ORDINANCE NO. 3116 -C.S.

Print

AN ORDINANCE AMENDING SECTION MAP 29-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (TIMOTHY RAGSDALE)

WHEREAS, a verified application for an amendment to Section 29-3-9 of the Zoning Map was filed by Timothy C. Ragsdale on October 10, 1998, to reclassify from General Commercial Zone, C-2, to Commercial Industrial Zone, C-M, property located on the eastern side of 6th Street between "L" and "M" Street, and

WHEREAS, after a public hearing held on December 7, 1998, 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. 98-68, adopted on December 7, 1998, the Planning Commission recommended to the Council that the application of Timothy C. Ragsdale to amend Section 29-3-9 of the Zoning Map to reclassify the hereinafter described property from General Commercial Zone, C-2, to Commercial Industrial Zone, C-M, be approved,

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

SECTION 1. After a public hearing held on January 12, 1999, in the 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 C-M, Commercial/Industrial Zone, by reason of its development and compatibility requirements, is compatible with existing and potential surrounding development.

2. That the requested C-M, Commercial/Industrial Zone is in concert with the General Plan since it is within an area designated by the General Plan for (ICP) Industrial/Commercial/Public uses.

SECTION 2. ZONING CHANGE. Section 29-3-9 of the Zoning Map is hereby amended to reclassify the following described property from General Commercial Zone, C-2, to Commercial Industrial Zone, C-M:

C-2 to C-M

All that certain real property situate in a portion of the southwest 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:

All of Lots 17 thru 32 of City of Modesto Block 37

Including the western 10.00 feet of the 20.00-foot-wide alley, the Northern 40.00 feet of 80-foot-wide "L" Street, the Southern 40.00 feet of 80.00-foot-wide "M" Street, East 40.00 feet of 80.00-foot-wide Washington Street, and the Northeastern 40.00 feet of 80.00-foot-wide 6th Street and all 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 12th day of January, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3116-C.S.

FINAL ADOPTION CLAUSE

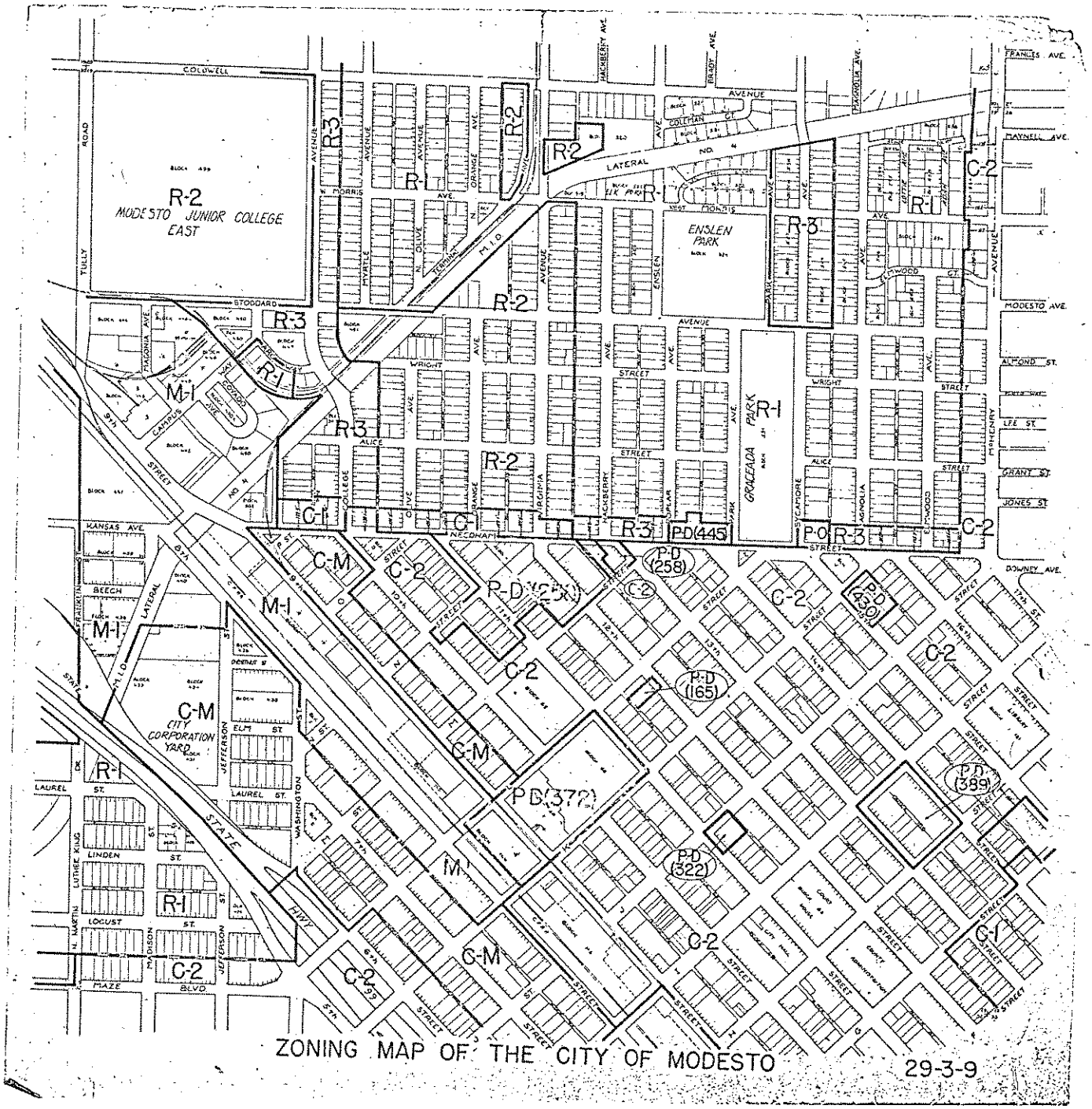
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the special meeting of the Council of the City of Modesto held on the 19th day of January, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: February 18, 1999



ZONING MAP OF THE CITY OF MODESTO 29-3-9

Corrected 2/5/99

ORDINANCE NO. 3117-C.S.

Print

AN ORDINANCE AMENDING SECTION 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(533), PROPERTY LOCATED AT 523 MARTIN LUTHER KING DRIVE ON THE NORTHWEST CORNER OF MARTIN LUTHER KING DRIVE AND VINE STREET. (JAMES D. GROTHE)

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(533):

R-1 to P-D(533)

All that Certain real property situate in a portion of the Northeast one-quarter of Section 31, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, described as follows:

Being a portion of the South half of Lot 9 of Spencer Colony, according to the official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on December 16, 1904 in Volume 2 of Maps, at Page 3, described as follows:

The east 149.08 feet of the South 209 feet of said Lot 9 excepting therefrom the South 130 feet of the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(533) 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:

Corrected 2-5-99

Print

ORDINANCE NO. 3117 -C.S.

AN ORDINANCE AMENDING SECTION 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(533), PROPERTY LOCATED AT 523 MARTIN LUTHER KING DRIVE ON THE NORTHWEST CORNER OF MARTIN LUTHER KING DRIVE AND VINE STREET. (JAMES D. GROTHE)

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(533):

R-1 to P-D(533)

All that Certain real property situate in a portion of the Northeast one-quarter of Section 31, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, described as follows:

Being a portion of the South half of Lot 9 of Spencer Colony, according to the official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on December 16, 1904 in Volume 2 of Maps, at Page 3, described as follows:

The east 149.08 feet of the South 253 feet of said Lot 9 excepting therefrom the South 174 feet of the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(533) 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:

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

1. Medical/professional clinic for uses as permitted in the P-O Zone.

2. Continued operation of dwelling as a residential care home.

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.

Ord. No. 3117-C.S.

