Department of Public Health require the owner of any premises on or for which check valves or other protective devices are installed to inspect these devices for watertightness and reliability at least once per year. Double check valves and other protective devices may, in addition, be inspected and tested for watertightness by the City at any time. If the inspection cannot be made without undue difficulty because of an obstruction or other interference, the consumer will be notified and requested either to correct the condition or have the inspection made at his own expense and witnessed by the City. Any defects found in any backflow control device shall be corrected by the consumer within three (3) days. Failure to correct such defects is cause for discontinuance of water service.
- (e) Water bills for unmetered services shall be issued on a bimonthly basis for water service in the months immediately preceding and following the first of the month in which they are issued. The water bills are due and payable upon presentation; and if they are not paid at the end of the month in which they are billed, they shall be considered delinquent. If they are delinquent for more than ten (10) days and a delinquent notice issued by the Director of Finance has been delivered to the user or posted on the premises, a delinquent charge shall be added to the regular service charges; and service shall be subject to being disconnected. If the water service is disconnected because of nonpayment, the service shall not be reconnected until the amount of the delinquent bill, including the delinquent charges and an additional charge for reconnection is paid except where a new owner has acquired title since the delinquent bill was incurred. The delinquent charge and reconnection charge shall be in accordance with a schedule approved by the Council from time to time by resolution.
- (f) Water bills for metered services shall be issued for the two (2) months immediately preceding the date of the meter reading and shall be due and payable upon presentation. If the water bills are not paid at the end of the month in which they are billed, they shall be considered delinquent; and the same procedure and charges as for the unmetered service shall apply.

- (g) No person shall supply water in any way for use outside of the premises to which the service is assigned or appurtenant except by permission from the Director of Utility Services.
- (h) The water charges herein specified will be charged against vacant or untenanted buildings unless notice of the vacancy and a request for discontinuance of service is made to the office of the Director of Finance.
- (i) Access to service connections and water meters must be provided at all times.
- (j) All persons must keep the service pipes in good order at their own expense and may be held liable for damages which may result from their failure to do so. When leaky faucets or fixtures are discovered and not immediately repaired, the water service may be disconnected. Authorized employees of the City of Modesto shall be admitted at all reasonable hours to all parts of any premises supplied with water, except the interior of dwellings, but including the meter box, to see that the regulations contained in this chapter are observed and complied with.
- (k) It shall be unlawful for any person to interfere with the City service lines, valves or meters or to construct a bypass around a meter or service.
- (l) Owners of property will be held responsible for water used on their premises, although payments will be accepted from tenants. In case the tenants do not pay in accordance with the provisions of this chapter, the service may be disconnected and shall not be restored until the delinquent water charges, including the cost of water delivered as well as the cost of reconnecting service, shall have been paid.
- (m) All unpaid accounts for water delivered at any premises shall be a lien against the real property.
- (n) All sprinkler systems installed for the irrigation of lawns and flowers shall be so designed and installed that the water shall not be sprayed or permitted to be sprayed over or upon a sidewalk. Portable sprinklers will not be permitted on the sidewalk, nor may they be placed in such a manner as to spray the water upon sidewalks or so as to prevent pedestrians from using the sidewalks at all times without being struck or wet by the spray from the sprinklers.
- (o) Independent fire sprinkler systems and private fire hydrant systems shall have an "idler assembly" installed in the service line to permit future installation of a check valve and a

bypass meter assembly. If the Director of Utility Services determines that an independent fire sprinkler system or private fire hydrant system is being used for other than fire prevention and suppression purposes, he may install a check valve and bypass assembly. The cost of such installation plus ten (10) percent shall be paid by the consumer.

- (p) For the purpose of this chapter, waste is causing, suffering or permitting water:
 - (1) To run into any street, road or highway without taking reasonable steps to prevent the same from occurring.
 - (2) To run upon the land of any person or of any public agency unless it is used thereon for irrigation or domestic, commercial or industrial use.
 - (3) To be used for any purpose during hours or day when such use is prohibited by resolution of the City Council.
 - (4) To be used in plumbing fixtures and/or appliances without installation of water conservation devices required by resolution of the City Council.
- (q) When a water connection fee is paid for a particular parcel, it shall be credited to subsequent owners of that parcel. Refunds shall be made for duplicate payments. Additional fees will be required where there are zoning, use or density changes that will increase the fees.
- (r) Additional rules and regulations concerning the operation of the municipal water system and water conservation may be established by the Council from time to time by resolution.

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 20 day of September, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2607-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 September, 1988, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED


MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 27, 1988

ORDINANCE NO. 2608-C.S.

AN ORDINANCE AMENDING SECTION 12-4.202 OF ARTICLE 2 OF CHAPTER 4 OF TITLE XII OF THE MODESTO MUNICIPAL CODE RELATING TO GENERAL 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 XII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 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.
 - (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 drive or operate any motor vehicle in any park in excess of fifteen (15) miles per hour.
 - (4) 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.
 - (5) To operate gasoline-powered go-carts, model airplanes, boats or midget cars in any park except in designated areas.
 - (6) To clean, wash, polish or make other than emergency repairs upon any automobile, motorcycle or self-driven vehicle in any park.
 - (7) To carry or bring any firearms, air gun, slingshot, firecrackers or fireworks into any park.

- (8) 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.
- (9) To bring into any park any material which will, if spilled or spread, be injurious to the turf or plant growth.
- (10) 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.
- (11) 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.
- (12) To remove, damage or destroy any athletic equipment provided by the City, normal wear and tear excepted.
- (13) To move or remove from one location to another any part or parts of field equipment.
- (14) To move or remove from one location to another any equipment used for park maintenance.
- (15) 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.
- (16) To cut, break or deface in any way buildings, equipment, grounds or other facilities of any park.
- (17) To wound, kill or catch any bird or other wild animal in any park.
- (18) 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.
- (19) 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.

- (20) To disturb or interfere with any employee of the City of Modesto acting within the scope of his 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.
- (21) To camp or lodge in or upon any park unless prior written permission is obtained from the Director.
- (22) 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.
- (23) 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.
- (24) 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.
- (25) To play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes.
- (26) 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.
- (27) 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.
- (28) 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.
- (29) To play or engage in the hitting of golf balls in any park, except on driving ranges and golf courses.
- (30) To ride bicycles through any children's playground area.
- (31) To discard lighted or unlighted cigars or cigarettes in children's playground areas.

- (32) To wade or swim in any pool in any park except when supervised.
- (33) 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.
- (34) 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.
- (35) 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.
- (36) To remove any authorized or official sign indicating that any park facility or equipment is reserved.
- (37) 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.
- (38) It shall be unlawful to climb onto any building or structure in a park not designated for such activity.
- (39) To loiter or remain in any park at any time between midnight and 6:00 a.m. of the following morning, except as set forth below or unless prior written permission is obtained from the Director or the City Council.
- (40) The City Manager is authorized to designate certain city parks to be closed between the hours of 10:00 p.m. and 6:00 a.m. when those parks show a continuing pattern of the presence of persons fighting or challenging others to fight, or persons disturbing others by loud and unreasonable noise, or persons who are under the influence of an alcoholic beverage or any drug. These designated parks shall be posted with signs not less than one (1) square foot in area notifying people of the hours of closing.
- (41) It shall be unlawful for any person to enter, remain, or loiter between the hours of 10:00 p.m. of one day and 6:00 a.m. of the next day, within the limits of any park which has been designated by the City Manager pursuant to Section 12-4.202(40).

(42) The park curfew provisions shall not apply to the entry upon park property in the course of duty of any peace officer or other duly authorized public employee.

(43) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above sections.

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 20 day of September, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton

NOES: Councilmembers: Mayor Whiteside

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside

CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2608-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 September, 1988, Councilmember McGrath moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton
NOES: Councilmembers: Mayor Whiteside
ABSENT: Councilmembers: None

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 27, 1988

Clerk

ORDINANCE NO. 2609 -C.S.

AN ORDINANCE AMENDING SECTION MAPS 7-4-9 AND 8-4-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (THOMPSON-HYSELL ENGINEERS)

WHEREAS, the City Council, by Ordinance No. 2172-C.S., which was introduced on January 25, 1983, and which became effective on March 3, 1983, amended Section Maps 7-4-9 and 8-4-9 of the Zoning Map to reclassify from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(336), property located on the northeast corner of Whitmore Avenue and Ustick Road, and

WHEREAS, the City Council, by Resolution No. 83-44, approved the development schedule for Planned Development Zone, P-D(336), with a development schedule which specified that construction was to be in two phases as follows:

Phase I - Construction to begin on or before January 1, 1984, and be completed by not later than January 1, 1985.

Phase II- Construction to begin on or before January 1, 1986, and be completed by not later than January 1, 1987.

and

WHEREAS, on January 16, 1984, the Planning Commission, by Resolution 84-8, granted a time extension to the development schedule calling for construction of Phase I to begin on or before January 1, 1985, and to be completed by not later than January 1, 1986, and

WHEREAS, a letter was received from CGE Engineering on behalf of the owner of P-D(336), Martin Teunissen, requesting another one-year time extension to the development schedule, which letter was received by the Secretary of the Planning Commission prior to the expiration date of Phase I, and

WHEREAS, the request was reviewed by the Planning Commission at its regular meeting of February 4, 1985, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission, by Resolution No. 85-24, adopted on February 4, 1985, found and determined that good cause had not been shown for the requested time extension, and denied said request, and

WHEREAS, by letter dated February 5, 1985, an appeal was filed with the City Council to the decision of the Planning Commission denying a time extension to the development schedule of P-D(336), and

WHEREAS, on February 26, 1985, by Resolution No. 85-111, the City Council, on appeal, overruled the decision of the Planning Commission and granted a one-year time extension to P-D(336) specifying start of construction of Phase I to be on or before January 1, 1986, and

WHEREAS, on March 4, 1985, by Resolution No. 85-41, the Planning Commission recommended an amendment to P-D(336) to allow mobile home condominiums development, which amendment was granted by the City Council on April 9, 1985, by Resolution No. 85-204, and

WHEREAS, on January 6, 1986, by Resolution No. 86-13, the Planning Commission granted a six-month extension moving the start of construction to July 1, 1986, and

WHEREAS, a letter was received from Gary R. Hansen of World Real Estate & Development requesting another one-year time extension to the development schedule, and

WHEREAS, the request was reviewed by the Planning Commission at its regular meeting of September 2, 1986, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission, by Resolution No. 86-143, adopted on September 2, 1986, found and determined that good cause had not been shown for the requested time extension, and denied said request, and

WHEREAS, by letter received September 10, 1986, an appeal was filed with the City Council to the decision of the Planning Commission denying a time extension to the development schedule of P-D(336), and

WHEREAS, on October 7, 1986, by Resolution No. 86-1147, the City Council, on appeal, overruled the decision of the Planning Commission and granted a one-year time extension to P-D(336) specifying start of construction of Phase I to be on or before August 4, 1987, and

WHEREAS, on July 7, 1987, by Resolution No. 87-544, the City Council, on appeal, overruled the decision of the Planning Commission and granted a one-year time extension of P-D(336) specifying start of construction of Phase I to be on or before August 4, 1988, and

WHEREAS, a verified application for an amendment to Sections 7-4-9 and 8-4-9 of the Zoning Map was filed by Thompson-Hysell Engineers on June 27, 1988, to reclassify from Planned Development Zone, P-D(336), to Low Density Residential Zone, R-1, the hereinafter described property, and

WHEREAS, after public hearing held on August 15, 1988, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-93, adopted on August 15, 1988, the Planning Commission recommended to the Council that the application of Thompson-Hysell Engineers to amend Sections 7-4-9 and 8-4-9 of the Zoning Map to reclassify the hereinafter described property from Planned Development Zone, P-D(336), to Low Density Residential Zone, R-1, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on September 27, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, 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 following reasons:

1. The requested R-1 zoning conforms to the General Plan.
2. The requested R-1 zone is the City's basic residential zone to which failed P-D zoning would ultimately revert.

SECTION 2. ZONING CHANGE. Sections 7-4-9 and 8-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(336), to Low Density Residential Zone, R-1:

All that real property situate in the southwest quarter of Section 8 and the southeast quarter of Section 7, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at the southwest corner of said Section 8, said point being on the centerline of 40.00-foot wide Whitmore Avenue; thence North 89°50' West along said centerline a distance of 14.00 feet; thence North 0°03'02" East along a line 14.00 feet westerly and parallel to the Section line common to Section 7 and 8 a distance of

1,329.41 feet to a point on the quarter quarter section line also being the westerly extension of the southern line of the Rutherford Tract, as per map filed March 19, 1947, in Volume 16 of Maps, Page 37, Stanislaus County Records; thence along said extension and Southern line, South 89°20'00" East, 1,334.75 feet; thence leaving the south line of said Rutherford Tract and along the East line of the Southwest quarter of the Southwest quarter of Section 8, South 00°10'40" West, 1,022.97 feet, to the northeast corner of Parcel A as shown on that certain parcel map recorded August 11, 1971 in Book 12 of Parcel Maps, at Page 23, Stanislaus County Records; thence along the North line of said Parcel A, North 89°29' West, 235.00, to the northwest corner of said Parcel A; thence South 0°10'40" West, 300.00 feet, to the South line of Section 8 and the center line of said Whitmore Avenue; thence along said south line and center line, North 89°29'00" West, 1,086.63 feet, to the point of beginning.

SECTION 3. ZONING MAP. Sections 7-4-9 and 8-4-9 of the Zoning Map of the City of Modesto is 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 27 day of September, 1988, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By Althea Nichols
Department of Planning and Community
Development

Ord. No. 2609-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 October, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 3, 1988

check

ORDINANCE NO. 2610-C.S.

AN ORDINANCE AMENDING SECTIONS 28-3-9 AND 33-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON FROM GENERAL COMMERCIAL ZONE, C-2, TO PROFESSIONAL OFFICE ZONE, P-0. (CITY COUNCIL INITIATED)

WHEREAS, a verified application for an amendment to Sections 28-3-9 and 33-3-9 of the Zoning Map was initiated by the Modesto City Council on May 10, 1988, to reclassify certain property from General Commercial Zone, C-2, to Professional Office Zone, P-0, and

WHEREAS, after public hearing held on August 15, 1988, it was found and determined by the Planning Commission that rezoning of the property as initiated was required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-91, adopted on August 15, 1988, the Planning Commission recommended to the Council that the application initiated by the Modesto City Council to amend Sections 28-3-9 and 33-3-9 of the Zoning Map to reclassify the property described in said Planning Commission Resolution No. 88-91 from General Commercial Zone, C-2, to Professional Office Zone, P-0, should be approved, and

WHEREAS, at its meeting of September 27, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council considered said amendment to Sections 28-3-9 and 33-3-9 of the Zoning Map to rezone from General Commercial Zone, C-2, to Professional Office Zone, P-0, property located at the north of new State Highway 132 from Dry Creek to Las Flores Avenue as initiated by the City Council, and

WHEREAS, after consideration of said proposed rezoning the Council desired to rezone the property as initiated excepting the Barton family and Gallo Glass properties located at the north of new State Highway 132 east of Dry Creek,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on September 27, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that excepting the Barton family and Gallo Glass properties located at the north of new State Highway 132 east of Dry Creek 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 following reasons:

1. P-0 use will generate less traffic than C-2 use.
2. The location of curb cuts providing access to the site will be reviewed by the City through the plot plan review process required for P-0 zones.
3. The P-0 Zone will provide a buffer for the R-1 lots north of the project site from new State Highway 132.

SECTION 2. ZONING CHANGE. Sections 28-3-9 and 33-3-9 of the Zoning Map are hereby amended to reclassify the following described property from General Commercial Zone, C-2, to Professional Office Zone, P-0:

All that portion of the Southerly one half of Section 28, and the Northerly one half of Section 33, Township 3 South, Range 9 East Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at a point on the centerline of Las Flores Avenue, a 60 foot street, and the centerline of Cuesta Avenue, a 50 foot street; thence West 180 feet, along the centerline of Cuesta Avenue, thence

South 0°54' East 25 feet to the Northwest corner of Lot 13 as shown on the map of Las Flores Tract recorded in Volume 9 of maps, Page 47, Stanislaus County Records; said point being the true point of beginning; thence West 444 feet, more or less, to the northwest corner of Lot 15 of said Las Flores Tract; thence South 0°54' East 273 feet to the Southwest corner of said Lot 15; thence East 534 feet, more or less, to the beginning of a nontangent curve to the southeast having a radius of 320.94 feet; thence 64.3 feet along said curve to the Southeast corner of said Lot 13; thence North 0°54' West 138.8 feet; thence West 150 feet to a point on the west line of said Lot 13; thence North 0°54' West 112 feet to the true point of beginning.

Including also the South one-half of Cuesta Avenue, the West one-half of Las Flores Avenue, and the North one-half of the proposed realignment of State Highway 132, immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Sections 28-3-9 and 33-3-9 of the Zoning Map of the City of Modesto are amended to appear as set forth on the maps attached hereto, which are 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 27th day of September, 1988, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By Roy Osan
Department of Planning and Community
Development

Ord. No. 2610-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 25th day of October, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 24, 1988

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ORDINANCE NO. 2611 -C.S.