FINAL ADOPTION CLAUSE

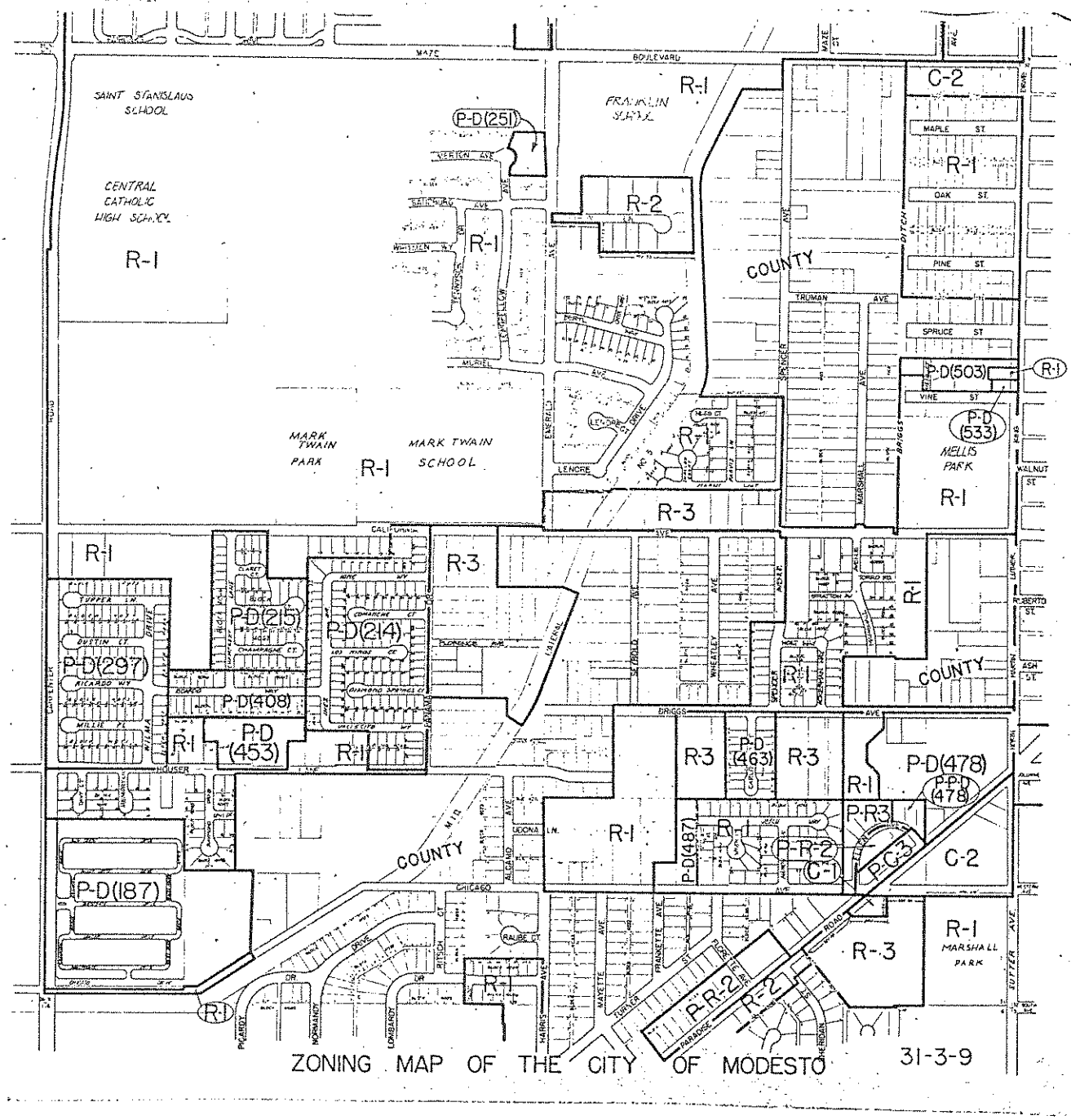
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the special meeting of the Council of the City of Modesto held on the 19th day of January, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: February 18, 1999



ZONING MAP OF THE CITY OF MODESTO 31-3-9

Corrected 2/9/99

ORDINANCE NO. 3118-C.S.

Print

AN ORDINANCE AMENDING SECTION 6-3-9 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN OVER-LAY ZONE, SP-0 TO PLANNED DEVELOPMENT ZONE, P-D(534), PROPERTY LOCATED ON THE WEST SIDE OF TULLY ROAD SOUTH OF PELANDALE AVENUE. (ARCHITECTURE PLUS)

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

SECTION 1. ZONING CHANGE. Section 6-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(534):

SP-O to P-D(534)

All that certain real property situate in a portion of Lots 1 and 13 of the "Nash Tract" filed for record in volume 4 of Maps, Page 10, Stanislaus County Records, located in Section 6, 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 northeast corner of said Lot 13; thence South 0° 56' 00" East along the east line of said Lot 13, being also the centerline of Tully Road, a distance of 324.36 feet; thence North 88° 13' 00" West parallel with and 324.00 feet south of the north line of said Lot 13, along the south line of the Viss property, a distance of 683.72 feet to a point 656.00 feet, measured at right angles, east of the west line of said Lot 13; thence North 0° 56' 00" West parallel with and 656.00 feet east of said west line of Lot 13, a distance of 445 feet more or less to the centerline of future 135.00 foot-wide Pelandale Avenue, thence South 88° 52' 54" East 692 feet, more or less, along said centerline of future Pelandale Avenue to a point on the intersection of said centerline of future Pelandale Avenue and Tully Road; thence South 0° 56' 00" East 125 feet, more or less, along said centerline of Tully Road to the point of beginning.

Print

corrected 2-9-98

ORDINANCE NO. 3118 -C.S.

AN ORDINANCE AMENDING SECTION 6-3-9 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN OVERLAY ZONE, SP-0 TO PLANNED DEVELOPMENT ZONE, P-D(534), PROPERTY LOCATED ON THE WEST SIDE OF TULLY ROAD SOUTH OF PELANDALE AVENUE. (ARCHITECTURE PLUS)

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

SECTION 1. ZONING CHANGE. Section 6-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(534):

SP-O to P-D(534)

All that certain real property situate in a portion of Lots 1 and 13 of the "Nash Tract" filed for record in volume 4 of Maps, Page 10, Stanislaus County Records, located in Section 6, 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 northeast corner of said Lot 13; thence South 0° 56' 00" East along the east line of said Lot 13, being also the centerline of Tully Road, a distance of 324.36 feet; thence North 88° 13' 00" West parallel with and 324.00 feet south of the north line of said Lot 13, along south line Viss property, a distance of 683.72 feet to a point 656.00 feet, measured at right angles, east of the west line of said Lot 13; thence North 0° 56' 00" West parallel with and 656.00 feet east of said west line of Lot 13, a distance of 463.89 feet to the centerline of future 135.00-foot-wide Pelandale Avenue, said point being on a non-tangent curve from which a radial line bears South 0° 41' 01" East to the center; thence easterly along said centerline of future Pelandale Avenue the following two courses: Easterly 215.28 feet long said non-tangent curve, concave to the south, being a radius of 5000.00 feet and a central angle of 2° 28' 01", and South 88° 13' 00" East 468.28 feet to the east line of said Lot 1; thence South 0° 56' 00" East along said east line of Lot 1, being also said centerline of Tully Road, a distance of 144.16 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(534) 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. Multi-family or residential condominium uses.

SECTION 3. ZONING MAP. Section Map 6-3-9 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 19th day of January, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3118-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 special meeting of the Council of the City of Modesto held on the 26th day of January, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: February 25, 1999

ZONING MAP OF THE CITY OF MODESTO 6-3-9

Print

ORDINANCE NO. 3119 -C.S.

AN ORDINANCE ADDING CHAPTER 16 ENTITLED "SHOPPING CART REGULATIONS" TO TITLE 4 OF THE MODESTO MUNICIPAL CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 16 entitled "Shopping Cart Regulations" is hereby added to Title 4 of the Modesto Municipal Code to read as follows:

CHAPTER 16. SHOPPING CART REGULATIONS

ARTICLE 1. IN GENERAL

4-16.101. DECLARATION OF PURPOSE.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public and interfere with pedestrian and vehicular traffic within the City of Modesto. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values, promote blight and deterioration within the City's neighborhoods.

The purpose of this chapter is to make the removal of shopping carts from the premises of a business establishment a violation of this Code. In addition, this chapter ensures that store owners will take action to reduce the removal of shopping carts from a business establishment's premises. This chapter will require business establishment owners to facilitate in the retrieval of those shopping carts removed from the establishment's premises.

4-16.102. DEFINITIONS.

(a) **Abandoned shopping cart**. Any cart removed from a business establishment's premises without written permission of the owner and located on either public or private property.

(b) **Business of shopping cart retrieval**. A business that searches for, gathers and restores possession to the owner, or an agent thereof, for compensation or in expectation of compensation of shopping carts located outside the premises or parking area of a business establishment.