AN ORDINANCE ADDING SECTIONS 5-5.02, 5-5.04, 5-5.07, 5-5.09, 5-5.10, AND 5-5.34 OF CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL CODE ; AND REPEALING SECTIONS 5-5.02, 5-5.07, 5-5.09, 5-5.10, AND 5-5.34 RELATING TO GARBAGE REGULATIONS.

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

SECTION 1. AMENDMENT OF CODE. Sections 5-5.02, 5-5.04, 5-5.07, 5-5.09, 5-5.10, and 5-5.34 of Chapter 5 of Title V of the Modesto Municipal Code are hereby added to read as follows:

SEC. 5-5.02. DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- (a) "Authorized curbside recycling collector" means a person, firm, organization, or company which the City has authorized to provide curbside recycling service in residential areas and other locations designated by the Utility Services Director.
- (b) "City-sponsored recycling container" means any container provided by the City, recycling program sponsors, or authorized curbside recycling collectors to participants in the curbside recycling program for the purpose of segregating salvageable waste from household garbage, and containing salvageable waste at a designated recycling collection location for collection by an authorized curbside recycling collector. City-sponsored 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 curbside recycling are punishable under the Municipal Code.
- (c) "Customer" shall mean any person, firm or corporation receiving garbage service under the provisions of this chapter.
- (d) "Designated recycling collection location" means the location where an authorized curbside recycling collector has agreed with the City to pick up segregated salvageable waste. This location will customarily be the curbside of streets in residential neighborhoods, a specifically identified area within a multi-family residential development, or other locations designated by the Utility Services Director.

- (e) "Detachable container" means a metal container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one cubic yard in capacity, as approved by the Director of Public Works, and furnished by a licensed collector.
- (f) "Director of Finance" means the Director of Finance of the City of Modesto or his/her duly authorized agent.
- (g) "Director of Public Works" means the Director of Public Works of the City of Modesto or his/her duly authorized agent.
- (h) "Disposal Area" as used in this chapter shall mean any area designated or provided by the City Council from time to time for the purpose of disposal of garbage.
- (i) "Drop box container" means a metal box designed for loading upon a vehicle for transportation to the disposal area, with a minimum of twenty (20) cubic yards capacity, of a design approved by the Director of Public Works, and furnished by a licensed collector.
- (j) "Garbage" means any and all matter and materials which are rejected, abandoned, or discarded by the owners or producers thereof as offensive, or useless, or no longer desired by said owners or producers thereof, and/or which by their presence or accumulation may injuriously affect the health, comfort or safety of the community. It shall include rubbish, waste matter, swill, garden refuse, and similar substances or materials of the nature described above, but shall not include salvageable waste as defined herein.
- (k) "Garbage collector" means an agent or employee of the City or any person, or the agents, assignees or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of garbage as hereinafter set forth.
- (l) "Garden refuse" means leaves, weeds, grass cuttings, vines, shrubbery, brush, limb trimmings and similar materials.
- (m) "Health Officer" means the Health Officer of the City of Modesto or his/her duly authorized agent.
- (n) "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. "Industrial garbage" also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.

- (o) "Industrial garbage collector" means an agent or employee of the City, or any person, or the employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of industrial garbage.
- (p) "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.
- (q) "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.
- (r) "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.
- (s) "Salvageable waste" means matter and material which will be reused and which has a property value.
- (t) "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 Director of Public Works or such other disposal unit approved by the Director of Public Works, and supplied by the licensed garbage collector to their residential customers. The Director of Public Works shall make the determination whether a residential customer receives a sixty (60) or a ninety (90) gallon container.
- (u) "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.

- (v) "Swill collector" means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of swill.

SEC. 5-5.04. DEPOSITING OR BURYING GARBAGE.

No person shall throw, drop, leave, dump, bury, place, or otherwise dispose of any garbage 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 Director of Public Works; provided, however, that this section should not apply to any land used by the City for a disposal area.

SEC. 5-5.07. 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 garbage is created, produced, or accumulated, to fail or neglect to acquire a sufficient number of standard containers for receiving and holding without leakage or escape of odors all garbage produced, created, or accumulated upon such premises, except as hereinafter provided; and all such persons shall deposit all such garbage in such containers, and all such containers shall be at times kept in a good, usable and sanitary condition. Containers shall be kept continuously closed except when garbage 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 garden refuse may be deposited in the same container. Containers shall not exceed one hundred (100) pounds in weight when filled for removal, except when detachable or drop box containers are used.

SEC. 5-5.09. PROHIBITED LOCATION OF CONTAINERS.

Garbage, rubbish, swill, and industrial garbage containers shall not be placed or allowed to remain in or on any street or alley right-of-way, except on garbage pick up day or as otherwise authorized by the Director of Public Works.

SEC. 5-5.10. CONTAINER LOCATIONS.

- (a) On single-family and two-family premises, standard garbage containers shall be placed by the customer on the premises and 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 front portion of the sidewalk next to the curb, on the edge of the driveway apron, or such other location as approved by the Director of Public Works.
 - (3) Where sidewalks are not adjacent to the curb, containers to be placed in the planting strip between the sidewalk and the curb.
 - (4) Where sidewalks or curbs do not exist, containers shall be placed adjacent to but not in the roadway.
 - (5) 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 Director of Public Works.
 - (6) All containers shall be screened from public view, except on pick up day, in a manner approved by the Director of Public Works.
- (b) Standard and detachable containers for garbage 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 Director of Public Works.

(c) Containers for garbage 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 Director of Public Works.

SEC. 5-5.34. LIABILITY FOR PAYMENT OF GARBAGE CHARGES.

Every person occupying, owning, controlling or maintaining any premises or place within the City where garbage is required by this Chapter is liable for the payment of the garbage charges therefor.

Owners of single-family dwellings, multiple-dwelling buildings or apartments are responsible for the payment of charges for garbage services rendered to premises owned by them, although payments will be accepted from tenants.

SECTION 2. APPLICATION OF ORDINANCE. This ordinance shall apply to those persons or entities who have been furnished a sixty (60) to ninety (90) gallon standard container. All other persons or entities are subject to the ordinance in effect on October 1, 1988, until they are furnished with the sixty (60) to ninety (90) gallon standard containers, at which time such persons shall become subject to this ordinance.

SECTION 3. REPEALS. Sections 5-5.02, 5-5.04, 5-5.07, 5-5.09, 5-5.10 and 5-5.34 of Chapter 5 of Title V of the Modesto Municipal Code, which are in effect on October 1, 1988, are repealed, said repeals not to become effective until April 1, 1989.

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 27th day of September, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2611-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 October, 19 88, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 3, 1988

ORDINANCE NO. 2612-C.S.

AN ORDINANCE AMENDING SUBPARAGRAPH (o) OF SECTION 2 OF ORDINANCE NO. 2533-C.S. ENTITLED "AN ORDINANCE GRANTING TO MODESTO GARBAGE COMPANY, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO", AS AMENDED BY ORDINANCE NO. 2546-C.S., TO PROVIDE FOR AUTOMATED COLLECTION CONTAINERS FOR HOUSEHOLD GARBAGE AND GARDEN REFUSE, AND REPEALING ORDINANCE NO. 2546-C.S.

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

SECTION 1. This ordinance is enacted pursuant to the authority provided in, and all of the provisions, terms and conditions of Article XIV of the Charter of the City of Modesto and Chapter 5 of Title V of the Modesto Municipal Code.

"SECTION 2. A license to collect garbage including industrial garbage and salvageable waste, in the City of Modesto is hereby granted to Modesto Garbage Company, Inc., a California Corporation, subject to the following terms and conditions:

(a) This license shall be for a term of eight (8) calendar years commencing on January 1, 1988. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may make application to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code. In addition to the information required by Chapter 5 of Title V of the Modesto Municipal Code, such an application shall also include a financial analyses, in a form acceptable to the City's Director of Finance, and prepared by an independent Certified Public Accountant. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provision of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

(b) This license shall be an exclusive license to collect garbage except industrial garbage and salvageable waste, within the area delineated and marked as Areas C and D on that certain map entitled "Garbage Areas" dated July 11, 1972, on file in the office of the City Clerk, and to which reference is hereby made. This license shall be a nonexclusive license to collect industrial garbage and salvageable waste.

(c) In accepting this license, Licensee thereby agrees to serve the area covered by the license for the term herein specified in compliance with the provisions of this ordinance and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(d) This license shall automatically extend to any portion of the Licensee's service area, as shown on the map referred to in paragraph (b) above, which is hereafter annexed to the City, except that City may permit any person or firm licensed by the County of Stanislaus and then serving such area or portion thereof to continue to serve such area or portion thereof for such period of time, not to exceed five (5) years from the date of annexation, as the City deems proper. The Licensee, when required to serve new portions of the City, shall promptly extend its routes and services and, when necessary, shall hire additional personnel and obtain additional equipment.

(e) Rates and charges to be charged by the Licensee for the collection of garbage shall be established by the Council by resolution. Service charges and costs of operation of the Licensee will be reviewed annually by the City and, if deemed necessary by the City Council, rate adjustments made to be effective on or after January 1 of each year.

The City reserves the right to require adjustments in operations of the Licensee due to changing community needs, and/or developments in the field of garbage collection and disposal. Rate adjustments, if necessary, will be considered in such cases.

(f) The Licensee shall bill and collect all garbage service charges, provided, however, the City may require that all or some of said garbage service charges shall be billed and collected by the City, and for the Licensee to pay to the City fees, to be determined by the City, for such billing and collection service.

(g) The City reserves the right to revise the provisions of Chapter 5 of Title V of the Modesto Municipal Code, from time to time, as required in order to protect the public health, safety and welfare of the City.

(h) The Licensee shall comply with all existing and future State and Federal laws, and all ordinances and regulations which may in any manner affect the Licensee's operations under the terms and conditions of this license.

(i) The Director of Utility Services of the City of Modesto shall administer and supervise the Licensee's operations under the terms of this license and in accordance with the provisions of Chapter 5 of Title V of the Municipal Code.

In the event of any disagreement between the Licensee and customers regarding the amount of charges for garbage collection service or the type or extent of service provided by the Licensee, the Director of Utility Services shall make an investigation and determination, and the decision of the Director of Utility Services shall be final.

(j) The Licensee shall establish and maintain an office within the City of Modesto, or other location approved by the City Manager, and shall keep said office open for business from 8:00 a.m. to 5:00 p.m. of each and every day except Saturday, Sunday, and all legal holidays observed by the City of Modesto.

The Licensee shall keep and maintain in said office at all times during the hours it is required to be open, competent personnel who shall have authority to represent the Licensee in its relations with the City and with the public. The Licensee shall obtain and keep in said office sufficient listed telephones and personnel to courteously, quickly and expeditiously receive and answer all telephone and other calls to said office. A daily log of service calls received and the disposition thereof shall be kept by the Licensee.

(k) The Licensee shall maintain full and complete books of account and other records showing all business transacted in connection with this license by said Licensee including but not limited to records of all special monthly collections, receipts, expenses, profits, supporting statements and vouchers, balance sheets, profit and loss statements, and other documents, accurately reflecting and showing all business of the Licensee. All such books and records shall be subject to audit and inspection at any and all reasonable times by the City and its authorized officers, agents, or employees, and shall be made available at said office for such inspection or audit at any and all reasonable times upon request or demand of the authorized City official.

The Licensee shall provide the City annually, within ninety (90) days of the end of the preceding fiscal year ending June 30th, with five (5) copies of an annual balance sheet and profit and loss statement. Financial statements submitted by the Licensee to the City shall be regarded by the City as confidential financial records of the Licensee, and shall not be released as a public record for inspection by any party other than authorized City officers.

The City may require a complete financial audit prepared by a "Public Accountant" with his "opinion" attached thereto and such other financial information deemed necessary by the City when considering a request for rate adjustments.

(l) The Licensee shall collect and remove from any and all premises, within twenty-four (24) hours, and no later, after notice, demand or request, any and all garbage which Licensee shall have failed to collect and remove at the regularly scheduled time. The customer's failure to place garbage for collection at the regularly scheduled time shall not be deemed a missed collection.

(m) The Licensee shall collect garbage at least once each calendar week, on a Monday through Friday basis for residential collections, and on a Monday through Saturday basis for commercial and industrial collections. For purposes of such collection, the Licensee shall divide the City into collection routes. Such collection routes shall be each wholly within the City limits, and shall be approved by the Director of Utility Services. Upon approval of the proposed routes by the Director of Utility Services, the Licensee shall prepare route books as soon as possible which shall indicate the address of each service, number of containers, frequency of collection, and such other pertinent information as the Director of Utility Services may require. The Licensee shall keep route books up to date at all times. The Licensee shall give reasonable notice to the general public as to the days and times for collection on each route. No changes in collection schedules shall be made without the approval of the Director of Utility Services and reasonable notice thereof to the customers concerned by the Licensee.

The Licensee will not be required to make collections on Sundays or legal holidays observed by the City. The Licensee may arrange with commercial and industrial customers for Sunday and holiday collections, however. Scheduled collections not made on legal holidays shall be made within twenty-four (24) hours, Sundays excepted.

(n) The Licensee shall make garbage collection service available on request to all schools, public agencies, institutions, and other non-residential premises at the same rates established for business locations. In special cases where unusual quantities of materials or special type of materials, or where special methods of handling and/or disposing is required, the Director of Utility Services may permit independent arrangements with the Licensee.

(o) The licensee shall furnish to all residential customers, a standard sixty (60) gallon or ninety (90) gallon automated collection container for the containerization of household garbage and garden refuse. The licensee shall be responsible for the general repair and upkeep of all the standard automated collection containers furnished to the residential customers. Containers shall be kept in serviceable condition at all times.

The Licensee shall have approved detachable containers for apartment, commercial, business and industrial services on a rental basis. The Licensee shall be responsible for the general repair and upkeep of all detachable containers. Containers shall be kept in serviceable condition at all times. The Licensee shall provide detachable container cleaning service at a rate approved by the Director of Utility Services.

Detachables containers shall be of metal and shall be so constructed that no liquid can leak from said containers. However, containers made of materials other than metal may be proposed by the Licensee for the approval of the Director of Utility Services during the term of this license. No materials may be substituted without prior approval.

(p) The Licensee shall supply all occupants or premises in the Licensee's service area with printed information cards approved by the Director of Utility Services containing information regarding amounts of garbage which will be collected, complaint procedures, charges, regulations and days of collection. Such cards shall be distributed as required by the Director of Utility Services, and, in addition, upon request by occupants or owners of any premises and in advance of route, charge or regulation changes.

(q) The Licensee shall not litter any premises or public property in making collections of garbage, nor shall garbage be allowed to leak, blow or fall from collection vehicles; however, if in spite of normal precautions against spillage, a litter is made on any premises or public property, the Licensee shall immediately remove same and clean up the area of spillage. The Licensee shall, without delay, after removing garbage from any container replace the container in its designated position on the premises with its cover on, and shall repair or replace at its expense any containers

damaged as a result of its handling thereof, normal wear and tear excepted. The Licensee shall close all gates after making collections and shall avoid crossing private or public planted areas and climbing or jumping over hedges and fences. Licensee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. If, for any reason, garbage is not picked up, such as overweight container, not in container, etc., the Licensee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

The Licensee's collection vehicles shall be operated in full compliance with the State of California Motor Vehicle Code and local ordinances. Vehicles shall be thoroughly washed and disinfected inside the collection body each day, or as approved by the Director of Utility Services, and the outside of each vehicle shall be cleaned and washed at least once a week.

(r) All equipment used for the collection and hauling of garbage shall be approved by the Director of Utility Services and shall be so constructed and maintained as to prevent leakage, spillage, or overflow. Trucks shall not be loaded in excess of requirements of the State of California Motor Vehicle Code.

All trucks and equipment shall be clearly identified by an assigned equipment number and with the firm name and local telephone number affixed thereto. Collection trucks shall be painted white, or other color approved by the Director of Utility Services, and shall be equipped with such safety devices and warning lights required by the State of California Motor Vehicle Code.

All vehicles and equipment used in the collection of garbage, if kept within the boundaries of the City, shall at all times when not in use in the collection of garbage be kept on private property in the appropriate zone and not on streets or other public ways.

(s) All garbage collection vehicles shall be well maintained, properly identified, painted, clean and in satisfactory mechanical condition. The Licensee shall institute a complete and comprehensive system of preventative maintenance on all vehicles and shall keep them lubricated and in good repair. Records in a form approved by the Director of Utility Services to provide data on operating, maintenance and repair costs shall be kept on each piece of equipment.

(t) For purposes of this paragraph the following definitions shall apply:

(1) "Interruption of service" shall mean:

(aa) Any time period during which garbage collection services by the Licensee are interrupted by a labor dispute and scheduled collections are discontinued or substantially reduced; or

(ab) Any time period after notice by the City of the termination of the license by reason of a breach or default by the Licensee and until other suitable equipment can reasonably be purchased or otherwise acquired by the City for such purpose.

(2) "Equipment" shall mean any and all vehicles and equipment used by the Licensee for the purpose of performing the services provided for in the license at any time within the ninety (90) days immediately prior to the commencement of the interruption of service.

(3) "Payment for use" shall have the following meaning:

(aa) In the case of a piece of equipment subject to a contract, "payment for use" shall mean any installment payment coming due under a contract for such piece of equipment while the City is possessing and using such piece of equipment pursuant to this paragraph during an interruption of service. Payment for use shall not be deemed to include any payment coming due under such contract either prior to, or after the expiration of, such period. Payment for use shall be made by the City, from time to time, directly to the person or company to whom the payment is owed under the contract, and the making of such payment or payments shall constitute full compensation to all persons for the City's temporary use of such piece of equipment.

(ab) In the case of a piece of equipment not subject to a contract, "payment for use" shall mean the reasonable rental value of such piece of equipment for such period of time during which the City possesses and uses such piece of equipment pursuant to this paragraph during an interruption of service. Such payment shall, at the expiration of the term of the interruption of such service, be applied against any sums then owed to the City by the Licensee, or, if none, it shall be paid by the City to the Licensee.

(4) "Contract" shall mean any conditional sales contract, mortgage, encumbrance, lease, rental agreement or other agreement which provides for retention of title to said equipment or grants a security interest therein, that may exist at the commencement of the interruption of service with regard to a piece of equipment.

(5) "Notice" shall mean written notification actually received by the person to be notified or mailed to him by registered or certified mail at the most recent address furnished by him to the City Clerk of the City of Modesto. As to the holder of a contract, the City shall be required to give notice only if the holder's identity is known to the City and the holder has furnished his address to said City Clerk.

In the event of an interruption of service, the City shall be entitled to have the temporary possession of all or any portion of the equipment of Licensee on the condition that the City shall, from time to time, make the payment for use as provided in subparagraph (3) hereof. Upon taking such temporary possession, City shall forthwith give notice thereof to the Licensee and to the then holder of a contract on such equipment, if any. Such temporary use shall not be deemed to be a breach of the terms of any contract regarding said equipment, but it shall otherwise be subject to the terms of such contract which are not in conflict herewith, except that the City shall not be required to make any payment other than the payment for use prescribed in subparagraph (3) hereof. The making by the City of the payment for use prescribed in subparagraph (3) hereof shall be deemed to be compensation only for the temporary use of such equipment and the City shall not thereby acquire any ownership interest in such equipment.

So long as the City continues to make the payment for use of a piece of equipment when due, or within ten (10) days thereafter, such equipment may be retained by the City and may not be repossessed from the City. In the event the City fails to make a payment for use when due, or within ten (10) days thereafter, the City's right to continued temporary use of such piece of equipment shall cease, and possession of such equipment may be retaken by the Licensee or by the holder of any contract thereon.

At the expiration of the City's temporary possession of such equipment the City shall give written notice of such expiration to the Licensee and to the then holder of a contract on such equipment, if any. In the event the Licensee shall fail to take possession of such equipment within ten (10) days after such notice, the Licensee shall be deemed to have abandoned such equipment and waived all interest therein, and the City shall be free to use and dispose of such equipment without liability or compensation to the Licensee, subject to the terms of any contract that may then exist with regard to such equipment.

All equipment used by the Licensee for the purpose of performing the services provided for in this license shall be solely owned by the Licensee except that the Licensee may, with the prior approval of the City Manager, enter into contracts as defined in subparagraph (4) hereof with respect to such equipment. All such contracts shall provide for temporary possession by the City as set forth herein and shall provide that such temporary possession shall not be deemed a breach of such contract.

(u) All vehicles and equipment used by the Licensee for the collection and hauling of garbage shall be solely owned by Licensee, except that the Licensee may, with the prior approval of the City Manager, enter into conditional sales contracts, mortgages, encumbrances, leases, rental agreements, and other appropriate agreements for the purpose of purchasing, leasing or renting vehicles and equipment to be used in providing the services provided for in this license. All such documents shall provide for temporary possession by the City as set forth in the foregoing section and shall provide that such temporary possession shall not be deemed a breach of the agreement.

(v) Garbage collected by the Licensee shall be disposed of at the Geer Road sanitary landfill. The City reserves the right to designate other sanitary landfill areas for disposal, and other methods of disposal. Disposal of garbage at the sanitary landfill will be in accordance with regulations in effect for the same as they now exist or may hereafter be amended. Industrial garbage collected by the Licensee may be disposed of at such other locations as are approved by the Health Officer.

(w) The Licensee shall have the full and exclusive right to all salvageable materials collected in connection with the collection of garbage under this license, and shall have the sole right to any and all funds received from the sale of said salvageable materials. Such funds shall be accounted for as part of the gross revenues of Licensee.

Salvaging or scavenging by the Licensee, or any of its employees, is prohibited on the collection routes. Salvaging at a suitable location is encouraged, however.

(x) The Licensee agrees to keep the Director of Utility Services advised as to any current developments in recycling programs, and to participate in such recycling programs when it can be done on a sound economical basis. The Licensee agrees to cooperate on any reasonable basis with local civic organizations who desire to participate in a recycling program. The term recycling as used herein means any process which has as its goal the conversion of garbage, rubbish or salvageable waste into a usable product.

(y) The Licensee shall file with the City Clerk and maintain during the term of this license a corporate surety bond or other form of security satisfactory to the City Attorney in the sum of One Hundred Thousand and no/100ths (\$100,000.00) Dollars. Said bond or security shall be conditioned upon the faithful performances of the terms and conditions of this license and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(z) Licensee agrees, in connection with the performance of all operations under or pursuant to this license, to be an Equal Opportunity Employer and not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, or handicap.

Licensee agrees, that it will undertake an affirmative action program to ensure that no person shall on the grounds of race, creed, color, national origin, sex, or handicap be excluded from participating in any employment activities.

Licensee agrees to take specific affirmative actions to ensure equal employment opportunity. Licensee shall fully document these efforts and shall submit to City on or before January 31st of each year a report detailing the affirmative actions Licensee has taken during the prior calendar year.

Licensee agrees to ensure and maintain a working environment free of harassment, intimidation, and coercion at all job locations, and in all facilities at which the Licensee's employees are assigned to work.

Licensee shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Licensee's obligation to maintain such a working environment with specific attention to minority or female individuals at such work locations or in such facilities.

Licensee shall ensure that seniority practices, job classifications, work assignments and other personnel practices, including employment reduction actions, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the equal employment opportunity actions required by this License are being carried out.

In the event of breach of any of the above nondiscrimination, equal opportunity and affirmative action covenants, the Council of the City of Modesto shall have the right to revoke this license in accordance with the provisions of Section 5-5.31 of the Modesto Municipal Code."

SECTION 2. SUPERSEDES AND REPEALS. This ordinance supersedes and repeals Ordinance No. 2546-C.S.

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; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

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 27th day of September, 1988, by Councilmember Lang who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and order printed and published by the following vote:

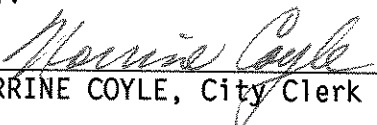
AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

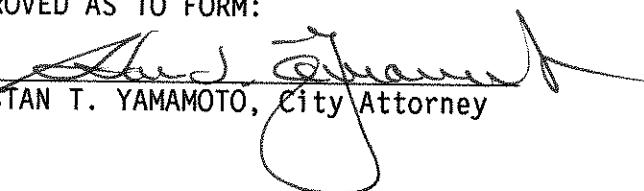
APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2612-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 11th day of October, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED *Carol Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 10, 1988

ORDINANCE NO. 2613-C.S.

AN ORDINANCE AMENDING SECTIONS 4-1.405, 4-1.410, 4-1.411, AND 4-1.413 OF ARTICLE 4 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE; AND REPEALING SECTION 4-1.404 THEREOF RELATING TO PUBLIC DANCES.

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

SECTION 1. AMENDMENT OF CODE. Sections 4-1.405, 4-1.410, 4-1.411, and 4-1.413 of Article 4 of Chapter 1 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-1.405. PERMIT FEE.

The Council of the City of Modesto may, by resolution adopted from time to time, fix a Public Dance Hall Permit Fee and a Public Dance Permit fee.

SEC. 4-1.410. RULES AND REGULATIONS.

It shall be unlawful to manage, operate, or conduct a public dance or to dance in a public dance hall or ballroom in violation of any state or local law, any condition under which the permit is issued or any of the following rules and regulations:

- (a) Display of Permit. Every permittee under this Article shall place said permit in a conspicuous place at the premises named in the permit, and shall show such permit whenever requested by any peace officer upon said premises.
- (b) Admission of Police Officers. Any member of the Modesto Police Department or other law enforcement agency shall be admitted free of charge to any public dance or public dance hall when entering the premises for purposes related to law enforcement or crime prevention.
- (c) Hours for Dancing. No dance establishment shall be open for business between the hours of two o'clock a.m. and six o'clock a.m.
- (d) Unpermitted Conduct. No conduct of a violent, obscene, disorderly, or unlawful nature shall be permitted at any public dance or in any public dance hall in the City. No slot machine, wheel of chance, gambling device or paraphernalia shall be permitted upon the premises where a public dance is being held. No dances shall be permitted at which any person

undertakes to furnish or to provide persons for dancing partners or instructors.

- (e) No Readmission Without Charge. Any fee charged for admission to a public dance or public dance hall shall entitle persons admitted to participate in all dances so long as they remain within the dance hall. Persons who leave a public dance or public dance hall may not be readmitted without the purchase of another admission ticket.
- (f) Telephone Service. A sufficient number of telephones shall be available for use by persons attending any public dance or at any public dance hall for which a permit has been issued under this Article.
- (g) Presence of Permittee During Dances. Permittees under this Article or a responsible adult person designated by a permittee shall be present on or in the immediate vicinity of, the dance floor during the entire duration of the period for which any public dance permit is issued under this Article. Public dance hall permittees shall comply with permit conditions specifying the requirements for their presence during dances occurring at their public dance halls.
- (h) Special Officers. In addition to the requirements of paragraph (g) above, each permittee shall appoint at least one responsible adult person aged 21 or older to act as a special Security Officer. Said special Security Officer shall be present at all times during the conduct of each dance held by permittee and shall perform the duty of insuring that the provisions of this Article as they relate to the conduct of dances held by permittee and the conduct of dance attendees are fully complied with. The special Security Officer shall be readily identifiable in a conspicuous manner and approved by the Chief of Police. The Chief of Police shall determine the minimum number of special Security Officer's required to be present throughout the permitted dance. The approval of the Chief of Police shall be obtained prior to the appointment of each such person(s) as a special Security Officer. The Chief of Police shall have the power to withdraw his approval in the event that any such special Security Officer is not performing his duties to the satisfaction of the Chief of Police.
- (i) Additional Rules and Regulations. The Chief of Police may promulgate, and may from time to time amend rules, and regulations for the conduct and operation of public dance halls and public dances and such rules and regulations as adopted or amended are hereby incorporated herein by reference as if fully set forth herein.

SEC. 4-1.411. TERM OF PERMIT.

Unless sooner revoked or suspended, a permit issued under this Article shall be valid for the following periods:

- (a) A Public Dance Hall Permit shall be valid for a period not exceeding three (3) months and shall expire at the end of the calendar quarter (March 31, June 30, September 30, and December 31) following its issuance. The expiration date shall be shown on the face of the permit.
- (b) A Dance Permit shall be valid for the date and times specified thereon and shall expire at the close of the event for which it was issued.

SEC. 4-1.413. REVOCATION OF PERMIT.

A Dance Permit may be revoked or suspended by the Chief of Police of the City of Modesto upon five (5) days' notice to the holder thereof, for violation of any of the provisions of this Article, or of any condition imposed upon any permit, or of any rule or regulation promulgated hereunder, or of any state or local law. No person whose permit has been revoked shall be granted or issued a new permit, nor shall any new permit be granted or issued to any person who was or is an agent, employee, or representative of the person whose permit was revoked unless the following conditions are satisfied:

- (a) Twelve months or more have elapsed since former permittee was notified of the intended revocation;
- (b) Former permittee has, to the satisfaction of the Chief of Police, corrected all conditions and violations upon which the revocation was based or has provided to the Chief of Police acceptable plans for procedures reasonably likely to prevent future violations should the permit be reissued;
- (c) Such other conditions as the Chief of Police may reasonably require.

SECTION 2. REPEALS. Section 4-1.404 of Article 4 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby repealed.

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 27 day of September, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2613-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 October, 1988, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 3, 1988

Clark

ORDINANCE NO. 2614 -C.S.

AN ORDINANCE AMENDING SECTION MAP 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(453), PROPERTY LOCATED AT 1211 HOUSER LANE ON THE NORTH SIDE OF HOUSER LANE, EAST OF CARPENTER ROAD (P & R ENTERPRISES).

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

SECTION 1. ZONING CHANGE. Section 31-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(453):

All that certain real property situate in a portion of the Southwest Quarter of Section 31, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Beginning at the Southeast corner of Carpenter Villas No. 2 Subdivision, according to the official maps thereof, filed in the office of the Recorder of Stanislaus County, California, on February 3, 1988, in Volume 32 of Maps, Page 63, said corner also lying on the west line of the Hacienda Villas Subdivision according to the official map thereof, filed in the office of the Recorder of Stanislaus County, California on February 27, 1980, in Volume 29 of Maps, Page 10; thence along the West line of said Hacienda Villas and its Southerly prolongation 150.00 feet more or less; thence Westerly 94.00 feet; thence Southerly 156.00 feet more or less to the centerline of original 40.00-foot-wide Houser Lane; thence along said centerline Westerly 199.00 feet more or less; thence leaving the centerline of Houser Lane, Northerly 220.00 feet; thence Westerly 113.00 feet to the East line of Parcel "2" as shown on that certain Parcel Map filed in the office of the Recorder of Stanislaus County, California on March 16, 1973, in Book 16 of Parcel Maps, at Page 54; thence along said East line of Parcel "2" Northerly 84.00 feet more or less to the South line of previously mentioned Carpenter Villas No. 2 Subdivision; thence along said South line, Easterly 416.00 feet more or less to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(453) 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. Elderly housing apartment complex.
2. Off-street parking and open space as shown on the approved development plans.

SECTION 3. ZONING MAP. Section Map 31-3-9 of the Zoning Map of the City of Modesto is 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 4 day of October, 1988, by Councilmember Irizarry, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Sutton

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Proctor
Department of Planning and
Community Development

Ord. No. 2614-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 11th day of October, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

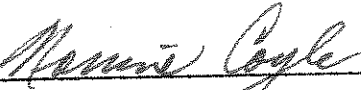
ABSENT: Councilmembers: Sutton

APPROVED



MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 10, 1988

ORDINANCE NO. 2615 -C.S.

AN ORDINANCE AMENDING SECTION MAP 9-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(455), PROPERTY LOCATED ON THE NORTH SIDE OF SYLVAN AVENUE BETWEEN REXFORD DRIVE AND DRAGOO PARK DRIVE (WEBB CHENEY INVESTMENTS).

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

SECTION 1. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-2, to Planned Development Zone, P-D(455):

A portion of the Northeast quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, and lying in the City of Modesto, State of California.

BEGINNING at the Southeast corner of Parcel 2 as shown on that certain map filed in Volume 22 of Parcel Maps at page 63, Stanislaus County Records; said corner also lying on the North right-of-way line of Sylvan Avenue; thence North 89°17'00" West along said right-of-way a distance of 201.00 feet; thence North 0°45'15" West, a distance of 317.10 feet; thence South 89°17'00" East, a distance of 201.00 feet; thence South 0°45'15" East, a distance of 317.10 feet to the point of beginning.

Including also the north one-half of 100.00-foot wide Sylvan Avenue immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(455) 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. Office Building containing uses allowed in the P-O Zone.
2. Off-street parking as shown on the approved plan.

SECTION 3. ZONING MAP. Section Map 9-3-9 of the Zoning Map of the City of Modesto is 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 4 day of October, 1988, by Councilmember Irizarry, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Sutton

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William J. Macerels
Department of Planning and
Community Development

Ord. No. 2615-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 11th day of October, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED *Carol Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 10, 1988

ORDINANCE NO. 2616 -C.S.

AN ORDINANCE AMENDING SECTION 4-4.405 OF ARTICLE 4 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE AND AMENDING SECTION 4-4.526 OF ARTICLE 5 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO SUBDIVISION REGULATIONS, VESTING TENTATIVE MAPS.

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

SECTION. 1. AMENDMENT OF CODE. Section 4-4.405 of Article 4 of Chapter 4 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-4.405. VESTING TENTATIVE MAPS.