(c) **Owner**. Any person or entity within a business establishment who owns, possesses, or has the power to make a shopping cart available to customers. For the purpose of this chapter, owner includes, but is not limited to, the store owner, manager, on-site manager, on-duty manager or other designated agent of a business establishment providing shopping carts for customer use.

(d) **Parking area**. A parking lot or other property provided by a business establishment for use by a customer for parking an automobile or other vehicle.

(e) **Premises**. The entire area owned, rented, leased, or utilized by a business establishment that provides shopping carts for customer use, including parking areas.

(f) **Shopping cart**. A basket which is mounted on wheels or a similar device generally used in a business establishment by a customer for the purpose of transporting goods of any kind. This includes, but is not limited to, laundry, grocery or shopping carts.

4-16.103. ENFORCEMENT AUTHORITY.

The City Manager, City Directors, Police Chief, Fire Chief and/or their designated agents and designated code enforcement officers shall have the authority and powers necessary to determine whether a violation of this chapter exists and to take appropriate action to gain compliance with the provisions of this chapter and applicable State codes. These powers include the power to issue administrative citations and to inspect public and private property. It also includes the power to impose civil penalties for any violation of this chapter.

4-16.104. AUTHORITY TO INSPECT.

City Directors, the Police Chief, the Fire Chief and/or their designated agents and designated code enforcement officers are authorized to enter upon any property or premises to ascertain whether the provisions of this chapter or applicable State codes are being obeyed, and to make any examinations as may be necessary in the performance of their enforcement duties. All inspections, entries, and examinations shall be done in a reasonable manner. If an owner, tenant, occupant or agent or other responsible party refuses to grant the City permission to enter or inspect, the City may seek an inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure.

4-16.105. ALTERNATIVE REMEDIES.

Nothing in this chapter shall prevent the City from pursuing criminal, civil, administrative or any other legal remedy to address violations of this chapter.

4-16.106. ADDITIONAL RULES AND REGULATIONS.

In addition to the provisions and requirements of this chapter, the City Council may, from time to time, by resolution, establish additional rules and regulations concerning programs, practices and regulations pertaining to shopping cart retrieval.

4-16.107. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted such section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

ARTICLE 2. SIGNS ON SHOPPING CARTS - REQUIRED

4-16.201. REQUIREMENTS.

Every shopping cart owned or provided by a business establishment in the City of Modesto must have a sign permanently affixed to it that contains the following information:

(a) Identifies the owner of the shopping cart or the name of the business establishment, or both;

(b) Notifies the public of the procedure to be used for authorized removal of a shopping cart from the establishment's premises;

(c) Notifies the public that the unauthorized removal of a shopping cart from the premises or parking area of a business establishment, or the unauthorized possession of a shopping cart is a violation of State law;

(d) Displays a permanently affixed sticker notifying the public that the unauthorized removal of the shopping cart from the premises of a

business establishment, or the unauthorized possession of a shopping cart is a violation of local municipal code; and

(e) Lists a valid telephone number or address for returning the shopping cart removed from the premises or parking area to the owner or retailer.

ARTICLE 3. REMOVAL, ABANDONMENT, ALTERATION, POSSESSION - PROHIBITED

4-16.301. PROHIBITION.

It is unlawful to do any of the following acts, if a shopping cart has a permanently affixed sign as required by Section 4-16.201:

(a) To remove a shopping cart from the premises or parking area of a business establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(b) To be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(c) To leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(d) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a business establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

4-16.302. PENALTY.

Any person who violates any of the provisions of Section 4-16.301 is guilty of a misdemeanor. The City may use the administrative enforcement remedies set forth in Chapter 6, Title 1 of this Code for violations of this article.

4-16.303. EXCEPTIONS.

This article shall not apply to any person who has written consent from the owner of the shopping cart authorizing possession or removal of the cart from the business establishment's premises or authorizing any of the acts specified in Section 4-16.301.

ARTICLE 4. RETRIEVAL OF SHOPPING CARTS BY CITY

4-16.401. AUTHORITY TO IMPOUND.

(a) The City of Modesto may impound a shopping cart when all of the following conditions are satisfied:

(1) The shopping cart has a sign affixed to it as required by Section 4-16.201 of this Code;

(2) The shopping cart is located outside the premises or parking area of a business establishment. The parking area of a business establishment located in a multistore complex or shopping center shall include the entire parking area used by the complex or center.

(3) Except as provided in Section 4-16.501, the shopping cart is not retrieved within three (3) days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the City of the shopping cart's discovery and location.

(b) In instances where the location of a shopping cart will impede emergency services, the City is authorized to immediately retrieve the shopping cart from public or private property.

(c) Any shopping cart that is impounded by the City pursuant to Sections 4-16.401 shall be held at a location that is both:

(1) Reasonably convenient to the owner of the shopping cart; and

(2) Open for business at least six (6) hours of each business day.

(d) Any shopping cart not reclaimed from the City within thirty (30) days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the City.

(e) The City may impose an administrative penalty on the owner of a shopping cart in an amount not to exceed fifty dollars ($50.00) for each occurrence in excess of three (3) during a specified six (6) month period for failure to retrieve shopping carts in accordance with this section. An occurrence includes all shopping carts impounded in accordance with this section in a one (1) day period.

(f) The City is authorized to recover actual costs incurred for impounding a shopping cart under the authority provided in subsections a and b above.

ARTICLE 5. AUTHORITY TO IMPOUND WITHOUT THREE (3) DAY NOTICE TO OWNER

4-16.501. REQUIREMENTS.

Notwithstanding Section 4-16.401(a)(3), the City may impound a shopping cart that otherwise meets the criteria set forth in Sections 4-16.401(a)(1) and 4-16.401(a)(2) without complying with the three (3) day advance notice requirement provided that:

(a) The owner of the shopping cart, or his or her agent, is provided actual notice within twenty-four (24) hours following the impound and that the notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.

(b) Any shopping cart so impounded shall be held at a location in compliance with Section 4-16.401.

(c) Any shopping cart reclaimed by the owner, or his or her agent, within three (3) business days following the date of actual notice shall be released and surrendered to the owner or agent at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable pursuant to Sections 4-16.401(e) and 4-16.401(f). Any cart reclaimed within the three (3) business day period shall not be deemed an occurrence for purposes of Section 4-16.401(e).

(d) Any shopping cart not reclaimed by the owner, or his or her agent, within three (3) business days following the date of actual notice shall be subject to any applicable fee or penalty imposed pursuant to Section 4-16.401(e) and 4-16.401(f) commencing on the fourth (4^{th}) business day following the date of the notice.

(e) Any shopping cart not reclaimed by the owner, or his or her agent, within thirty (30) days of receipt following the date of actual notice may be sold or disposed of as provided for in Section 4-16.401(d).

ARTICLE 6. MANDATORY EVALUATION REPORT AND PLAN TO PREVENT CART REMOVAL

4-16.601. PLAN ELEMENTS.

Every owner of a business establishment providing shopping carts to its customers shall develop and implement a specific plan to prevent customers from removing carts from the business premises. The plan must include the following elements:

(a) **Notice to customers**. Written notification shall be provided to customers that the removal of carts from a business establishment's premises is prohibited and a violation of State and local law. This notification may be provided in the form of fliers, warnings on shopping bags, or any other written materials that will affectively inform customers of the law.

(b) **Physical measures**. One specific physical measure shall be implemented to prevent cart removal from the business premises. Examples of physical measures that may be implemented are: installing disabling devices on all carts, posting a security guard to prevent customers from removing carts from the business premises, requiring a security deposit for use of all carts, offering the rental or sale of carts that may be temporarily or permanently used for the transport of purchases, and posting of signs at all entrances to the parking areas and in a conspicuous place near the business establishment's exit doors, informing customers that cart removal from the premises is prohibited and constitutes a violation of State and local law.

Should a dispute arise between the business establishment and City as to the physical measure to be implemented at that establishment, the business establishment may request an administrative hearing in order to resolve this dispute.

The request for hearing shall be made in writing to the Director of Community Development as soon as practicable after receiving the request for hearing, the Director shall request the City Manager or his or her designee to appoint a hearing officer. The Director shall schedule a

date, time and place for the hearing. A continuance of the hearing may be granted upon written request to the Director.

Written notice of the date, time and place of the hearing shall be served at least ten (10) calendar days prior to the hearing. Notice of the hearing shall be sent to the business establishment by first class mail at the address provided by the business. The hearing shall be set no sooner than twenty (20) days following the request for hearing.