- (a) **Filing.** On or after January 1, 1988, a vesting tentative map for residential and nonresidential developments may be filed with the Planning Commission instead of a tentative map otherwise required by this chapter. The filing and departmental approval, form, required statement, and action pertaining to a vesting tentative map shall be the same as required by this article for other tentative maps except that the words "Vesting Tentative Map" shall be printed conspicuously on the face of the map.
- (b) **Development Rights.** Planning Commission approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for the vesting tentative map is complete and accepted consistent with Government Code Section 66474.2 and as amended or repealed. The rights conferred by this section shall expire if a final map is not approved by the City Council prior to expiration of the vesting tentative map.
- (c) **Time Limits.** The development rights conferred by a vesting tentative map shall remain in effect for one year after the recording of a final map. When multiple final maps are recorded on various phases of a project covered by a single vesting tentative map, the one-year time period shall begin for each phase when the final map for that phase is recorded. At any time prior to the expiration of the one-year period provided by this section, the subdivider may apply to the Planning Commission for a one-year extension. If the extension

is denied by the Planning Commission, the subdivider may appeal that denial to the City Council within fifteen (15) days. The time limits and extensions thereof for filing a final map based on an approved vesting tentative map shall be the same as specified by Section 4-4.601 for other tentative maps

- (d) **Amendments.** Minor amendments to the vesting tentative map may be approved by the Secretary of the Planning Commission when the Secretary determines that the proposed changes substantially conform to the approved vesting tentative map. At any time prior to the expiration of the vesting tentative map, the subdivider may apply to the Planning Commission for an amendment to the map when such amendment does not substantially conform to the previously approved vesting tentative map. If the requested amendment is approved by the Planning Commission, the development rights conferred by the vesting tentative map shall allow development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for an amendment to the vesting tentative map is complete and accepted consistent with Government Code Section 66474.2 and as amended or repealed. The time limits for filing a final map or maps based on an amended vesting tentative map shall begin on the date such amendment is approved.
- (e) **Zoning.** If a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning of the property in effect at the time the vesting tentative map is filed, that inconsistency shall be noted on the map. The Planning Commission may deny such vesting tentative map or approve it conditioned on the subdivider obtaining the necessary change in zoning to eliminate the inconsistency. If the change in zoning is obtained, the approved or conditionally approved tentative map shall confer the vested right to proceed with the development in substantial compliance with the change in zoning and the map as approved.
- (f) **Variances and Exceptions.** Notwithstanding any provisions of this section, a property owner or his designee may seek approvals or permits for development which depart from the ordinances, policies, and standards in effect at the time a complete application for a vesting tentative map is accepted for filing. Such requested approvals or permits may be granted to the extent authorized by the Modesto Municipal Code or other applicable laws.

SECTION. 2. AMENDMENT OF CODE. Section 4-4.526 of Article 5 of Chapter 4 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-4.526. VESTING TENTATIVE PARCEL MAPS.

On or after January 1, 1988, a vesting tentative parcel map for residential and nonresidential developments may be filed with the Planning Commission instead of a tentative parcel map otherwise required by this chapter. The vesting tentative parcel map shall be subject to all provisions of this article pertaining to other tentative parcel maps and shall confer on the developer all development rights and shall be subject to the conditions pertaining to vesting tentative maps for subdivisions as specified by Section 4-4.405.

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 11 day of October, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2616-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 25th day of October, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 24, 1988

ORDINANCE NO. 2617 -C.S.

AN ORDINANCE AMENDING SECTION MAP 19-3-10 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, AND PLANNED DEVELOPMENT ZONE, P-D(364), TO PLANNED DEVELOPMENT ZONE, P-D(456), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF CLAUS ROAD AND PARKER ROAD (DONALD LAWRIE)

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

SECTION 1. ZONING CHANGE. Section 19-3-10 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, and Planned Development Zone, P-D(364), to Planned Development Zone, P-D(456):

R-1 to P-D

All that certain real property situated in a portion of of Parcel 4 recorded on November 15, 1973 in the office of the Recorder of Stanislaus County, California in Book 18 of Parcel Maps, at Page 9 and being a portion of the Northwest 1/4 of the Northwest 1/4 of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, and laying in the City of Modesto, State of California, more particularly described as follows:

Beginning at the southwest corner of said Parcel 4, said point being on the south line of Parcel 3 and Parcel 4; thence North 0°31'18" West along the west line of said Parcel 4, a distance of 537.07 feet to the northwesterly corner of said Parcel 4, said point being on the southerly line of Parker Road; thence North 89°38'36" East, along said southerly line a distance of 25.00 feet; thence parallel with and 25.00 feet east of the west line of Parcel 4 South 0°31'18" East, a distance of 187.01 feet; thence North 89°30'59" East, a distance of 7.00 feet; thence parallel with and 32.00 feet east of the west line of Parcel 4 South 0°31'18" East, 350.58 feet to a point laying on the southerly line of said Parcel 4; thence North 89°27'29" West, 32.01 feet along said line to the POINT OF BEGINNING. Including also all of Parker Road and that portion of Modesto Irrigation Lateral Number 3 located between the north line of said Section 19 and the above described property.

P-D(364) to P-D

ALL that certain real property being Parcels "1, 2, and 3" as shown on the Official Map filed in Book 18 of Parcel Maps, at Page 9, Stanislaus County Records, lying in a portion of the North half of

the Northwest quarter of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, City of Modesto, State of California, more particularly described as follows:

COMMENCING at the Southwest corner of said Parcel "2", said corner lying on the East right-of-way line of Claus Road; thence North $0^{\circ}39'16''$ West along said East right-of-way line of Claus Road, 447.42 feet to the beginning of a tangent curve, concave to the Southeast, having a radius of 15.00 feet and a central angle of $90^{\circ}19'14''$; thence Northeasterly along the arc of said curve, 23.65 feet to a point of the south right-of-way of Parker Road; thence North $89^{\circ}39'58''$ East along said South right-of-way line of Parker Road, 66.19 feet to the beginning of a tangent curve, concave to the Northwest, having a radius of 230.00 feet and a central angle of $27^{\circ}16'04''$; thence Northeasterly along the arc of said curve, 109.46 feet; thence North $62^{\circ}23'54''$ East, 34.18 feet to the beginning of a tangent curve, concave to the Southeast, having a radius of 170.00 feet and a central angle of $27^{\circ}14'42''$; thence Northeasterly along the arc of said curve, 80.84 feet; thence North $89^{\circ}38'36''$ East, 635.28 feet to the Northeast corner of said Parcel "3"; thence South $0^{\circ}31'18''$ East along the East property line of said Parcel "3", 537.07 feet to the Southeast corner of said Parcel "3", thence North $89^{\circ}27'29''$ West along the South property line of said parcels "2 & 3", 929.41 feet to the point of beginning. / Including also the East ^{TP} 50.00 feet of Claus Road, all of Parker Road and that portion of Modesto Irrigation Lateral Number 3 located between the North line of said Section 19 and said Parcels "1, 2 and 3" and all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(456) 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. Neighborhood shopping center including all C-1 zone uses.
2. Off-street parking as shown on the approved plan.

SECTION 3. ZONING MAP. Section Map 19-3-10 of the Zoning Map of the City of Modesto is 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 25 day of October, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By Gary Olson
Department of Planning and Community Development

Ord. No. 2617-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 November, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 30, 1988

(11)

ORDINANCE NO. 2618 -C.S.

AN ORDINANCE GRANTING TO UNION PACIFIC RAILROAD COMPANY, A UTAH CORPORATION, A FRANCHISE TO OPERATE, MAINTAIN, REPAIR AND RENEW A COMMERCIAL RAILROAD FOR THE TRANSPORTATION OF PROPERTY AS A COMMON CARRIER, IN, UPON, OVER, UNDER, ALONG AND ACROSS VARIOUS PUBLIC STREETS IN THE CITY OF MODESTO.

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

SECTION 1. DEFINITIONS. As used in this franchise, the singular number includes the plural, and the plural number includes the singular. Unless it shall be apparent from the context that they have a different meaning, the following words and phrases shall have the meaning herein specified:

(a) City. The word "City" shall mean the City of Modesto, a municipal corporation of the State of California, in its present incorporated form or any reorganized, consolidated or reincorporated form.

(b) City Attorney. The words "City Attorney" shall mean the duly appointed, qualified and acting City Attorney of the City of Modesto or such person as may hereafter, by law, be authorized to perform the duties now being performed by that official.

(c) City Clerk. The words "City Clerk" shall mean the duly appointed, qualified and acting City Clerk of the City of Modesto, or such person as may hereafter, by law, be authorized to perform the duties now being performed by that official.

(d) City Manager. The words "City Manager" shall mean the duly appointed, qualified and acting City Manager of the City of Modesto, or such person as may hereafter, by law, be authorized to perform the duties now being performed by that official.

(e) Council or City Council. The word "Council" or words "City Council" shall mean the present governing body of the City or any future board constituting the legislative body of the City.

(f) Franchise Property. The words "franchise property" shall mean all property constructed, installed, operated, or maintained in a public street pursuant to any right or privilege granted by this franchise, provided that any such property shall retain its character as "franchise property" only so long as it shall remain in or upon a street pursuant to any right or privilege granted by this franchise.

(g) Grantee. The word "grantee" shall mean Union Pacific Railroad Company, a Utah corporation, and any person, firm, or corporation to which this franchise may hereafter be lawfully transferred as herein provided.

(h) Grantor. The word "grantor" shall mean the City of Modesto, a municipal corporation of the State of California.

(i) Public Utilities Commission. The words "Public Utilities Commission" shall mean the Public Utilities Commission of the State of California or any state officer or board succeeding to its function.

(j) Street. The word "street" shall mean any public street, road, highway, lane, alley, court, sidewalk, parkway, bridge, or similar public place, or above or below same, which now exists or which may hereafter exist within the City.

(k) Superintendent of Streets. The words "Superintendent of Streets" shall mean the duly appointed, qualified and acting Superintendent of Streets of the City of Modesto or such person as may hereafter, by law, be authorized to perform the duties now being performed by that official.

SECTION 2. NATURE OF GRANT. The City of Modesto hereby grants to Union Pacific Railroad Company, a Utah corporation, a commercial railroad franchise to operate, maintain, repair and renew a common carrier rail transportation line as hereinafter described and in accordance with the terms and conditions contained in this ordinance:

(a) Rail Service. To engage, during the term of this franchise, as a common carrier, in the business of transporting property for hire, by rail in, upon, over, under, along and across the various public streets now or hereafter traversed by the route and tracks designated in Section 3 hereof and to construct, install, use, operate, maintain, repair and renew, in such public streets, any such physical property as may be reasonably necessary to the conduct of such business, including rails and track structure.

(b) Non-Exclusive Feature of Franchise. The granting of this franchise or any of the terms or conditions contained herein shall not be construed to prevent the City from granting over the route herein specified or elsewhere any identical, similar or other type of franchise to any person, firm or corporation other than grantee.

(c) Acceptance by Grantee. This franchise is not in lieu of any other franchises, rights or privileges now owned by grantee for the furnishing of any utility or service within the limits of the City of Modesto as they now or may hereafter exist, and the acceptance by grantee of this franchise shall not constitute or be deemed to constitute a waiver or abandonment or surrender by grantee of such franchises, rights or privileges as it may own or possess in connection with its operation in, upon, over, under, along or across any public streets in the City of Modesto other than in the area traversed by the route and tracks designated in Section 3 hereof.

SECTION 3. DESIGNATION OF RAIL ROUTE AND STREET AREAS. The route and tracks referred to in Section 2 hereof are shown in red on that certain print Drawing No. 34-4 attached to the Application for Franchise for Commercial Railroad, dated June 15, 1965, and filed with the City Council of the City of Modesto on June 21, 1965; the center line of such route and tracks is described as follows:

(a) Main Track. Beginning at the north city limit line of the City of Modesto, County of Stanislaus, State of California, as said city limit line was located in 1911; said city limit being the center line of Stoddard Avenue; thence southwesterly across the south half of Stoddard Avenue and across private property to a point on the northeast line of College Avenue; thence across College Avenue and into private property to a point on the north line of Needham Avenue, 50 feet, more or less, westerly of the west line of Nellie Street; thence curving to the left across Needham Avenue across private property between Needham Avenue, 9th Street and "P" Street to a point on the northwesterly line of "P" Street; thence continuing on a curve to the left across "P" Street and across 9th Street to a point 33.0 feet, more or less, northeasterly measured at a right angle from the southwest line of 9th Street; thence southeasterly along a line parallel to said southwest line of 9th Street and across the intervening streets to a point 140 feet, more or less, northwesterly from the northwest line of "E" Street; thence southeasterly along a curve to the left across 9th Street and "E" Street to a point on the southeast line of "E" Street; thence across private property to a point on the northwest line of "D" Street, thence across "D" Street and across private property to a point on the northwest line of "C" Street; thence across "C"

Street and across private property to a point on the northwest line of "B" Street; thence southerly and southeasterly along a curve to the left across "B" Street and 9th Street to a point 33.0 feet, more or less, northeasterly measured at a right angle from the southwest line of 9th Street; thence southeasterly on a curve to the right along 9th Street and crossing Morton Street to the southerly line of Morton Street; thence across private property to the southerly city limit line of the City of Modesto, as said city limit line existed in 1911 at the Tuolumne River.

(b) Additional Tracks.

(1) Beginning at a point on the center line of the Union Pacific Railroad Company main track as described in Main Track at a point 140 feet, more or less, northwesterly from the northwest line of "E" Street in said City of Modesto; thence southeasterly along a line parallel to the southwest line of 9th Street and 33.0 feet, more or less, northeasterly measured at a right angle therefrom to a point 40.0 feet, more or less, northwesterly of the northwest line of "C" Street produced southwesterly; thence southerly along a curve to the right to the edge of pavement on 9th Street.

(2) Beginning at a point on the northwest line of "D" Street, said point being 150.0 feet, more or less, northeasterly along said northwest line from the northeast line of 9th Street; thence easterly across "D" Street to a point on the southeast line of "D" Street, said point being 200.0 feet, more or less, northeasterly along said southeast line from the northeast line of 9th Street.

SECTION 4. DURATION, REVOCATION AND TERMINATION OF GRANT.

(a) This grant shall endure in full force and effect for a period of twenty (20) years from and after January 13, 1986, unless the same, with the consent of the appropriate state or federal agency, shall be voluntarily surrendered or abandoned by grantee, or unless the franchise shall be forfeited for noncompliance with its terms by grantee.

(b) Grantee shall comply with the provisions of the City Charter and all lawful ordinances of the City, heretofore or hereafter adopted, relating to the operations hereunder. If grantee shall at any time fail to comply with or to fulfill any term or condition of this franchise, the City Council may, by lawful ordinance enacted after notice to grantee, revoke this franchise, provided, however, that if such failure of compliance or fulfillment shall be due to a cause beyond the control of grantee, then this franchise shall not be so revoked until such failure shall have continued for a period of six (6) months after grantee has power to comply.

(c) If any term or condition of this franchise shall be or become invalid or unenforceable, the City Council may, by ordinance, terminate the franchise, provided the City Council shall find and declare that the invalid or unenforceable term or condition constituted a consideration material to the granting of this franchise.

SECTION 5. LIMITATION UPON SERVICE.

(a) The use or operation of grantee's franchise property shall be subject to all lawful ordinances of the City now or hereafter in effect relating thereto.

(b) Trains, cuts or strings of cars or single cars or locomotives

shall not be permitted to stop or stand on any track or tracks covered by this franchise, except in connection with the switching of cars to or from industrial tracks connecting with such tracks and except to do so for vehicular traffic, traffic signals and railroad or grade crossings or in the event of emergencies such as derailments, mechanical failures, and the like.

(c) Provided, however, that written permission to deviate from any of the requirements of this Section 5 may be given by the City Manager when, in the judgment of such City Manager, unforeseen conditions or emergencies so warrant.

SECTION 6. JOINT USE OF FACILITIES. If there be available on any pole or in any conduit or duct installed, operated or maintained pursuant to this franchise, space not required by grantee for use in operation of the railroad authorized by this franchise, then grantee shall, free of charge, permit the City, for the period of such availability, to use such space for the placing of facilities necessary or appropriate for the operation of police and fire signals and communications systems or for the direction of or control of traffic.

SECTION 7. STREET WORK BY GRANTEE.

(a) Grantee shall have the right to make all necessary excavations in the streets for installation, construction, maintenance, repair, replacement, reconstruction and removal of franchise property.

(b) Before grantee shall engage in any work in the streets for the installation, construction, maintenance, repair, replacement, reconstruction, or removal of franchise property, written notice thereof shall be given to the Superintendent of Streets. Except in the case of emergency work necessary to

avoid an immediate interruption of service, or for the immediate preservation of the public safety, such notice shall be given at least forty-eight (48) hours, exclusive of Saturdays and Sundays and Holidays, prior to commencement of such work.

(c) The Superintendent of Streets shall have authority to review the time and manner of performing any work in the public streets to the extent necessary, in his opinion, to provide for the public safety and convenience.

(d) Whenever the City or other governmental agency shall pave or repave the street or shall reconstruct a street with a higher type of pavement, grantee shall simultaneously pave or repave the portion of the street used by the track or tracks of grantee and between the rails and for two (2') feet on each side thereof, and between the tracks, if there be more than one, and shall cause such street work to be done with the same kind of material as is used in the remaining width of each street, all to the satisfaction of the Superintendent of Streets.

(e) Whenever the City or other governmental agency shall have previously constructed pavement or shall pave or repave a street under item (d) above, the grantee shall maintain and keep the portion of the street used by the track or tracks of grantee and between the rails and for two (2') feet on each side thereof, and between the tracks, if there be more than one, constantly in repair flush with the street and with good crossings, all to the satisfaction of the Superintendent of Streets.

SECTION 8. PUBLIC IMPROVEMENTS BY PUBLIC BODIES.

(a) The City, the State and any political subdivision or governmental agency or instrumentality may construct, improve, install,

repair, maintain and remove any public improvements or facilities such as sewers, drains, water or gas pipes, electric or other lines or conduits, and the like, in, under or above any street or portion thereof covered by this franchise.

(b) If the Superintendent of Streets shall give to grantee twenty (20) days' written notice of the fact that work is to be done pursuant to any right reserved in subdivision (a) of this section, specifying the general nature of the work and the area in which the same is to be performed, then grantee shall at its own expense do all things necessary to support and protect its franchise property during the progress of such work, and, if ordered by the Superintendent of Streets, the grantee shall at its own expense disconnect, remove, or relocate its franchise property within the street to such extent, in such manner, and for such period as shall be necessary to permit the performance of such work in an economical manner and in accordance with generally recognized engineering and construction methods, and to permit the maintenance, operation, and use of such public improvement or of the street as so improved. If the location of grantee's franchise property in such streets or portion thereof increases the cost of such work described in paragraph (a) above, grantee shall be liable and pay for such increased cost caused by the location of such franchise property.

SECTION 9. CONSTRUCTION AND RECONSTRUCTION OF TRACKS.

(a) The rails of the tracks constructed or reconstructed after the effective date of this franchise in the improved or paved streets pursuant to this franchise, shall be guarded tee rail satisfactory to the Superintendent of Streets. All tracks so constructed or reconstructed pursuant to this

franchise shall be placed and maintained at grades and alignments prescribed by the Superintendent of Streets.

(b) In the event the City shall from time to time prescribe any change of grade or alignment for the street in which the track or tracks is located, the grantee shall at its own expense cause its rails to conform to the newly prescribed grade or alignment at the request of the City.

(c) All future installations, and the grade to which they shall be constructed shall all be satisfactory to the Superintendent of Streets.

SECTION 10. GRADE SEPARATIONS. Grantee shall bear such costs of installation, alteration, maintenance or operation of crossing protections or of grade separations as may be ordered by the Public Utilities Commission.

SECTION 11. DAMAGE TO PUBLIC PROPERTY. Grantee shall pay to the City on demand the cost of all repairs to public property made necessary by or proximately resulting from any operations of grantee under this franchise, ordinary wear and tear excepted.

SECTION 12. INSTALLATION OF OTHER UTILITIES. The City reserves to itself, as against the grantee, the following rights:

(a) To permit others to construct, install, maintain, repair and renew property of any character in and upon all of the streets covered by this franchise.

(b) To permit others to operate and use, for every lawful purpose, any property, other than property of grantee, constructed, installed, maintained or renewed in the streets covered by this franchise.

Provided, however, that City shall include in any authority granted to others pursuant to the rights reserved in (a) and (b) above,

reasonable provisions for the protection by and at the expense of such others of the franchise property of grantee, including, but not limited to, reasonable provisions as to the methods and time of performance of work by such others on, under, over and adjacent to grantee's franchise property.

Grantee shall bear the expense of all repairs, reconstruction or support and protection of its franchise property made necessary by the use, operation, maintenance, repair or renewal of any property constructed or installed in the streets prior to the construction or installation therein of grantee's franchise property.

(c) The rights reserved to the City in and by this section are independent of, and in addition to, the rights of the City with respect to public improvements under Section 8 of this franchise.

SECTION 13. TERMINATION OF SERVICE.

(a) Unless otherwise authorized by ordinance, in the event of abandonment of service, grantee shall at its expense within three (3) months thereafter remove its franchise properties from streets and reconstruct the pavement and other street improvements adjacent to franchise properties so that the work will join and be contiguous with the work done in adjoining portions of the street; all of said work to be done under the supervision of and to the satisfaction of the Superintendent of Streets. Should it come to the City's attention that federal and/or state funds are available to remove abandoned tracks, City shall use reasonable diligence to obtain and apply federal and/or state funds to assist grantee in removing abandoned tracks.

(b) For the purpose of this section, failure to maintain service for a period of six (6) months shall constitute abandonment of service, except

where such failure is due to strikes, acts of God, or other causes beyond the reasonable control of grantee, or where an order or certificate of the Interstate Commerce Commission is unissued but required for abandonment.

(c) In the event grantee fails or refuses to remove its franchise properties from the streets as provided for in subsection (a) hereinabove, the City Council may declare a breach of the conditions of this franchise and grantee shall be liable and pay to the City the reasonable cost of doing the work required by said subsection (a).

SECTION 14. CITY'S RIGHT TO INSPECT PROPERTY AND RECORDS.

(a) At all reasonable times and upon reasonable notice, grantee shall permit the City Manager, or any person designated by him, to examine all property of grantee constructed, installed, maintained, or operated pursuant to this franchise, together with any appurtenant property of grantee.

(b) Grantee shall at the request of the City Manager furnish the City Manager, at its expense within thirty (30) days, available reports with respect to its operations, affairs, transactions, property and financial conditions as may be reasonably necessary or appropriate to the performance of any of the duties of the City Manager with relation to this franchise.

SECTION 15. INSURANCE AND INDEMNIFICATION OF CITY.

(a) Insurance. The grantee shall take all reasonable steps and make its best efforts to maintain during the duration of the franchise insurance, self-insurance, or a combination of self-insurance and insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Grantee's operations under the franchise. Coverage shall be as follows:

(1) Comprehensive General Liability Policy with the Broad Form Endorsement or Commercial General Liability Policy. The minimum limits shall be \$5 million in combined single limits per occurrence for bodily injury, personal injury and property damage.

(2) Commercial Automobile Liability Policy endorsed with Code 1 "any auto". The minimum limits shall be \$5 million in combined single limits per accident for bodily injury and property damage.

The policies shall be endorsed to contain the following provisions:

(1) The City of Modesto, its officers, agents, employees and volunteers are to be covered as additional insureds as respects: liability arising out of operations performed by grantee under this franchise; except for liability arising out of the sole negligence of the City of Modesto, its officers, agents, employees, and volunteers.

(2) The grantee's insurance coverage shall be primary insurance as respects the City, its officers, agents, employees and volunteers. Any insurance, self-insurance or loss pools in which the City participates shall be excess of the grantee's insurance, and shall not contribute with grantee's insurance.

(b) Indemnification. The grantee does hereby indemnify, defend, save and hold harmless the City of Modesto and its officers, agents, employees, and volunteers from any and all liability for damages, costs, or expenses in law or equity that may at anytime proximately result from any operations by grantee under this franchise which may be occasioned by any willful or negligent act or omission of the grantee, its officers, agents, employees or volunteers or any subcontractor.

SECTION 16. FORFEITURE. If grantee shall fail, neglect or refuse to comply with any of the terms or conditions of this grant, and if such failure, neglect or refusal shall continue for more than sixty (60) days after written demand by the City, or its City Manager, for compliance therewith, then, and in that event the City, by its legislative body, in addition to all rights and remedies, allowed by this franchise or by law, may thereupon declare a forfeiture of the franchise, right and privilege granted by this ordinance. Upon any such forfeiture, all the franchise rights and privileges of grantee granted hereby shall thereupon be at an end.

No provision herein made for the purpose of securing the enforcement of the terms and conditions of this franchise shall be deemed an exclusive remedy or to afford the exclusive procedure for the enforcement of said terms and conditions, but the remedies and procedure outlined herein or provided, including forfeiture, shall be deemed to be cumulative.

SECTION 17. TRANSFER OF FRANCHISE RIGHT. No transfer, assignment or lease, or attempted transfer, assignment or lease, of this franchise, in whole or in part, or of any right, privilege or interest therein to any person, firm or corporation shall have any force, effect or validity without the express consent of the City given by ordinance, provided, however, that nothing herein shall be construed to prevent grantee from including this franchise in a mortgage or deed of trust without such express consent.

SECTION 18. DELIVERY OF NOTICE.

(a) Any written notice herein required to be given by City, or any of its officers or agents, to grantee shall be delivered in person or sent by registered mail to the Vice-President of grantee at 1416 Dodge Street, Omaha, Nebraska 68179.

(b) Any written notice herein required to be given by grantee to the City, or any of its officers or agents, shall be delivered in person to the individual for whom it is intended, or to the City Manager of the City, or sent by registered mail to the City Manager of the City.

SECTION 19. ACCEPTANCE OF FRANCHISE. Grantee shall within thirty (30) days after the effective date of this ordinance file with the City Clerk a written instrument satisfactory to the City Attorney accepting the terms and conditions hereof, and at the same time pay to the City the amounts referred to in Section 20. If grantee shall fail to file its acceptance with the City Clerk and to make said payment to City within the aforesaid time, the franchise hereby granted shall be ipso facto void.

SECTION 20. CONSIDERATION FOR FRANCHISE. As consideration for the granting of this franchise, grantee shall pay to the City the amounts described in subsections (a) and (b) and as modified by subsection (c). All amounts are per track foot, or fraction thereof, per year, for the portion of all tracks in street areas as measured along the center line of each track described in Section 3.

(a) Arrears. This franchise is retroactive to January 13, 1986. From that date through October 21, 1987 the grantee shall pay a fee at the rate of fifty cents (50¢) per track foot per year. For the period from October 22, 1987 through January 12, 1989 the grantee shall pay a fee at the rate of Two and no/100ths (\$2.00) Dollars per year per track foot.

(b) Annual Consideration. Grantee shall pay to the City annually on the 13th day of January, 1989 and annually thereafter an amount equivalent to the sum of Two and no/100ths (\$2.00) Dollars per track foot, or fraction thereof.

(c) Periodic Adjustment of Consideration. The annual consideration provided for herein shall be subject to adjustment every two (2) years. The first such adjustment shall be effective on June 14, 1989; subsequent adjustments shall become effective on June 14 of 1991, 1993, 1995, 1997, 1999, 2001, 2003, and 2005 (herein called "adjustment date").

The basis for computing the adjustment shall be the then current Consumer Price Index for all urban wage earners and clerical workers for San Francisco-Oakland, published by the United States Department of Labor, Bureau of Labor Statistics, in comparison with the Index in effect at the time of the adjustment date two years prior. The first adjustment shall be based on CPIs in effect on June 14, 1987 and June 14, 1989. In no event shall the minimum annual consideration be less than the \$2.00 per track foot as established herein.

If the Index is discontinued or revised during the term of this franchise, such other government Index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

(d) Adequate Consideration. The foregoing payments and the agreements and obligations of grantee hereunder are deemed by the City Council to be an adequate consideration for the privilege hereby granted.

SECTION 21. 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 22. 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 25 day of October, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto for
STAN T. YAMAMOTO, City Attorney

Ord. No. 2618-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 November, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None


ABSENT: Councilmembers: None

APPROVED



MAYOR CAROL G. WHITESIDE

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 30, 1988

ORDINANCE NO. 2619 -C.S.

AN ORDINANCE ADDING CHAPTER 10 ENTITLED "MODESTO LANDMARK PRESERVATION" TO TITLE IX OF THE MODESTO MUNICIPAL CODE AND ADDING SECTION 4-4.305 TO CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO LANDMARK PRESERVATION APPROVAL.

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

SECTION 1. AMENDMENT OF CODE. Chapter 10 entitled "Modesto Landmark Preservation" is hereby added to Title IX of the Modesto Municipal Code to read as follows:

CHAPTER 10 - MODESTO LANDMARK PRESERVATION

SEC. 9-10.01. PUBLIC POLICY AND PURPOSE

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of structures, natural features, sites and areas within the City of Modesto having historic, architectural, archeological, cultural, engineering or aesthetics significance is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this ordinance is to:

- (a) Safeguard the heritage of the City by providing for the protection of Landmarks representing significant elements of its history;
- (b) Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles on or adjacent to Landmark Preservation sites reflecting unique and established architectural traditions;
- (c) Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
- (d) Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;
- (e) Stabilize and improve property values within the City;
- (f) Promote the private and public use of Landmarks and Landmark Sites for the education, prosperity and general welfare of the people.

SEC. 9-10.02. DEFINITIONS

For purposes of this ordinance, the following words or phrases shall have the meanings respectively ascribed to them by this section:

(a) Significance

The quality of the information, example, interest or meaning represented by the site for understanding and appreciating the past, development or culture.

(b) Historic Significance

Associated with activities, processes, events, trends or persons of importance to the community, state or nation.

(c) Architectural Significance

Possessing distinctive characteristics of a style, place, period, method or materials of construction, builder or architect.

(d) Cultural Significance

A significant setting of man-made or natural features (including significant trees or other plant life located thereon), or a combination, possessing meaning primarily by long association or identification with the community and/or its citizens.

(e) Archaeological Significance

A setting possessing the potential to reveal information important to historic or prehistoric studies.

(f) Engineering Significance

A work demonstrating a technology, design or method characteristic of a historic period or activity.

(g) Modesto Landmark Preservation Site

An area, district, building, structure or object, which has been designated for preservation for reasons of its significance by the City Council.

SEC. 9-10.03. MODESTO LANDMARK PRESERVATION COMMISSION ESTABLISHED

- (a) This ordinance establishes the Modesto Landmark Preservation Commission with the following responsibilities:

- (1) To promote public recognition and appreciation for Modesto Landmark Preservation Sites.
 - (2) To conduct continuing surveys and research in order to identify and classify, as to their relative importance, properties which have historic, architectural, archaeological, engineering or cultural significance to the community.
 - (3) To recommend properties which meet the criteria of significance stated herein for designation as Modesto Landmark Preservation Sites.
 - (4) To protect Modesto Landmark Preservation Sites by public review of all proposed alterations, relocations, demolitions or new construction within designated site boundaries.
 - (5) To advise property owners and educate the public in appropriate maintenance, rehabilitation or restoration methods. To encourage continued uses, compatible with their character, of Modesto Landmark Preservation Sites.
- (b) The Modesto Landmark Preservation Commission, hereinafter the "Commission," shall consist of five or seven voting members appointed by the Modesto City Council in conformance with Section 1102 of the Charter of the City of Modesto. All said members shall be registered voters residing in the City of Modesto. The said voting members should be selected from the following if possible:
- (1) At least one member should be an architect, or if an architect should not be available, an experienced person of the building trades.
 - (2) At least one member should be a professional or experienced person in the areas of history, architectural history, archaeology, planning, real estate, design, building trades, landscape architecture or law.
 - (3) At least one member should be a person with a background in finance, accounting, appraising or related fields.
 - (4) At least one member should be a member of the McHenry Museum and Historical Society.
 - (5) The other members shall be drawn from persons with a demonstrated interest and/or expertise in historic preservation.

- (6) One member should also be a member of the Modesto Culture Commission and would serve on both commissions.
- (c) The Commission, when formed, shall be organized and operated pursuant to the rules and regulations set forth in the Modesto Municipal Code for the purpose of carrying out the intent of this ordinance, which rules and regulations are not inconsistent with the laws of the City of Modesto and the State of California.
- (d) The Commission shall make an annual report by June 30, containing a statement of its activities and plans to the Mayor, the City Council and the City Manager.
- (e) The Commission shall meet monthly to initiate surveys and nominations of properties, to review potential Modesto Landmark Preservation Sites, to make recommendations of properties to City Council for designation, and to prepare the Commission's annual report.

In addition, the Commission will meet at its earliest convenience, when called by the Chairman, to review such building permits or applications as are referred to it by the City Chief Building Official or Director of Planning and Community Development. The City Chief Building Official or Director of Planning and Community Development shall refer to the Commission such building permits or applications on projects which they determine should be considered for preservation in accordance with the intent of this ordinance.

- (f) To accomplish the intent and purpose of this ordinance, the City of Modesto shall provide the Commission with adequate staff support and supplies, including the assistance designated by the City Manager to perform the duties prescribed under this ordinance.

SEC. 9-10.04. DESIGNATION OF MODESTO LANDMARK PRESERVATION SITES

- (a) The Commission shall conduct a continuing survey of properties and shall provide procedures for citizens to nominate properties for consideration as Modesto Landmark Preservation Sites. The Commission shall conduct research and documentation of properties which it has reason to believe are significant to the community.
- (b) The Commission shall recommend sites to the City Council for designation as Modesto Landmark Preservation Sites. In order to be recommended for designation, the Commission must determine that the site being considered possesses historic, architectural, cultural, archaeological or engineering

significance as defined above. Furthermore, in making its recommendation, the Commission shall consider the following conditions:

- (1) That the location and setting is compatible with future preservation and use.
 - (2) That the physical condition is such that preservation maintenance or adaptive use is economically feasible.
 - (3) That the distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
 - (4) That the existing or proposed use is compatible with the preservation and maintenance of the site.
- (c) The eligibility of a site for designation as a Modesto Landmark Preservation Site shall be determined by the Modesto Landmark Preservation Commission in a public hearing. The Modesto Landmark Preservation Commission shall adopt a resolution of recommendation for each site or for a district. Notice of the public hearing shall be as follows:
- (1) A public notice of the hearing shall be prepared which identifies the hearing body, describes the location of the property, describes the significance of the site, and the date, the time and place of the hearing. The notice shall be distributed as follows:
 - (aa) Mailing of a notice to the owner or authorized agent of the property owner and the project applicant. Mailing of a notice to every property owner as shown on the updated equalized assessment role of the County of Stanislaus, who owns property any part of which is within three hundred (300) feet of the subject property. Mailing of a notice to the elementary and high school districts serving the area. The notice shall be deposited in the United States mail not less than ten (10) days prior to the hearing.
 - (ab) Additional means of distribution may be used at the discretion of the secretary or city clerk. Additional means of distribution may include mailing of notices not otherwise required or posting notices in the immediate area of the property.
- (d) The Commission shall forward its recommendations, together with its findings of significance and eligibility to the City Council.

The City Council, upon recommendation of the Commission may, by resolution, designate a Modesto Landmark Preservation Site, and an appropriate presentation and/or identifying plaque may be provided for. Prior to such designation, the City Council shall hold a public hearing pursuant to the same notice provisions as required for the Landmark Preservation Commission meeting in accordance with the Modesto Municipal Code.