4-16.602. EVALUATION REPORT.

An evaluation report must be submitted each year to the Neighborhood Preservation Unit of the City of Modesto. The report shall include, but is not limited to, the inventory of carts owned/used by the business establishment and the number of carts replaced by that establishment due to repair, loss, theft or abandonment. Any owner who fails to submit an evaluation report as outlined in Section 4-16.602 by July 1st of each year shall be subject to a two hundred fifty dollar ($250.00) civil penalty.

If a prevention plan was in place the previous year, the evaluation report shall identify and assess the measures used and approved in the prior year.

4-16.603. TIMELINESS AND APPROVAL PROCESS FOR PREVENTION PLAN/EVALUATION REPORT.

A proposed plan for preventing shopping cart removal and/or an evaluation report shall be submitted to the City for approval within sixty (60) days after the adoption of this ordinance and by July 1st of each year thereafter. Those affected business establishments open after the adoption of this ordinance will have sixty (60) days from the filing date on their City business license application to submit a shopping cart removal prevention plan to the Neighborhood Preservation Unit for approval.

A business establishment has thirty (30) days from the date of City approval to implement its cart removal prevention plan. If the proposed plan is the same as the previous years, the prevention measure shall continue until the City indicates the plan needs to be modified. Unless otherwise agreed, modifications to a plan required by the City shall be implemented by the owner within thirty (30) days of notification.

4-16.604. PENALTIES FOR FAILING TO SUBMIT A PREVENTION PLAN OR TO IMPLEMENT PREVENTION MEASURES.

Any owner who fails to submit a plan, implement the proposed plan or implement any required modifications to the plan as required by the City, within the time frames as specified in this article, shall be required to place disabling devices on all carts owned/leased/or used by the business establishment to prevent removal of carts from the business premises and parking lots. Any owner who fails to place a disabling device on all carts, if applicable, shall be subject to a one thousand dollar ($1,000.00) civil penalty, plus an additional penalty of fifty dollars ($50.00) for each day of noncompliance.

4-16.605. EXCEPTIONS.

Any business establishment that supplies and maintains ten (10) or less shopping carts to its customers, or any owner who has a contract for retrieval of abandoned carts shall be exempt from the prevention plan requirements as set forth in Sections 4-16.601, 4-16.603 and 4-16.604. This exemption is valid only if the other provisions of this chapter are complied with by the owner.

ARTICLE 7. SHOPPING CART RETRIEVAL BUSINESSES

4-16.701. RECORDS REQUIRED.

Any person who engages in the business of shopping cart retrieval shall retain records showing written authorization from the shopping cart owner, or any agent thereof, to retrieve the cart or carts and to be in possession of the cart or carts retrieved. A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart retrieval.

4-16.702. SIGN REQUIRED.

Each vehicle employed for the retrieval of shopping carts shall display a sign that clearly identifies the retrieval service.

4-16.703. VIOLATIONS.

Any person who violates the provisions of this article is guilty of a misdemeanor. In addition, the City may use the administrative enforcement remedies set forth in Chapter 6 of Title 1 of this Code for violations of 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, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: Conrad

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3119-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 special meeting of the Council of the City of Modesto held on the 2nd day of February, 1999, Councilmember Fisher, moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	Conrad
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: March 5, 1999

Clerk

Print

ORDINANCE NO. 3120 -C.S.

AN ORDINANCE ADDING ARTICLE 10 TO CHAPTER 4 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO CORRECTION AND AMENDMENT OF FINAL MAPS.

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

SECTION 1. AMENDMENT OF CODE. Article 10 is hereby added to Chapter 4 of Title 4 of the Modesto Municipal Code to read as follows:

ARTICLE 10. CORRECTION AND AMENDMENTS OF FINAL MAPS

4-4.1001. CORRECTION OF MAPS.

After a parcel map or final map is recorded in the office of the County Recorder, it may be amended by an amending map or a certification of correction to do any of the following:

(a) To correct an error in any course or distance shown thereon;

(b) To show any course or distance that was omitted therefrom;

(c) To correct an error in the description of the real property shown on the map;

(d) To indicate monuments set after the death, disability, retirement from practice or replacement of the engineer or surveyor charged with responsibilities for setting monuments;

(e) To show the proper location or character of any monument that has been changed in location or character which was originally shown at the wrong location or incorrectly as to its character; and

(f) To correct any other type of map error or omission as approved by the City Engineer, which does not affect any property right. Errors and omissions may include, but are not limited to, lot numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the parcel map or final map.

4-4.1002. AMENDMENT OF MAPS.

After a parcel map or final map is recorded in the office of the County Recorder, the map may be amended to make minor modifications provided it is shown by the subdivider and the City Council finds, after public hearing, that:

(a) There are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary; and

(b) The modifications do not impose any additional burden on the present fee owner of the property; and

(c) The modifications do not alter any right, title, or interest in the real property reflected on the recorded map; and

(d) The map as modified conforms to the provisions of Government Code Section 66474.

Any such modification for a parcel map or final map shall be set for public hearing before the City Council as provided for in Government Code Section 66451.3. The public hearing shall be confined to consideration of and action on the proposed modifications.

4-4.1003. FORM AND CONTENTS.

The amending map or certification of correction shall be prepared and signed by a registered civil engineer or licensed land surveyor. The form and contents of an amending map shall conform to the requirements of Article 6 of this Chapter. The amending map or certificate of correction shall set forth in detail the corrections made, show the names of the present fee owners of the property affected by the correction, show the recording references of the original map, and contain a note to the County Recorder requesting that, pursuant to Government Code Section 66472, the County Recorder index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index, respectively, and that the County Recorder make a note of the original map memorializing the filing of the amending map or certificate of correction.

4-4.1004. SUBMITTAL AND APPROVAL BY CITY ENGINEER.

The amending map or certificate of correction, complete as to final form, shall be submitted to the City Engineer for review, certification of compliance with the requirements set forth in this Article and approval as to technical form.

Upon receipt of the proposed amending map or certificate of correction, and all fees required for the processing and approval thereof, the City Engineer shall examine the amending map or certificate of correction. If the only changes made are those set forth in Section 4-4.1001, this fact shall be certified by the City Engineer on the amending map or certificate of correction and, upon certification, shall be transmitted to the City Clerk, who shall cause said amending map or certificate of correction to be recorded in the office of the County Recorder. All other amendments and changes shall, upon certification by the City Engineer and approval as to technical form, be processed in accordance with Section 4-4.1002.

4-4.1005. FILING WITH THE COUNTY RECORDER.

The amending map or certificate of correction certified by the City Engineer shall be filed in the office of the County Recorder. Upon such filing, the County Recorder shall index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index, respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all such corrections in the same manner as though set forth upon the original map.

4-4.1006. PROCESSING FEES.

The property owner or applicant shall pay to the City the fees for processing, and approval of a correction or amendment to a recorded map, in the amount established by City Council 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 23rd day of February, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3120-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 special meeting of the Council of the City of Modesto held on the 2nd day of March, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Smith

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: April 1, 1999

Print

ORDINANCE NO. 3121 -C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 8 OF THE VILLAGE ONE SPECIFIC PLAN, TO ALLOW A REDUCED INTERIOR SIDE YARD SETBACK FOR FRONT PORCHES ON ONE HOUSE MODEL, PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN AVENUE EAST OF LITT ROAD. (INLAND VILLAGE PARTNERSHIP)

WHEREAS, the City Council, in October, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, Section 10-2.1904 provides that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned, consistent with the basic land use categories of the Village One Specific Plan, to the principal underlying zones set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, Village Highlands Vesting Tentative Subdivision Map encompasses all of Precise Plan for Area No. 8, "PPA No. 8" except for an 8.6-acre, southeast quadrant remainder, which has an underlying zoning of R-3 for multiple-family development in accordance with the Village One Specific Plan, and

WHEREAS, Ordinance No. 2965-C.S., which became effective on March 7, 1996, adopted a Precise Plan for Area No. 8 of the Village One Specific Plan, including conditions and provisions for a development agreement relating to property located on the south side of Sylvan Avenue east of Litt Road, extended (Inland Westpointe Partnership Village Highlands), and

WHEREAS, Ordinance No. 2966-C.S., which became effective on March 7, 1996, rezoned the property encompassed by Precise Plan for Area No. 8 to Low Density Residential Zone, R-1, and Medium High Density Residential Zone, R-3, as Underlying Zoning together with a Specific Plan-Overlay Zone, SP-O, and

WHEREAS, Ordinance No. 2984-C.S., which became effective on June 20, 1996, adopted an amendment to the Precise Plan for Area No. 8 to redesignate a portion of the Precise Plan from multi-family to single-family, and

WHEREAS, an application was filed by Inland Village Partners for an amendment to the Precise Plan for Area No. 8 to allow a reduced interior side yard setback for front porches on one house model, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on February 8, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution 99-16, recommended to the City Council approval of an amendment to the Precise Plan for Area No. 8, and

WHEREAS, said matter was set for a public hearing of the Council of the City of Modesto to be held on March 9, 1999, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, a duly noticed public hearing to consider said recommendations of the Planning Commission was held at the date and time above mentioned, and

WHEREAS, the Council declares that said amendment to the Precise Plan for Area No. 8 is required by public necessity, convenience, and general welfare for the following reasons:

1. That the proposed amendment to Precise Plan No. 8 is consistent with the General Plan and Village One Specific Plan.

2. That the proposed amendment to Precise Plan No. 8 is exempt from the California Environmental Quality Act under Section 15305 of the CEQA Guidelines, which exempts minor alterations in land use limitations.