- (e) The Modesto Landmark Preservation Sites shall be recorded as follows:
 - (1) The office of the City Clerk shall record with the Stanislaus County recorder the legal description of all buildings, lands, sites or areas designated as Modesto Landmark Preservation Sites by the Council, and shall send a copy to the Chief Building Official. In addition, the same may be made available to the public in form and fashion as the Commission or City Council deems appropriate.
 - (2) Modesto Landmark Preservation records.
 - (aa) The Commission shall keep current and public a list of all properties designated as Modesto Landmark Preservation Sites, or included in the State or National Register of Historic Places and make the same available to the public in form and fashion as the Commission or City Council deems appropriate.
 - (ab) The Commission will provide the Chief Building Official and the Director of Planning and Community Development with current lists and maps showing Modesto Landmark Preservation Sites and Districts for their use in referring applications to the Commission.

SEC. 9-10.05. ADDITIONAL POWERS AND DUTIES OF THE COMMISSION

The Commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

- (a) The Commission shall request, as needed, the Planning Commission, the Board of Zoning Adjustment, various City departments or the City Council to adopt measures required or appropriate for the preservation, protection or maintenance of Modesto Landmark Preservation Sites including but not limited to variances or amendments to the zoning code, rules governing construction, demolition, alteration or use, or the removal or repair of blighting influence incompatible with the physical well-being of designated properties.

- (b) The Commission shall have the authority to provide general preservation plans and guidelines to owners of Modesto Landmark Preservation Sites regarding maintenance, restoration, and rehabilitation.
- (c) The Commission shall have the authority to promote public recognition and appreciation for Modesto Landmark Preservation Sites. It shall periodically publish a register of designated and potential Modesto Landmark Preservation Sites and Districts, along with guidelines and preservation programs available at that time.
- (d) The Commission shall have the authority to initiate solicitation of gifts and contributions to be made to the City to support the activities and purposes of the Commission. The Commission shall assist the City staff in the preparation of applications for grant funds made by the City for the purpose of City Landmark Preservation.

SEC. 9-10.06. REVIEW OF PERMITS

- (a) The Chief Building Official or the Planning and Community Development Director shall immediately refer applications for rezonings, variances, plot plan approvals and tentative or parcel map approvals, or applications for building permits for proposed alterations, relocations, demolition or new construction within the boundaries of designated Modesto Landmark Preservation Sites of the City of Modesto to the Modesto Landmark Preservation Commission for their review and written approval or disapproval. Alteration includes but is not limited to remodeling, repair, signs or fences that will change the exterior appearance. Demolition may include the whole or any part of a building.
- (b) Every application for approval in relation to property designated as a Modesto Landmark Preservation Site shall be accompanied by plans, photographs, specifications or a written description fully describing the proposed work which shall be provided to the Modesto Landmark Preservation Commission.
- (c) Permits for these applications shall not be issued until receiving written approval from the Modesto Landmark Preservation Commission, subject however, to paragraphs (g), (h), and (j) of this Section.
- (d) At its next regular meeting the Modesto Landmark Preservation Commission may consider the application to determine if the work adversely affects the preservation and architectural character of the Modesto Landmark Preservation Site.

- (1) The Modesto Landmark Preservation Commission shall conduct a public hearing for the purpose of receiving the recommendations from concerned citizens and the applicant. Notice of the public hearing shall be as follows:
 - (aa) A public notice of the hearing shall be prepared which at a minimum identified the hearing body, describes the location of the property, nature of the historical designation, and the date, the time and place of the hearing. The notice shall be distributed as follows:
 - (i) Mailing of a notice to the owner or authorized agent of the property owner and the project applicant. Mailing of a notice to every property owner as shown on the updated equalized assessment role of the County of Stanislaus, who owns property, any part of which is within three hundred (300) feet of the property involved. Mailing of a notice to the elementary and high school districts serving the area. The notice shall be deposited in the United States mail not less than ten (10) days prior to the hearing.
 - (ii) Additional means of distribution may be used at the discretion of the secretary or city clerk. Additional means of distribution may include mailing of notices not otherwise required or posting notices in the immediate area of the property.
- (2) If it is determined that the work to be performed does not adversely affect the site, the application shall be approved and the Chief Building Official or Director of Planning and Community Development informed in writing within ten (10) working days of the Commission's action.
- (3) If it is determined that the work to be performed does adversely affect the site or district, the application shall be disapproved and the Chief Building Official or Director of Planning and Community Development informed in writing within ten (10) working days of the Commission's action. The Commission shall furnish the permit applicant with a copy of the decision together with recommendations for changes necessary before the Commission will reconsider the permit application.

(e) When reviewing an application as described under paragraph (d) of this Section, the Commission shall consider the following criteria to decide whether the work affects the Modesto Landmark Preservation Site in the following cases:

(1) Proposed Alteration or Addition to an Existing Building, Structure or Site

The Commission will consider whether or not the work will adversely impair the significance or character of the Modesto Landmark Preservation Site. The Commission's written findings shall refer to the following criteria:

(aa) The distinguishing original qualities, character or appearance shall not be destroyed. The removal or alteration of historic or original material, or distinctive architectural features shall be avoided. In the event that removal or alteration of historic or original material is determined to be necessary, the work shall be done in such a way as to minimize the adverse effect.

(ab) Deteriorated architectural features shall be repaired rather than replaced. In the event that replacement is determined to be necessary, the replacement shall be an accurate duplication of the design, color, texture and other visual qualities of the original, substantiated by historic, physical or pictorial evidence rather than on conjecture.

(ac) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting, other cleaning methods, sealants, coating and paints shall not damage or appreciably change the material, color and texture of original surfaces.

(ad) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy original, historic, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(ae) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(2) Proposed Demolition or Removal of a Building or Structure

The Commission will consider whether or not the demolition or removal is necessary, and its effect on the surrounding buildings and neighborhood. The Commission's written finding shall refer to the following criteria:

- (aa) Consideration shall be given to the significance or architectural merit of the building itself, and the contribution the building makes to the historic or architectural character of the neighborhood or district.
- (ab) Consideration will be given to the economic value, usefulness and replacement cost of the building as it now stands and as remodeled or rehabilitated, in comparison to the value or usefulness of any proposed structures designated to replace the present building or buildings.
- (ac) Consideration will be given to the present structural integrity of the building to determine whether or not it constitutes a clear and present danger to the life and safety of the public. The Commission may contract for a professional estimate of the structural integrity and an estimate of the cost of correcting dangerous deficiencies, with Council approval.
- (ad) Consideration will be given to the effect of demolition and of proposed new construction on the adjacent buildings and on the architectural and historic character of the neighborhood or district.

(3) Proposed New Construction or Relocation.

The Commission will consider the effect of the work on the historic and architectural character of the surrounding buildings and neighborhood. The Commission's written findings shall refer to the following criteria:

- (aa) Contemporary design for new construction shall not be discouraged, but should be compatible with scale, color, texture, materials and other visual qualities of the surrounding buildings and neighborhood.
- (ab) The new building should be compatible with the height, width, depth, massing and setback of the surrounding buildings.

- (ac) The amount of solid wall to window and door openings, and the placement of window and door openings, should be proportional to that of the surrounding buildings and neighborhood.
- (f) The recommendations of the Commission will be consistent with the California State Historical Building Code and to the extent that a recommendation is inconsistent the standards of the California State Historical Building Code shall prevail.
- (g) If within 45 days from the filing of application, the Commission has neither approved or denied the building permit application, the plans and permit application shall be deemed to have been approved by the Commission, and if all other requirements of the City have been met, the appropriate department head shall authorize a permit for the proposed work. By vote of the Commission and notification of the department head, the 45 day period may be extended by 15 days in cases where professional study or recommendation is required and the 45 day period is not sufficient to do the work. No permit shall be issued or work commenced in the event the Commission disapproves the application in accordance with this ordinance.
- (h) In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the Chief Building Official may approve temporary or limited repair without prior Modesto Landmark Preservation Commission action. In the case of a permit issued pursuant to this paragraph, the Chief Building Official shall immediately notify the Modesto Landmark Preservation Commission of its action and specify the facts or conditions constituting the emergency situation.
- (i) If the approval of any board or commission other than the City Council alters, amends or modifies any condition of approval established by the Landmark Preservation Commission, that board or commission shall notify the Landmark Preservation Commission of the change and the reasons for the change within five (5) days of that approval.
- (j) The permit applicant or any party aggrieved by the decision of the Modesto Landmark Preservation Commission shall, within fifteen (15) days of the date of the Modesto Landmark Preservation Commission's order and decision, have a right to appeal such order and decision to the City Council. The appeal shall be made by delivering to the City Clerk two copies of a Notice of Appeal and statement of reasons setting forth the grounds for the appeal. The City Clerk shall transmit one copy of the Notice of Appeal and statement to the City Council and one copy to the Modesto Landmark Preservation Commission. The

Modesto Landmark Preservation Commission, in any written order denying a permit application, shall advise the applicant of this right to appeal to the City Council and include this paragraph in all such orders.

SEC. 9-10.07. PENALTY FOR VIOLATION

In addition to any and all remedies which the City may be entitled to by way of obtaining temporary restraining orders, preliminary injunctions and permanent injunctions in connection with the enforcement of this ordinance, an owner or occupant of any area, place, building, structure or other object within a duly designated Modesto Landmark Preservation Site who violates the provision of this ordinance shall be guilty of an infraction. Any architect, builder, contractor, agent, person or corporation who assists in the commission of a violation of this ordinance shall be guilty of an infraction. For each day an owner or occupant of any area, place, building, structure or other object within a duly designated Modesto Landmark Preservation Site allows any work to be performed on any area, place, building, structure or other object in violation of this ordinance, it shall constitute a separate violation and separate infraction, and shall be punishable as such. A Modesto Landmark Preservation Site on which there exists any remodeling, repairing, construction, demolition, or a building moved in violation of this ordinance, is hereby declared a nuisance, and the imposition of the penalties herein prescribed shall not prevent the City of Modesto from instituting an appropriate action or proceeding to prevent an unlawful remodeling, repair, construction, building, building moving or demolition, or to restrain, correct or abate a violation.

SEC. 9-10.08. REPOSITORY FOR DOCUMENTS

A separate file shall be kept by the Secretary to the Commission which shall be the repository for at least one copy of all Commission minutes, forms, studies, reports, recommendations and correspondence. All minutes and records will be available for public inspection during normal business hours.

SECTION 2. AMENDMENT OF CODE. Section 4-4.305 is hereby added to Chapter 4 of Title IV of the Modesto Municipal Code to read as follows:

SEC. 4-4.305. LANDMARK PRESERVATION APPROVAL.

Applications for tentative or parcel map approval which include property designated as a Landmark Preservation Site will be deemed complete only when proof of project approval by the Landmark Preservation Commission has been submitted with the application.

SECTION 3. SEVERABILITY. In case any section of this ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this ordinance shall continue in full force and effect.

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.

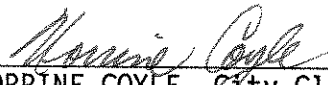
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 8 day of November, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

- AYES: Councilmembers: Irizarry, Lang, Muratore, Sutton, Mayor Whiteside
- NOES: Councilmembers: McGrath, Patterson
- ABSENT: Councilmembers: None

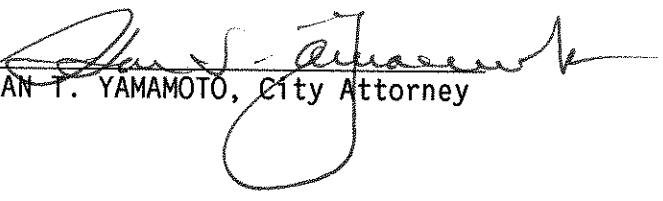
APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2619-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 15th day of November, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Sutton, Whiteside

NOES: Councilmembers: McGrath, Patterson

ABSENT: Councilmembers: Muratore

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 15, 1988

ORDINANCE NO. 2620 -C.S.

AN ORDINANCE AMENDING SECTION 8 OF ORDINANCE NO. 2293-C.S. ENTITLED "AN ORDINANCE GRANTING TO CAPITAL CITIES CABLE, INC., A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE COMMUNICATION SYSTEM WITHIN THE CITY OF MODESTO" TO EXTEND THE TIME PERIOD THAT FRANCHISE FEE PAYMENTS ARE DUE AFTER THE END OF EACH QUARTER.

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

SECTION 1. AMENDMENT OF ORDINANCE NO. 2293-C.S. Section 8 of Ordinance No. 2293-C.S. is hereby amended to read as follows:

SECTION 8. FRANCHISE FEE.

As consideration for the granting of this franchise with its rights and privileges, Grantee shall pay to the City of Modesto a sum equal to three percent (3%) of the gross system receipts of Grantee, in accordance with the provisions of Chapter 4 of Title XI of the Modesto Municipal Code, as amended by Ordinance No. 2292-C.S. Grantee shall report gross system receipts on either the accrual or cash receipts basis of accounting.

Franchise fee payments shall be made within thirty (30) days after the end of each calendar quarter. The quarterly payments shall be equal to one-fourth (1/4) the previous year's total fees with an adjusted final quarter payment.

Grantee shall file with the City Manager within ninety (90) days after the expiration of Grantee's fiscal year or portion thereof during which such franchise is in force, financial statements prepared in accordance with generally accepted accounting principles and in sufficient detail so as to disclose basic items of revenue and expense. At a minimum, revenue detail will reflect income for the following categories from the City of Modesto and from all other jurisdictions served by the system: basic subscriber services, premium subscriber services, other (advertising, leasing, etc.). At a minimum, expense detail will reflect the following: direct operating costs, general, selling and administrative costs, interest and depreciation. The income statement should also reflect the net after tax income for the period covered.

In addition, if Grantee reports gross system receipts on the cash receipts basis of accounting, Grantee will provide a reconciliation of such gross system receipts reported on the cash receipts basis of accounting to the revenue from the City

of Modesto as reported in the annual financial statements. At a minimum, the reconciliation will include the following revenue categories: basic subscriber services, premium subscriber services, and other (advertising, leasing, etc.).

For the initial year during which the franchise is effective and for every fourth year thereafter, the financial statements provided must be certified by an independent certified public accountant.

A delinquency charge of one and one-half (1.5) percent per month on the unpaid balance may be collected by the City on any franchise fee payments overdue by ten (10) days or more.

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 8 day of November, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2620-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 15th day of November, 1988, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton, Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 15, 1988

ORDINANCE NO. 2621-C.S.

AN ORDINANCE AMENDING SUBPARAGRAPHS (a) AND (o) OF SECTION 2 OF ORDINANCE NO. 2118-C.S. ENTITLED "AN ORDINANCE GRANTING TO GILTON SOLID WASTE MANAGEMENT, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO", AS AMENDED BY ORDINANCE NO. 2381-C.S., TO PROVIDE FOR AUTOMATED COLLECTION CONTAINERS FOR HOUSEHOLD GARBAGE AND GARDEN REFUSE, AND REPEALING ORDINANCES NO. 1417-C.S. AND 2381-C.S.

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

SECTION 1. This ordinance is enacted pursuant to the authority provided in, and all of the provisions, terms and conditions of Article XIV of the Charter of the City of Modesto and Chapter 5 of Title V of the Modesto Municipal Code.

"(a) This license shall be for a term of eight (8) calendar years commencing on January 1, 1989. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may make application to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provision of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

(o) The licensee shall furnish to all residential customers, a standard sixty (60) gallon or ninety (90) gallon automated collection container for the containerization of household garbage and garden refuse. The licensee shall be responsible for the general repair and upkeep of all the standard automated collection containers furnished to the residential customers. Containers shall be kept in serviceable condition at all times.

The Licensee shall have approved detachable containers for apartment, commercial, business and industrial services on a rental basis. The Licensee shall be responsible for the general repair and upkeep of all detachable containers. Containers shall be kept in serviceable condition at all times. The Licensee shall provide detachable container cleaning service at a rate approved by the Director of Utility Services.

Detachables containers shall be of metal and shall be so constructed that no liquid can leak from said containers. However, containers made of materials other than metal may be proposed by the Licensee for the approval of the Director of Utility Services during the term of this license. No materials may be substituted without prior approval."

SECTION 2. SUPERSEDES AND REPEALS. This ordinance supersedes and repeals Ordinances No. 1417-C.S. and 2381-C.S.

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; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

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 8th day of November, 1988, by Councilmember Muratore who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and order printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2621-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 November, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 22, 1988

Clerk

ORDINANCE NO. 2622 -C.S.

AN ORDINANCE AMENDING SECTION MAP 8-4-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, AND HIGHWAY COMMERCIAL ZONE, C-3, TO PLANNED DEVELOPMENT ZONE, P-D(457), PROPERTY LOCATED ON THE SOUTH SIDE OF ALGEN AVENUE WEST OF CROWS LANDING ROAD (NIGHTINGALE DEVELOPMENT COMPANY).