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

SECTION 1. APPROVAL OF AMENDMENT TO THE PRECISE PLAN. The City Council has reviewed and considered the amendment to the Precise Plan for Area No. 8 of the Village One Specific Plan to allow a reduced interior side yard setback for front porches on one house model as recommended by the Planning Commission, and the Council does hereby approve said amendment to the Precise Plan for Area No. 8. A copy of said amendment is attached hereto.

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 March, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Village One Specific Plan (As Amended February 1999)

Specific Plan Exceptions
The Tentative Map and Precise Plan Document are to be developed in accordance with the Village One Specific Plan as amended, and City of Modesto Municipal Code. The following items are exceptions to the Village One Specific Plan and or the City of Modesto R-1 Zoning Ordinance.

Setback Standard
Front yard set backs will be 15' minimum.

Exterior side yard setbacks for houses with side yards along minor residential streets will be 10' minimum.

Exterior side yard setbacks for houses with side yards on the collector / connector streets will be 5' minimum.

Interior side yard setbacks will be 5' minimum with the exception of a 3.5' minimum setback along the front porch of Plan No. 3.

Rear yard setbacks will be 10' minimum.

Houseplans with three car garages will be allowed on corner lots that have an additional 10' of width. (65' minimum corner lots)

Houseplans with a shop option will be allowed on interior or corner lots that have an additional 10' of width. (65' minimum corner lots / 60' minimum interior lots)

Three car garages will not be allowed side by side on adjacent lots.

Street Trees will not be planted on exterior side yards where the house is adjacent to the building setback line. If feasible ornamental street trees can be incorporated into the exterior side yards where the above situation exists.

Landscaped Entry Medians will be located at the projects two main entrances. These items will be included in the project area Lighting and Landscaping District for maintenance.

Traffic Circles will be located at four way intersections of minor streets and also included in the above mentioned maintenance district.

Ord. No. 3121-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 special meeting of the Council of the City of Modesto held on the 16th day of March, 1999, Councilmember Fisher, moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: April 15, 1999

Print

ORDINANCE NO. 3122 -C.S.

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA NO. 12 OF THE VILLAGE ONE SPECIFIC PLAN, RELATING TO PROPERTY LOCATED ON THE WEST SIDE OF LITT ROAD SOUTH OF HILLGLEN AVENUE. (HERITAGE HOMES)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, Section 10-2.1904 provides that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned, consistent with the basic land use categories of the Village One Specific Plan, to the principal underlying zones set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, an application has been filed by Heritage Homes for a Precise Plan for Area No. 12, property located on the west side of Litt Road south of Hillglen Avenue, and

WHEREAS, the application package also seeks rezoning from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on March 15, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 99-25, recommended to the City Council approval of a Precise Plan for Area No. 12 of the Village One Specific Plan, and an Amendment to Section 12-3-9 of the Zoning

Map to rezone from a Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on April 13, 1999, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, the Council declares that said Precise Plan for Area 12 of the Village One Specific Plan and rezoning to SP-O Overlay Zoning is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 12 is consistent with the Village One Specific Plan.

2. The proposed Precise Plan for Area No. 12 is consistent with the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 12 of the Village One Specific Plan and rezoning of the Specific Plan-Holding Zone, SP-H, to the Specific Plan-Overlay Zone, SP-O, as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, a copy of which is on file in the City Clerk's Office, with the modification to delete paragraph 4 from page 12 of the proposed Village One Specific Plan Exceptions pertaining to Street Trees.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3122-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 special meeting of the Council of the City of Modesto held on the 20th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 20, 1999

Print

ORDINANCE NO. 3123 -C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE WEST SIDE OF LITT ROAD SOUTH OF HILLGLEN AVENUE. (PRECISE PLAN FOR AREA NO. 12 - HERITAGE HOMES)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, Section 10-2.1904 provides that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned, consistent with the basic land use categories of the Village One Specific Plan, to the principal underlying zones set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, an application has been filed by Heritage Homes for a Precise Plan for Area No. 12, property located on the west side of Litt Road south of Hillglen Avenue, and

WHEREAS, the application package also seeks rezoning from a Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on March 15, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after a public hearing held on March 15, 1999, 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. 99-25, adopted March 15, 1999, the Planning Commission recommended that the application of Heritage Homes to rezone Village One property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, for property located on the west side of Litt Road south of Hillglen Avenue be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 13, 1999, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. After a public hearing held on April 13, 1999, in the 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 rezoning conforms to the Village One Specific Plan.

2. The proposed rezoning is necessary as an integral step toward development under the Village One Specific Plan.

SECTION 2. ZONING CHANGE. Section 12-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from a Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay Zone, SP-O:

SP-H to SP-O, PPA 12

A portion of the southwest quarter of Section 12, Township 3 south, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the southeast corner of said southwest quarter, also being the southwest corner of Parcel 2 as shown in book 47 of Parcel Maps, Page 90, Stanislaus County Records; thence North 00° 16' 58" West along the east line of said southwest quarter, a distance of 1373.89 feet; thence South 89° 49' 21" West, a distance of 41.31 feet to the beginning of a curve concave to the south, having a radius of 4,002.75 feet; thence westerly along the arc of said curve, through a central angle of 02° 35' 40", a distance of 181.25 feet; thence South 87° 13' 39" West, a distance of 685.64 feet; thence South 02° 46' 21" East, a distance of 295.98 feet; thence South 00° 19' 21" East, a distance of 828.08 feet to the beginning of a curve concave to the east , having a radius of 497.25 feet; thence southerly along the arc of said curve through a central angle of 25° 34' 46", a distance of 222.00 feet; thence South 25° 54' 07" East, a distance of 0.32 feet to the south line of said southwest quarter; thence North 89° 49' 52" East along said south line, a distance of 845.04 feet to the point of beginning.

Contains 27.87 acres, more or less.

SECTION 3. ZONING MAP. Section 12-3-9 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 13th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3123-C.S.

FINAL ADOPTION CLAUSE

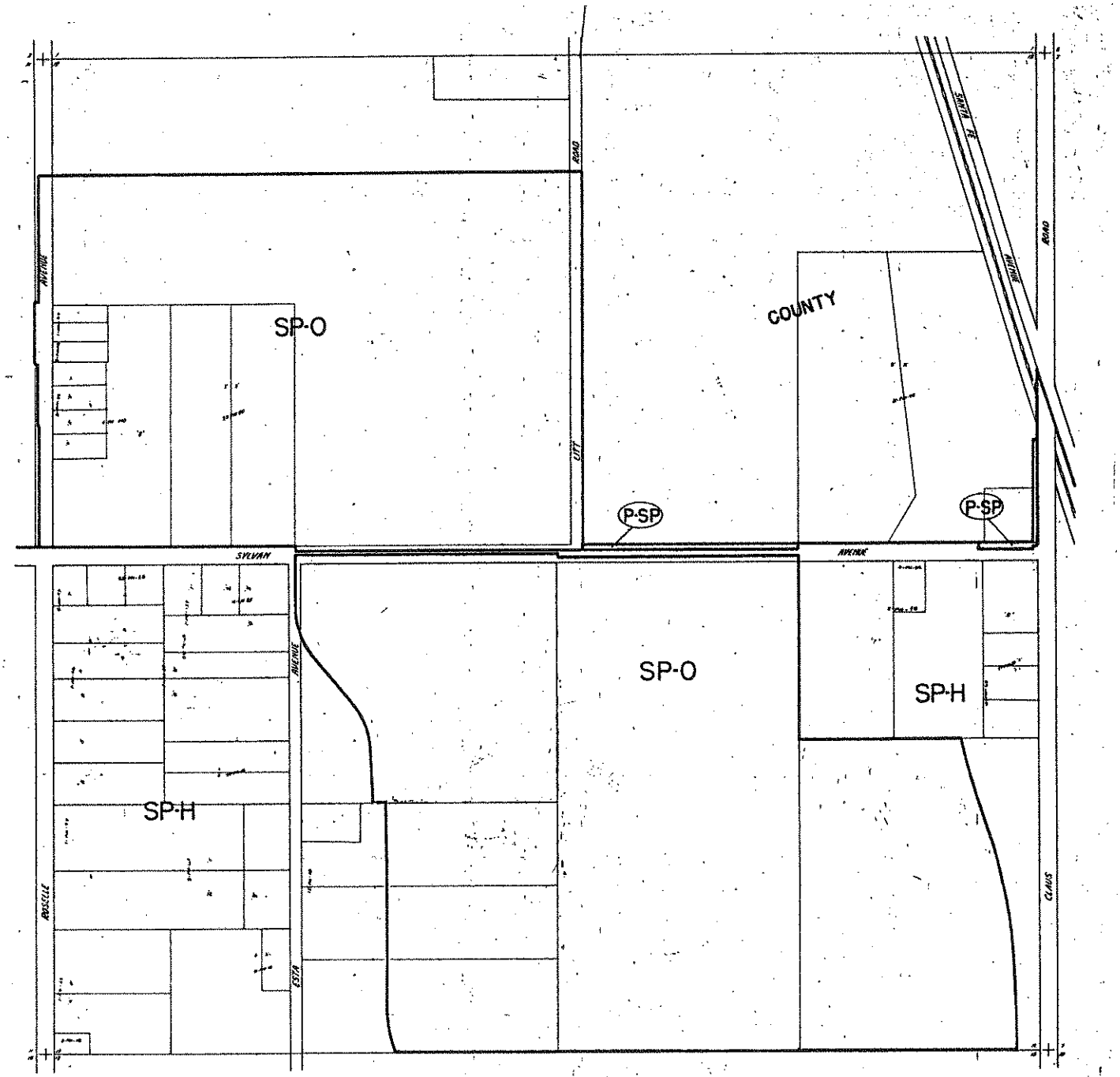
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the special meeting of the Council of the City of Modesto held on the 20th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 20, 1999



ZONING MAP OF THE CITY OF MODESTO 12-3-9

Print

ORDINANCE NO. 3124 -C.S.

AN ORDINANCE AMENDING SECTION 9-4-9 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING CERTAIN PROPERTY LOCATED THEREON. (MORGAN/WHITMORE REORGANIZATION AREA)

WHEREAS, pursuant to Municipal Code Section 10-2.2604, the City of Modesto proposes to initiate a prezoning of the area designated as the Morgan/Whitmore Reorganization area for the purpose of determining the zoning that will apply to the property upon annexation, and

WHEREAS, it is the policy of the Stanislaus Local Agency Formation Commission (Policy 021(a)) to require prezoning for annexation to cities, and

WHEREAS, after a public hearing held on March 15, 1999, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission that prezoning the Morgan/Whitmore Reorganization area as requested is in accordance with Government Code Section 65855 for the following reasons:

1. The proposed prezoning will result in an orderly, planned use of land resources because the proposed prezoning is in accordance with the objectives and policies set forth in the Modesto Urban Area General Plan, which calls for the development of Industrial uses in this area.

2. The proposed prezoning is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan.

3. The proposed prezoning will promote the City's economic development goals as it facilitates the further development of the Modesto Industrial Park.

WHEREAS, by Resolution No. 99-28, adopted on March 15, 1999, the Planning Commission recommended to the City Council an amendment to Section 9-4-9 of the Zoning Map to prezone the hereafter described property to Heavy Industrial Zone, M-2, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 13, 1999, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on April 13, 1999, this Council finds and determines that the requested prezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth in Planning Commission Resolution No. 99-28 and quoted above.

SECTION 2. ZONING CHANGE. Section 9-4-9 of the Zoning Map is hereby amended to prezone the following described property to Heavy Industrial Zone, M-2:

> All that portion of Section 9, Township 4 South, Range 9 East, North Diablo Base and Meridian, described as follows:
>
> Beginning at the Southeast corner of said Section 9; thence North 89°50'55" West, along the South line of said Section 9, a distance of 1331.91 feet to the Southwest corner of the Southeast Quarter of the Southeast Quarter said Section 9; thence North 00°29'35" West, along the west line of said Southeast Quarter, and along the East City Limits line and southerly projection, as described in the Modesto Industrial Park Addition to the City of Modesto filed for record on March 10, 1959, at Instrument No. 6807, Stanislaus County Records, a distance of 1318.23 feet to the Northwest corner of said Southeast Quarter, and an angle

point in the City Limits line as described in said Modesto Industrial Park Addition; thence South 89°54'01" East, along the North line of said Southeast Quarter, and along said City limits line, a distance of 1327.93 feet to the Northeast corner of said Southeast Quarter; thence South 00°39'55" East, along the East line of said Section 9, a distance of 1319.48 feet to the Point of Beginning and containing 40.26 acres, more or less.

Containing 40.26 acres, more or less.

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

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3124-C.S.

FINAL ADOPTION CLAUSE

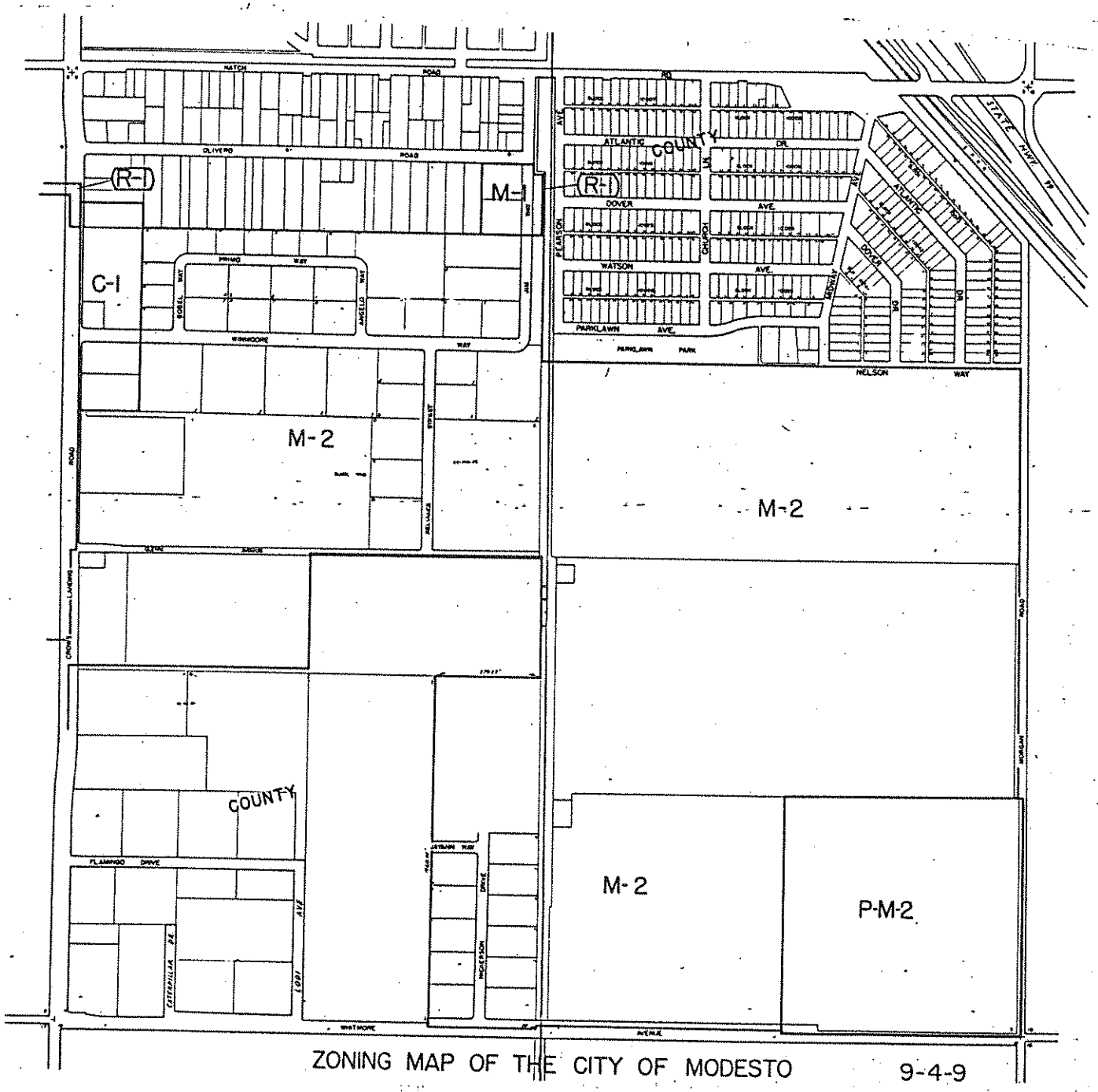
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the special meeting of the Council of the City of Modesto held on the 20th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 20, 1999