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

SECTION 1. ZONING CHANGE. Section 8-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, and Highway Commercial Zone, C-3, to Planned Development Zone, P-D(457):

R-2 to P-D

All that certain real property situate in the southeast quarter of Section 8, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, California, described as follows:

BEGINNING at the southeast corner of Parcel 3 as shown on the map filed in Book 30 of Parcel Maps, at page 84, Stanislaus County Records; thence North 0°02'00" East on the east line of said Parcel 3, a distance of 120.00 feet to the present south line of 60 foot wide Algen Avenue; thence continuing on said east line North 0°06'24" East, 30.00 feet to the centerline of said Algen Avenue; thence South 89°19'05" East on the centerline of Algen Avenue 228.70 feet; thence South 0°02'00" West, 150.00 feet to the south line of the northeast quarter of the southeast quarter of said Section 8; thence North 89°19'05" West, on said south line 228.74 feet to the point of beginning of this description.

C-3 to P-D

Commencing at the southeast corner of Parcel 3 as shown on the map filed in Book 30 of Parcel Maps at Page 84, Stanislaus County Records, said point being on the south line of the northeast quarter of the southeast quarter of said Section 8; thence South 89°19'05" East on said south line 228.74 feet to the POINT OF BEGINNING; thence North 0°02'00" East, parallel with the east line of said Parcel 3, a distance of 150.00 feet to the centerline of present 60 foot wide Algen Avenue; thence South 89°19'05" East, on said centerline 131.26 feet; thence South 0°02'00" West, 150.00 feet to the south line of the northeast quarter of the southeast quarter of said Section 8; thence North 89°19'05" West, on said south line 131.26 feet to the point of beginning of this description.

SECTION 2. USES. The following uses shall be permitted in said P-D(457) 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:

One-story single-family homes meeting the siting standards of the R-1 zone.

SECTION 3. ZONING MAP. Section Map 8-4-9 of the Zoning Map of the City of Modesto is 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 15 day of November, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Muratore

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William P. ...
Department of Planning and
Community Development

Ord. No. 2622-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 November, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 22, 1988

Clerk

ORDINANCE NO. 2623 -C.S.

AN ORDINANCE AMENDING SECTION MAP 24-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (KEN DOWDY)

WHEREAS, a verified application for an amendment to Section 24-3-9 of the Zoning Map was filed by Mid-Valley Engineering on behalf of property owner Ken Dowdy on August 16, 1988, to reclassify from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, the hereinafter described property, and

WHEREAS, after public hearing held on October 24, 1988, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 88-113, adopted on October 24, 1988, the Planning Commission recommended to the Council that the application of Mid-Valley Engineering on behalf of property owner Ken Dowdy to amend Section 24-3-9 of the Zoning Map to reclassify the hereinafter described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. COUNCIL FINDINGS. After a public hearing held on November 15, 1988, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, 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 following reasons:

1. That the proposed zone change is in accordance with community objectives as set forth in the General Plan.
2. That the proposed R-2 zone will yield similar density with the residential uses to the south.
3. That a Negative Declaration recommended by the Environmental Assessment Committee in the initial study dated September 28, 1988, should be certified.

SECTION 2. ZONING CHANGE. Section 24-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2:

R-1 to R-2

All that certain real property situate in a portion of the northeast quarter of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Being all of Parcel No. 3 as shown on the map filed in Volume 12 of Parcel Maps, at Page 91, recorded on October 18, 1971, Stanislaus County Records.

Including also the northern 30.00 feet of 60.00 foot wide East Orangeburg Avenue located immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 24-3-9 of the Zoning Map of the City of Modesto is 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 15 day of November, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: Muratore

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William Richards
Department of Planning and Community
Development

Ord. No. 2623-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 November, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 22, 1988

ORDINANCE NO. 2624-C.S.

AN ORDINANCE AMENDING SECTION MAP 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, HIGHWAY COMMERCIAL ZONE, C-3, AND PLANNED DEVELOPMENT ZONE, P-D(164), TO PLANNED DEVELOPMENT ZONE, P-D(459), PROPERTY LOCATED AT THE SOUTHEAST CORNER OF MCHENRY AVENUE AND SYLVAN AVENUE (ARNOLD-PACIFIC PROPERTIES)

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

SECTION 1. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, Highway Commercial Zone, C-3, and Planned Development, Zone P-D(164), to Planned Development Zone, P-D(459):

All that certain real property situate in a portion of the northwest quarter of the southeast quarter of Section 9, Township 3 south, Range 9 east, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

C-3 to P-D(459)

Beginning at quarter corner common to Sections 8 and 9, Township and Range aforesaid. Said point of beginning also being the point of intersection of 110.00 foot wide McHenry Avenue and 100.00 foot wide Sylvan Avenue; thence easterly along said centerline of Sylvan Avenue also being the East, West quarter section line through said Section 9, a distance of 398.50 feet; thence southerly 137.00 feet; thence easterly 20.60 feet, thence southerly 198.00 feet. Thence westerly 19.1 feet; thence southerly 198.00 feet; thence westerly 400.00 feet to the west section line of said Section 9 and centerline of said McHenry Avenue; thence northerly 532.60 feet to the point of beginning.

P-D(164) to P-D(459)

Beginning at quarter corner common to Sections 8 and 9, Township and Range aforesaid. Said point of beginning also being the point of intersection of 110.00 foot wide McHenry Avenue and 100.00 foot wide Sylvan Avenue; thence easterly along said centerline of Sylvan Avenue also being the East, West quarter section line through said Section 9, a distance of 398.50 feet to the true point of beginning of the description; thence continuing along said centerline easterly 65.00 feet; thence leaving said centerline southerly 137.00 feet;

thence easterly 135.00 feet; thence northerly 137.00 feet to the centerline of said Sylvan Avenue; thence easterly along said centerline 61.50 feet to the northerly prolongation of the west line of a 14.00 foot wide alley; thence southerly along said west alley line prolongation and west alley line 533.00 feet; thence leaving said west alley line westerly 260.00 feet; thence northerly 198.00 feet; thence easterly 19.10 feet; thence northerly 198.00 feet; thence westerly 20.60 feet; thence northerly 137.00 feet to the point of beginning.

R-1 to P-D(459)

Beginning at quarter corner common to Sections 8 and 9, Township and Range aforesaid. Said point of beginning also being the point of intersection of 110.00 foot wide McHenry Avenue and 100.00 foot wide Sylvan Avenue; thence easterly along said centerline of Sylvan Avenue also being the East, West quarter section line through said Section 9, a distance of 463.50 feet to the true point of beginning of this description; thence leaving said centerline south 137.00 feet; thence easterly 90.00 feet; thence northerly 137.00 feet to the centerline of said Sylvan Avenue; thence westerly 90.00 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(459) 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:

Commercial Development containing all C-3 Zone uses.

SECTION 3. ZONING MAP. Section Map 9-3-9 of the Zoning Map of the City of Modesto is 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 resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 1988, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:


AYES: Councilmembers: Lang, Muratore, Sutton, Mayor Whiteside

NOES: Councilmembers: Irizarry, McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

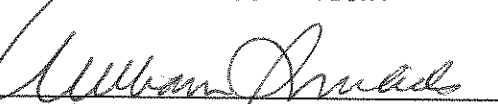
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Department of Planning and
Community Development

Ord. No. 2624-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 13th day of December, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Sutton, Mayor Whiteside

NOES: Councilmembers: Irizarry, McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 12, 1988

ORDINANCE NO. 2625 -C.S.

AN ORDINANCE AMENDING SECTION MAP 10-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(406), TO PLANNED DEVELOPMENT ZONE, P-D(458), PROPERTY LOCATED ON THE NORTHEAST CORNER OF COFFEE ROAD AND PRINCEWOOD LANE, SOUTH OF SYLVAN AVENUE (ROBERT M. WEEKS)

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

SECTION 1. ZONING CHANGE. Section 10-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(406), to Planned Development Zone, P-D(458):

P-D(406) to P-D

All that certain real property shown as Parcel B on the map filed in Book 40 of Parcel Maps, at page 98, Stanislaus County Records, and lying in the Southwest quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, California.

Including also the east 50.00 feet of Coffee Road, north 30.00 feet of Princewood Lane, and West 30.00 feet of Kingswood Drive, and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(458) 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. Two- and three-story residential condominium units.
2. Off-street parking as shown on the approved development plan.

SECTION 3. ZONING MAP. Section Map 10-3-9 of the Zoning Map of the City of Modesto is 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 13 day of December, 1988, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

APPROVED AS TO DESCRIPTION:

By William J. Dribble
Department of Planning and Community
Development

Ord. No. 2625-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 20th day of December, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 19, 1988

ORDINANCE NO. 2626 -C.S.

AN ORDINANCE AMENDING SECTIONS 3-2.1401 AND 3-2.1401.1 OF ARTICLE 14 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO SPEED LIMITS IN THE CITY OF MODESTO.

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

SECTION 1. AMENDMENT OF CODE. Sections 3-2.1401 and 3-2.1401.1 of Article 14 of Chapter 2 of Title III of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 3-2.1401. CHANGE IN SPEED LIMITS SET BY STATE LAW.

Pursuant to authority contained in the California Vehicle Code Sections 22357 and 22358, it is hereby determined upon the basis of an engineering and traffic survey that the prima facie speed limits hereinafter set forth would facilitate the orderly movement of vehicular traffic and would be reasonable and safe, except when passing school grounds, and it is hereby determined that a speed limit greater than those hereinafter set forth would be more than is reasonable or safe. It is hereby declared that the prima facie speed limits hereinafter set forth are established according to law.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>
ALICE STREET, between Sycamore Avenue and McHenry Avenue	25 miles per hour
BLUE GUM AVENUE, between Carpenter Road and Culpepper Avenue	25 miles per hour
CARPENTER ROAD, between the Tuolumne River and Robertson Road	35 miles per hour
CENTER STREET, between Rosedale Avenue and Calaveras Avenue	25 miles per hour
CONANT AVENUE, between Sisk Road and Rumble Road	25 miles per hour
CONANT AVENUE, between Standiford Avenue and Veneman Avenue	25 miles per hour

CROWS LANDING, between 7th Street and Blankenburg Avenue; those portions within the City	35 miles per hour
CROWS LANDING, between School Avenue and Imperial Avenue; those portions within the City	35 miles per hour
CROWS LANDING, between Imperial Avenue and Whitmore; those portions within the City	45 miles per hour
DEL VALE AVENUE, between Del Vista Avenue and Glenwood Drive	25 miles per hour
EMERALD AVENUE, between Maze Boulevard and Kansas Avenue within the City limits	25 miles per hour
ENSLER AVENUE, between Granger Avenue and Orangeburg Avenue	25 miles per hour
FAIRMONT AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
GRAPE AVENUE, between Pearl Street and Evergreen Avenue	25 miles per hour
GRISWOLD AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
HADDON AVENUE, between La Loma Avenue and Conejo Avenue	25 miles per hour
HASHEM DRIVE, between Sylvan Avenue and Oakdale Road	30 miles per hour
HATCH ROAD, within the City limits	35 miles per hour
JEFFERSON STREET, between Paradise Road and 8th Street	25 miles per hour
K STREET, between Washington Street and 9th Street	25 miles per hour

LAUREL AVENUE, between Emerald Avenue and N. Martin Luther King Drive, within the City limits	35 miles per hour
LEGION PARK ROAD, between Santa Cruz Avenue and Tioga Drive	25 miles per hour
LEVELAND LANE, between College Avenue and TSRR tracks	25 miles per hour
LINCOLN OAK DRIVE, between Merle Avenue and Floyd Avenue	25 miles per hour
LUCERN AVENUE, between Johnson Street and Coffee Road	25 miles per hour
MADISON STREET, between Paradise Avenue and Laurel Avenue	25 miles per hour
MORTON BOULEVARD, between 9th Street and Downey Avenue	25 miles per hour
NEECE DRIVE, between Rouse Avenue and Sunset Avenue	25 miles per hour
N. MARTIN LUTHER KING DRIVE, between Maze Boulevard and Laurel Avenue	25 miles per hour
PARKER ROAD, between Claus Road and the Atchinson, Topeka and Santa Fe Railroad Tracks within the City Limits	50 miles per hour
PEARL STREET, between Carver Road and Dougfir Drive	25 miles per hour
RIVER ROAD, between Herndon Avenue and 1,200 feet west of Herndon Avenue	35 miles per hour
ROBLE AVENUE, between Santa Ana Avenue and Rosina Avenue	25 miles per hour
SHERWOOD AVENUE, between Orangeburg Avenue and Briggsmore Avenue	25 miles per hour
SNYDER AVENUE, between Blue Bird Drive and Dale Road	25 miles per hour

STODDARD AVENUE, between McHenry Avenue and Virginia Avenue	25 miles per hour
TIOGA DRIVE, between Conejo Avenue and Legion Park Drive	25 miles per hour
WESTERN WAY, between Sutter Avenue and Roselawn Avenue	25 miles per hour
WRIGHT STREET, between Sycamore Avenue and McHenry Avenue	25 miles per hour
7TH STREET, between Sierra Drive and the Tuolumne River	25 miles per hour
9TH STREET, between 400' north of Tully Road and P Street	35 miles per hour
9TH STREET, between D Street and north end of the Tuolumne River Bridge	30 miles per hour
9TH STREET, on the Tuolumne River Bridge	40 miles per hour

SEC. 3-2.1401.1. CHANGE IN SPEED LIMITS SET BY STATE LAW:
FOR PURPOSE OF ENFORCEMENT USING RADAR OR OTHER ELECTRONIC DEVICE.

By authority of, and upon the basis of engineering and traffic surveys conducted pursuant to Vehicle Code and the Traffic Manual of the Department of Transportation, it is determined that the prima facie speed limits which follow would facilitate the orderly movement of vehicular traffic and would be reasonable and safe.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Poust and Carpenter Roads	40 miles per hour	December 5, 1984
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, (east and westbound) between Tully Road and McHenry Avenue	45 miles per hour	October 20, 1988

BRIGGSMORE AVENUE, (westbound) between Coffee Road and McHenry Avenue	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, (east- bound) between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	June 2, 1987
BRIGGSMORE AVENUE, (eastbound), between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	45 miles per hour	October 20, 1988
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	March 2, 1988
CALIFORNIA AVENUE, between Carpenter Road and N. Martin Luther King Drive within the City limits	35 miles per hour	February 24, 1987
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	45 miles per hour	November 2, 1988
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	45 miles per hour	June 14, 1984
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	October 26, 1988
CARVER ROAD, between M.I.D. Lateral No. 6 and Brixton Lane within the City limits	40 miles per hour	March 27, 1986

CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	May 26, 1987
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	30 miles per hour	May 8, 1987
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	35 miles per hour	May 26, 1987
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
CLAUS ROAD, between M.I.D. Lateral No. 3 and 200' south of Scenic Drive	45 miles per hour	October 26, 1988
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	45 miles per hour	April 17, 1986
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	35 miles per hour	October 27, 1988
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	October 27, 1988
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	October 27, 1988
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	October 27, 1988
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	June 2, 1987
CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	March 2, 1988
DALE ROAD, between Pelandale Avenue and Snyder Avenue within the City limits	35 miles per hour	September 2, 1987
DALE ROAD, between Snyder Avenue and Veneman Avenue	35 miles per hour	September 2, 1987

DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	October 20, 1988
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	September 19, 1985
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	October 26, 1988
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	March 2, 1988
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	30 miles per hour	March 8, 1988
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	30 miles per hour	June 23, 1988
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	30 miles per hour	March 7, 1988
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	May 26, 1987
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	March 8, 1988
FLOYD AVENUE, between Oakdale Road and Roselle Avenue within the City limits	35 miles per hour	August 26, 1987
GRANGER AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 8, 1988
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	March 7, 1988
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	March 19, 1986

KANSAS AVENUE, between Emerald Avenue and Eighth Street	35 miles per hour	October 26, 1988
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	30 miles per hour	September 18, 1985
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	October 27, 1988
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	August 27, 1986
LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	August 27, 1986
LAKWOOD AVENUE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	March 7, 1988
LINCOLN AVENUE, between 650' north of M.I.D. Lateral No. 2 and Yosemite Boulevard	35 miles per hour	December 8, 1984
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	September 19, 1985
MERLE AVENUE, between Oakdale Road and Claus Road within the City limits	40 miles per hour	March 24, 1987
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	June 11, 1987
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	June 11, 1987
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	May 26, 1987
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	March 8, 1988
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	March 8, 1988

NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	March 2, 1988
NEEDHAM STREET, between 9th and and L Streets	35 miles per hour	March 2, 1988
N. MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	June 24, 1987
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue	50 miles per hour	May 29, 1984
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	50 miles per hour	June 15, 1984
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	April 21, 1988
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	April 21, 1988
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	April 11, 1985
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	35 miles per hour	March 9, 1988
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	March 31, 1988
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	March 17, 1986
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	November 19, 1984
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	December 6, 1984

PARADISE ROAD, between Vernon Avenue and N. Martin Luther King Drive within the City limits	35 miles per hour	September 24, 1984
PARADISE ROAD, between N. Martin Luther King Drive and Washington Street	30 miles per hour	May 29, 1984
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	35 miles per hour	March 9, 1988
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	October 20, 1988
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	December 8, 1984
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	35 miles per hour	September 19, 1985
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	May 26, 1987
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	May 26, 1987
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 7, 1988
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	March 7, 1988
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue within the City limits	35 miles per hour	October 31, 1985
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	June 26, 1987

RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	March 27-28, 1986
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	March 9, 1988
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	September 18, 1985
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	March 8, 1988
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive within the City limits	35 miles per hour	October 9, 1985
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	March 2, 1988
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	March 17, 1986
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	July 22, 1985
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	30 miles per hour	March 7, 1988
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	June 11, 1987
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	March 8, 1988
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	March 2, 1988
SISK ROAD, between 600' north of Vintage Drive and Standiford Avenue	40 miles per hour	December 9, 1985
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	40 miles per hour	March 28, 1986
SNYDER AVENUE, between Dale Road and Prescott Road within the City limits	35 miles per hour	September 30, 1987

SNYDER AVENUE, between Prescott Road and Carver Road within the City limits	40 miles per hour	September 30, 1987
STANDIFORD AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Prescott Road and Carver Road	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Carver Road and Tully Road	40 miles per hour	October 26, 1988
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 18, 1984
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	March 8, 1988
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	December 8, 1984
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	December 6, 1984
SUTTER AVENUE, between Paradise Road and Robertson Road within the City limits	30 miles per hour	June 24, 1987
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	October 26, 1988
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 8, 1984
SYLVAN AVENUE, between Coffee Road and Oakdale Road within the City limits	40 miles per hour	December 8, 1984

TENAYA DRIVE, between Santa Rita Avenue and South Riverside Drive within the City limits	35 miles per hour	October 9, 1985
TULLY ROAD, between M.I.D. Lateral No. 6 and Standiford Avenue	35 miles per hour	March 9, 1988
TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	June 2, 1987
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	June 24, 1987
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	June 2, 1987
VENEMAN AVENUE NORTH, between Regency Park Drive and Snyder Avenue	25 miles per hour	October 28, 1988
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	March 7, 1988
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	March 27, 1986
WOODLAND AVENUE, between Morse Road and Carpenter Road, within the City limits	35 miles per hour	October 26, 1988
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	August 28, 1986
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 9, 1988
WYLIE DRIVE, between Rose Avenue and Oakdale Road	30 miles per hour	October 26, 1988
9TH STREET, between Carpenter Road and 400' north of Tully Road within the City limits	45 miles per hour	December 2, 1986

9TH STREET, between P Street
and L Street

35 miles per hour March 19, 1986

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 13 day of December, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2626-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 20th day of December, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 19, 1989

ORDINANCE NO. 2627 -C.S.