ZONING MAP OF THE CITY OF MODESTO 9-4-9

Print

ORDINANCE NO. 3125 -C.S.

AN ORDINANCE AMENDING SECTIONS 19-3-9 AND 30-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING CERTAIN PROPERTY LOCATED THEREON. (NORTH 99/WOODLAND REORGANIZATION AREA)

WHEREAS, pursuant to Municipal Code Section 10-2.2604, the City of Modesto proposes to initiate a prezoning of the area designated as the North 99/Woodland Reorganization area for the purpose of determining the zoning that will apply to the property upon annexation, and

WHEREAS, it is the policy of the Stanislaus Local Agency Formation Commission (Policy 021(a)) to require prezoning for annexation to cities, and

WHEREAS, after a public hearing held on March 15, 1999, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission that prezoning the North 99/Woodland Reorganization area as requested is in accordance with Government Code Section 65855 for the following reasons:

1. The proposed prezoning will result in an orderly, planned use of land resources because the proposed prezoning is in accordance with the objectives and policies set forth in the Modesto Urban Area General Plan, which calls for the development of Industrial uses in this area.

2. The proposed prezoning is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan.

3. The proposed prezoning will promote the City's economic development goals as it facilitates further development within the City's Redevelopment Planning District.

WHEREAS, by Resolution No. 99-27, adopted on March 15, 1999, the Planning Commission recommended to the City Council an amendment to Section 19-3-9 and

30-3-9 of the Zoning Map to prezone the hereafter described property to Light Industrial Zone, M-1, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 13, 1999, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on April 13, 1999, this Council finds and determines that the requested prezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth in Planning Commission Resolution No. 99-27 and quoted above.

SECTION 2. ZONING CHANGE. Sections 19-3-9 and 30-3-9 of the Zoning Map are hereby amended to prezone the following described property to Light Industrial Zone, M-1:

> All that portion of Sections 19 and 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:
>
> Beginning at the intersection of the Northeasterly right of way line of the Southern Pacific Railroad and the Southerly projection of the Centerline of Carver Road, said point being an angle point in the City limits line as described in the Northwest Addition (44) as filed for record on December 10, 1951, at instrument number 28460, Stanislaus County Records; thence along the existing City Limits line the following seven (7) courses:

1. thence South 43°29'30" East, along the Northeasterly right-of-way line of said Southern Pacific Railroad and the Basis of bearings herein described, a distance of 1553.25 feet, more or less to the beginning point of the Woodland-Barium Annexation as described in the document filed for record on February 28, 1979, at instrument number 54252, Stanislaus County Records;

2. thence North 89°49'30" West, along the centerline of Woodland Avenue and the North line of said Woodland-Barium Annexation, a distance of 812.91 feet;

3. thence South 00°33'30" East, along the west line of said Woodland-Barium Annexation, a distance of 375.54 feet;

4. thence South 89°57'30" East, along the south line of said Woodland-Barium Annexation, a distance of 939.83 feet;

5. thence North 00°42'30" West, along the city limits line as described in said Woodland-Barium Annexation, a distance of 62.47 feet;

6. thence North 46°30'30" East, along the City limits line as described in said Woodland-Barium Annexation, a distance of 120.00 feet to a point on said Northeasterly right-of-way line of the Southern Pacific Railroad and also being a point on the City limits lines as described in said Northwest Addition (44);

7. thence South 43°29'30" East, along said Northeasterly right-of-way and City limits line as described in said Northwest Addition (44), a distance of 318.56 feet, more or less to the northerly most angle point in the City limits line as described in the Kansas Avenue Addition as described in the document filed for record on July 24, 1978, at instrument number 4617, Stanislaus County Records;

thence along the City limits line as described in said Kansas Avenue addition the following twenty-seven (27) courses:

1. thence South 47°18'10" West 100.00 feet;

2. thence South 00°11'40" East 7.02 feet to a point of curvature, non-tangent to the preceding course, concave westerly, having a radius of 562.22 feet, of which radius bears South 64°03'23" West;

3. thence southerly, along the arc of said curve, through a central angle of 47°37'57", an arc distance of 467.40 feet;

4. thence South 21°41'20" West 135.05 feet to a point of curvature, concave easterly, having a radius of 583.14 feet, of which radius bears South 68°18'40" East;

5. thence southerly, along the arc of said curve, through a central angle of 21°53'00", an arc distance of 222.72 feet;

6. thence South 00°11'40" East 484.27 feet;

7. thence South 07°58'20" West 98.55 feet;

8. thence South 00°11'40" East 20.04 feet;

9. thence North 89°48'20" East 14.07 feet;

10. thence South 00°11'40" East 231.60 feet;

11. thence North 49°22'30" West 142.01 feet;

12. thence North 37°24'39" West 35.78 feet;

13. thence North 00°11'40" West 69.47 feet;

14. thence North 89°47'15" West 89.26 feet to a point of curvature, non-tangent to the preceding course, concave northeasterly, having a radius of 1972.00 feet, of which radius bears North 43°17'09" East;

15. thence Northwesterly, along the arc of said curve, through a central angle of 3°35'21", an arc distance of 123.53 feet;

16. thence North 43°07'30" West 1084.67 feet;

17. thence North 13°46'00" West 81.72 feet to a point on the northeasterly line of Graphics Road (formerly Barium Road);

18. thence South 89°39'17" West 30.00 feet to a point on the centerline of said Graphics Road;

19. thence South 89°39'17" West, leaving said city limits line, a distance of 45.16 feet to a point on the Northeasterly right-of-way line of State Highway 99;

20. thence North 42°44'29" West, along said Northeasterly line, a distance of 491.38 feet to the southwest corner of that certain 3.046 acre tract of land as shown on the survey filed for record on May 30, 1978, in Book 14 of Surveys, at page 95, Stanislaus County Records;

21. thence South 89°36'16" East, along the south line of said 3.046 acre tract of land, a distance of 16.21 feet to the southeast corner of said tract of land;

22. thence North 00°23'31" West, along the East line of said 3.046 acre tract of land, a distance of 628.88 feet to a point on the South right-of-way line of Woodland Avenue (30.00 foot half-width);

23. thence North 89°49'30" West, along the South right-of-way line of said Woodland Avenue, a distance of 267.58 feet, more or less, to a point on the southerly projection of Easterly line of Lot 3 of the Woodland Avenue Park as shown on the map filed for record on July 15, 1908, in Volume 3 of Maps, at page 46, Stanislaus County Records;

24. thence North 00°19'38" West, along the southerly projection and the east line of said Lot 3, a distance of 1215.78 feet, more or less, to a point on the southeasterly line of Parcel 3 as shown on the Parcel Map filed for record on June 20, 1967 in Book 3 of Parcel Maps, at page 98, Stanislaus County Records;

25. thence North 36°38'29" East, along the Southeasterly line of said Parcel 3, a distance of 132.70 feet to a point on the Southwesterly right-of-way line of said Southern Pacific Railroad;

26. thence South 43°29'30" East, along said Southwesterly right-of-way line, a distance of 328.91 feet, more or less to a point which bears South 46°30'30" West 100.00 feet from the Point of Beginning;

27. thence North 46°30'30" East 100.00 feet to the Point of Beginning, and Containing 64.77 acres, more or less.