AN ORDINANCE ADDING SECTION 1-2.09 TO CHAPTER 2 OF TITLE I OF THE MODESTO MUNICIPAL CODE RELATING TO PERMIT AND LICENSE FEES.

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

SECTION 1. AMENDMENT OF CODE. Section 1-2.09 is hereby added to Chapter 2 of Title I of the Modesto Municipal Code to read as follows:

SEC. 1-2.09. PERMIT AND LICENSE FEES.

The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for any permit or license issued pursuant to the Municipal Code of the City of Modesto.

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 13 day of December, 1988, by Councilmember Sutton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2627-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 20th day of December, 19 88, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 19, 1989

ORDINANCE NO. 2628 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.903 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS PERTAINING TO THE DEVELOPMENT OF PARKING LOTS IN THE P-O ZONE TO SERVE COMMERCIAL USES - PLOT PLAN USES BY BOARD.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.903 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.903. PLOT PLAN USES BY BOARD.

The following uses are allowed upon securing plot plan approval by the Board:

- (a) Business office (including government office, insurance sales and services, real estate sales and services, stock broker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions).
- (b) Medical and dental office or laboratory.
- (c) Pharmacy (excluding manufacture or distribution of pharmaceuticals).
- (d) Professional office (including accountant, architect, attorney, chiropractor, chiropodist, engineer, optometrist, surveyor).
- (e) For nonresidential uses, a dish-type, satellite antenna not meeting the provisions of Section 10-2.902(c) and not larger than thirteen (13) feet in diameter and not exceeding a height of thirty-five (35) feet at the highest point of the antenna.
- (f) For residential uses, a dish-type, satellite antenna, subject to the setback, size, and code requirements for a dish-type, satellite antenna as a permitted use but higher than fifteen (15) feet subject to these conditions:
 - (1) Evidence, satisfactory to the Board, that a low, ground mounting of a satellite antenna will not produce a usable satellite signal.
 - (2) The satellite antenna shall not exceed a height of thirty-five (35) feet at the highest point of the antenna.

- (3) The satellite antenna shall have rear yard or rear-of-house orientation unless these options preclude a usable satellite signal.
- (4) Evidence, satisfactory to the Board, that available technologies have been explored such as the feasibility of smaller dishes to reduce the visual mass; use of perforated metals, radar mesh, or wire screen to reduce the visual mass; and selection of a subdued flat color to minimize the visual impact.
- (g) 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.
- (h) A parking area for an immediately adjacent commercial use in a commercial zone.

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 20 day of December, 1988, by Councilmember McGrath, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2628-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 December, 1988, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: McGrath

ABSENT: Councilmembers: None

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 26, 1989

ORDINANCE NO. 2629 -C.S.

AN ORDINANCE AMENDING SECTION 7-1.701 OF ARTICLE 7 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO TRAFFIC IMPACT AND MITIGATION.

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

SECTION 1. AMENDMENT OF CODE. Section 7-1.701 of Article 7 of Chapter 1 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-1.701. STREET DEDICATION AND IMPROVEMENT.

- (a) Except as provided in subsection (c) below, no building or structure shall be constructed or enlarged, and no building permit for such shall be issued, until sufficient right-of-way as determined by the Engineering Services Director for the street(s) abutting the property has been dedicated and improved or the dedication and improvement has been insured to the satisfaction of the Engineering Services Director.
- (b) No building or structure shall be constructed or enlarged, and no building permit for such shall be issued until any traffic impact study and mitigation measures which are required pursuant to criteria adopted from time to time by City Council resolution are submitted and determined to be acceptable by the Parking, Traffic, and Transportation Director and until said mitigation measures have been installed, constructed, or bonded for to the satisfaction of the Engineering Services Director.
- (c) The dedication and/or improvement required by subsection (a) above shall be limited as follows:
 - (1) The maximum area required to be dedicated shall not exceed twenty-five (25) percent of the lot area.
 - (2) No dedication shall be required of a portion of a lot containing a main building.
 - (3) No additional improvements shall be required if complete roadway, curb, gutter, sidewalk and street lights exist within the existing right-of-way.
 - (4) For minor expansions or reconstruction in any twenty-four-month period which cumulatively add less than twenty-five (25) percent additional floor space, no additional dedication or improvement shall be required.

- (5) If the person required to make a dedication or improvement pursuant to subsection (a) can prove to the satisfaction of the Engineering Services Director that the application of subsection (a) would result in a severe hardship and the failure to obtain dedication and/or improvement would not be detrimental to the public health, safety or welfare, the Engineering Services Director may grant a waiver to either the dedication and/or improvement requirements. The waiver may be conditioned to require dedication and/or improvement at a later date.

(d) Dedication Procedure.

- (1) Any person required to dedicate land by the provisions of this section shall make an offer to dedicate in writing properly executed by all parties of interest. Such offer shall be on a form approved by the City Attorney, be in such terms as to be binding on the owner, his heirs, assigns or successors in interest; and shall continue until the City accepts or rejects such offer or until one (1) year from the date such offer is filed with the Engineering Services Director for processing, whichever occurs first. The offer shall provide that the dedication will be complete upon acceptance by the City. The offer shall be recorded by the City Clerk in the Office of the County Recorder of Stanislaus County upon its acceptance by the City Attorney and City Manager. The offer shall be promptly processed by the City Departments concerned, in order to complete the dedication within one (1) year. If the offer is rejected by the City or not processed within one (1) year, the City Clerk shall issue a release from such offer which shall be recorded in the Office of the County Recorder unless the parties making the offer wish to have the time extended.
- (2) For purposes of this section, dedication shall be considered as satisfactorily assured when the City Attorney and City Manager accept for recordation the offer to dedicate.

(e) Improvement Procedure.

- (1) Any person required to make improvements or mitigation by the provisions of this section shall complete them to the satisfaction of the Engineering Services Director or shall prior to issuance of the building permit, file a bond with the City in such an amount as the Engineering Services Director shall estimate and determine to be necessary to complete all of the improvements or mitigation required before the issuance of a certificate of occupancy by the Chief Building Official.

- (2) Such bond may be either a cash bond, savings and loan certificate or a bond executed by a company authorized to act as a surety in this State. The bond shall be payable to the City and be conditioned upon the faithful performance of any and all work required to be done, and that should such work not be done or completed within the time specified, the City may at its option, cause the same to be done or completed, and the parties executing the bond shall be firmly bound under a continuing obligation for the payment of all necessary costs and expenses incurred in the construction thereof. The bond shall be executed by the owner of the lot as principal, and if a surety bond, shall also be executed by a corporation authorized to act as a surety under the laws of the State.
- (3) Whenever the owner elects to deposit a cash bond, or savings and loan certificate, the City is authorized, in the event of any default on the owner's part, to use any or all of the deposit money to cause all of the required work to be done or completed, and for payment of all costs and expenses therefor. Any money remaining shall be refunded to the owner.
- (4) When a substantial portion of the required improvement or mitigation has been completed to the satisfaction of the Engineering Services Director and the completion of the remaining work is delayed due to conditions beyond the owner's control, the Engineering Services Director may accept the completed portion and consent to a proportionate reduction of the surety bond in an amount estimated and determined by the Engineering Services Director to be adequate to assure the completion of the required work remaining to be made.
- (5) Whenever a surety bond has been filed in compliance with this section, the City is authorized, in the event of any default on the part of the principal, to enforce collection, under such bond, for any and all damages sustained by the City by reason of any failure on the part of the principal faithfully and properly to do or complete the required improvements, and in addition may cause all of the required work to be done or completed, and the surety upon the bond shall be firmly bound for the payment of all necessary costs.
- (6) The term of the bond shall begin on the date of the deposit of the cash or savings and loan certificate or the filing of the surety bond, and shall end upon the date of the completion to the satisfaction of the Engineering Services Director of all improvements or mitigation

required to be made. The fact of such completion shall be endorsed by a statement thereof signed by the Engineering Services Director and the deposit shall be returned to the owner, or the surety bond may be exonerated at any time thereafter.

(7) For the purposes of this section, improvements or mitigation shall be considered as satisfactorily assured when the City accepts the cash or surety bond or the improvements or mitigation required to be made have been completed to the satisfaction of the Engineering Services Director.

(f) Issuance of Building Permits After Certification of Dedication and Improvement.

When all dedication, improvements and mitigation required by this section have been completed or satisfactorily assured, a building permit may be issued.

(g) Fees Waived.

Notwithstanding any other provisions of this Code to the contrary, no fee shall be charged for the rendering of any service by the City in connection with any dedication, improvement or mitigation required by the provisions of this section and not a part of a subdivision or parcel map proceeding.

(h) Lots Affected by Street Widening.

On a lot which is affected by street widening required by the provisions of this section, all required yards, setbacks, parking area, loading space and building locations for new buildings or structures or additions to buildings or structures shall be measured and calculated from the new lot lines being created by said widenings; provided, however, that for the purpose of establishing the required front yard depth on a frontage where the ultimate street line has been determined under the provisions of this section, the depths of all existing front yards may be measured from the ultimate street line instead of the front lot line.

In applying all other provisions of this chapter, the area of the lot shall be considered as that which existed immediately prior to the required street widening.

(i) Improvement Standards.

(1) All State Highways, major, collector and industrial streets shall be constructed and improved in accordance with the Standard Plans and Specifications of the City.

(2) The Engineering Services Director may approve variations and deviations from the above requirements as he determines are made necessary by the conditions of the terrain and the existing improvements contiguous to the property.

(j) Appeal.

(1) Any person required to dedicate land or make improvements or mitigation under the provisions of this section may appeal any determination made by the Engineering Services Director in the enforcement or administration of the provisions of this section to the Council. The appeal shall be made in writing, and shall state in clear and concise language the grounds therefor.

(2) The Council may make modifications in the requirements of this section or may grant waivers or modifications of the determinations which are appealed to them as they shall determine are required to prevent any unreasonable hardship under the facts of each case so long as each modification or waiver is in conformity with the general spirit and intent of the requirements of this section.

(k) City May Share Cost of Making Unusual Improvements.

Under proper application to the Council and upon recommendation of the Engineering Services Director, the City may accept and provide for contribution toward the cost of making any improvement required by the provisions of this section which the Engineering Services Director determines will cost any amount greatly in excess of the cost to other property owners who are required to make improvements under the provisions of this section in the immediate vicinity.

(l) Engineering Services Director to Determine Street Alignment.

Whenever uncertainty exists as to the proper application of the provisions of this section in the matter of street alignment, the Engineering Services Director shall determine this application in conformity with the spirit and intent of this section.

(m) Written Notification to Permit Applicants Required.

When the Engineering Services Director determines that the provisions of this section are applicable to any building permit application, he shall inform the permit applicant of his determination, of the specific requirements of this section which he determines to be applicable and of the availability and procedure for appeal of his determination to the 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 27 day of December, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

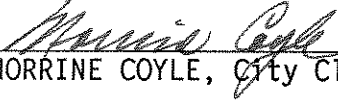
AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: McGrath

ABSENT: Councilmembers: None

APPROVED: 
CAROL G. WHITESIDE, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
STAN T. YAMAMOTO, City Attorney

Ord. No. 2629-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 3rd day of January, 1989, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED Carol G. Whiteside
MAYOR CAROL G. WHITESIDE

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 2, 1989

ORDINANCE NO. 2630 -C.S.

AN ORDINANCE ADDING ARTICLE 15 TO CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE, AND AMENDING SECTIONS 2-3.1204 AND 2-3.1304 OF CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO PUBLIC WORKS AND TRANSPORTATION DEPARTMENT.

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

SECTION 1. AMENDMENT OF CODE. Article 15 is hereby added to Chapter 3 of Title II of the Modesto Municipal Code to read as follows:

ARTICLE 15. PUBLIC WORKS AND TRANSPORTATION DEPARTMENT

SEC. 2-3.1501. CREATION AND FUNCTIONS.

A Public Works and Transportation Department is hereby established. The functions of the Public Works and Transportation Department shall include:

- (a) Conduct engineering studies to determine the need for parking facilities, and recommend, plan, design, develop, operate and maintain on and off street parking facilities of the City.
- (b) Conduct traffic engineering studies, including accident analysis, to determine the need for and appropriate method for the control of traffic to provide for the safe, convenient and economical movement of persons and vehicles on the public streets and ways of the City.
- (c) Perform or direct all phases of engineering work required in connection with the functions of the City and not otherwise assigned to another department by the City Manager.
- (d) Coordinate the planning, design, and inspection of engineering projects and services of the City.
- (e) Prepare and maintain engineering records of the City.
- (f) Operate and maintain the City's utility services and such other public works facilities as are not otherwise assigned to another department by the City Manager.
- (g) Coordinate the planning, design and inspection of utility projects and services of the City.

- (h) Prepare and maintain records relating to the utilities and public works facilities of the City.
- (i) Perform such other duties as the City Manager may direct.

SEC. 2-3.1502. ORGANIZATION AND DIRECTION.

There shall be a Public Works and Transportation Director appointed by the City Manager and subject to the City Manager's general administrative direction. The Public Works and Transportation Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the department as operations may require, and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.1503. ACTING PUBLIC WORKS AND TRANSPORTATION DIRECTOR.

In the case of absence or disability of the Public Works and Transportation Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Public Works and Transportation Director.

SEC. 2-3.1504. REFERENCES.

- (a) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Director of Parking and Traffic, Director of Engineering Services or Director of Utility Services, they shall be deemed to refer to the Public Works and Transportation Director of the City of Modesto.
- (b) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Parking and Traffic Department or Department of Parking and Traffic; or Engineering Services Department or Department of Engineering Services; or Utility Services Department or Department of Utility Services, they shall be deemed to refer to the Public Works and Transportation Department of the City of Modesto.

SECTION 2. AMENDMENT OF CODE. Sections 2-3.1204 and 2-3.1304 of Chapter 3 of Title II of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 2-3.1204. REFERENCES.

- (a) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Director of Parking and Traffic, Director of Engineering Services or Director of Utility Services, they shall be deemed to refer to the Public Works and Transportation Director of the City of Modesto.
- (b) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Parking and Traffic Department or Department of Parking and Traffic; or Engineering Services Department or Department of Engineering Services; or Utility Services Department or Department of Utility Services, they shall be deemed to refer to the Public Works and Transportation Department of the City of Modesto.

SEC. 2-3.1304. REFERENCES.

- (a) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Director of Parking and Traffic, Director of Engineering Services or Director of Utility Services, they shall be deemed to refer to the Public Works and Transportation Director of the City of Modesto.
- (b) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Parking and Traffic Department or Department of Parking and Traffic; or Engineering Services Department or Department of Engineering Services; or Utility Services Department or Department of Utility Services, they shall be deemed to refer to the Public Works and Transportation Department 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 27 day of December, 1988, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Irizarry, Lang, Muratore, Patterson, Sutton, Mayor Whiteside

NOES: Councilmembers: McGrath

ABSENT: Councilmembers: None

APPROVED: Carol G. Whiteside
CAROL G. WHITESIDE, Mayor

ATTEST:

By Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

Ord. No. 2630-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 3rd day of January, 19 89, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Irizarry, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Muratore, Patterson,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Sutton

APPROVED *Carol G. Whiteside*
MAYOR CAROL G. WHITESIDE

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 2, 1989