Containing 53.6 acres, more or less.

SECTION 3. ZONING MAP. Sections 19-3-9 and 30-3-9 of the Zoning Map of the City of Modesto are hereby amended to appear as set forth on the map attached hereto and which 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 13th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3125-C.S.

FINAL ADOPTION CLAUSE

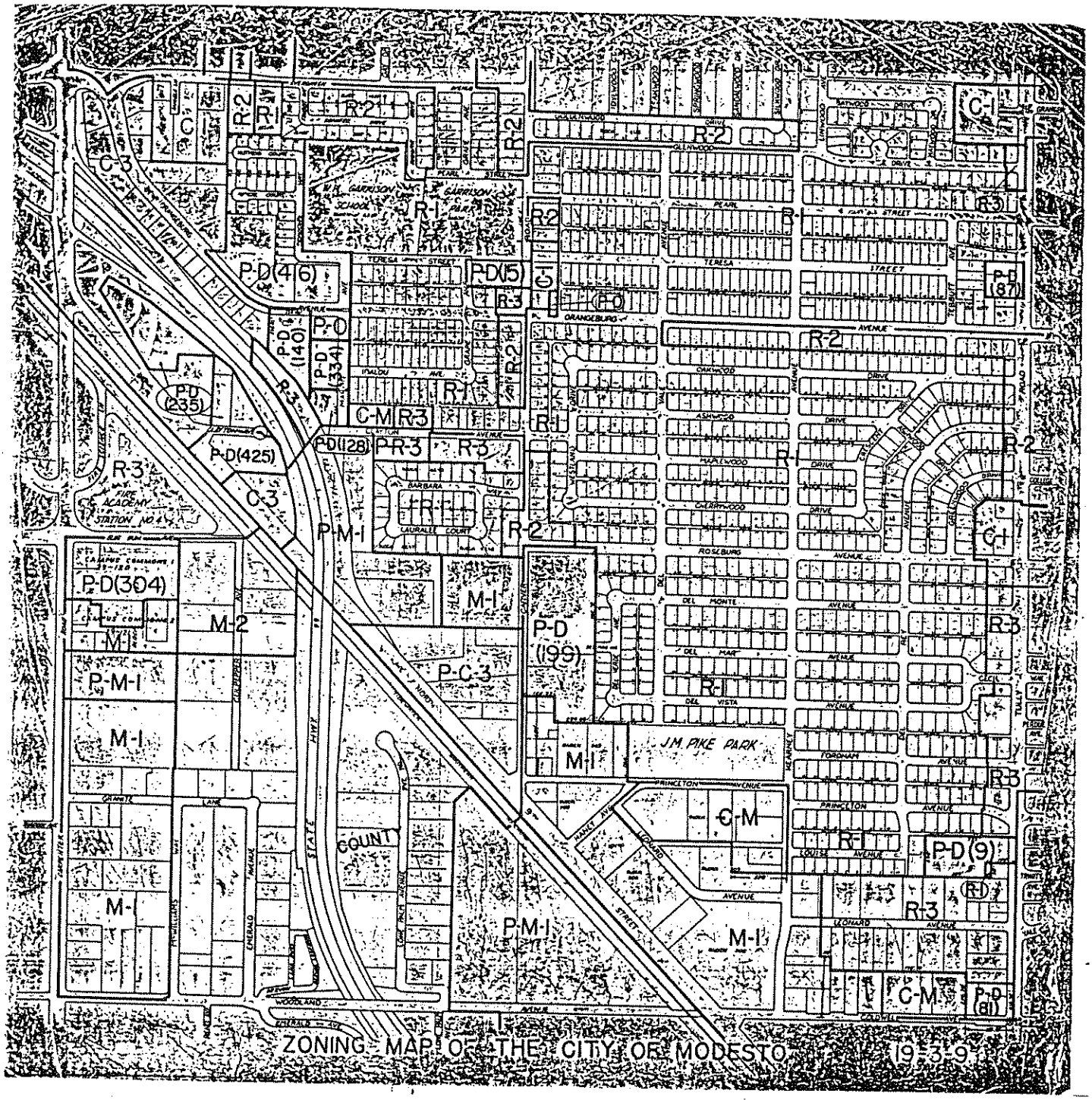
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the special meeting of the Council of the City of Modesto held on the 20th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

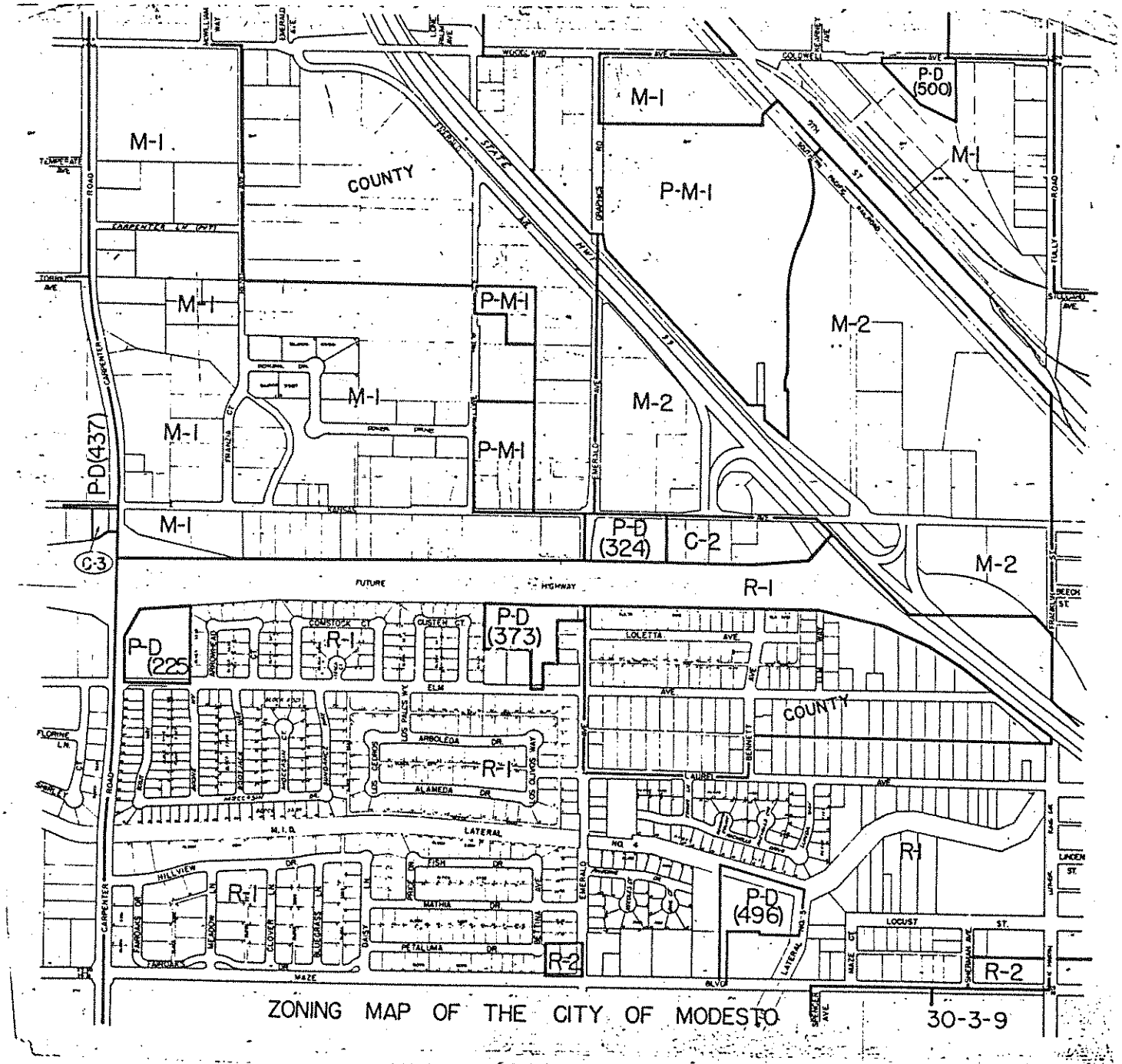
AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 20, 1999


ZONING MAP OF THE CITY OF MODESTO 1953
R-1
R-2
R-3
C-1
C-3
C-M
M-1
M-2
P-M-1
P-C-3
P-O
P-D(4 6)
P-D(15)
P-D(140)
P-D(334)
P-D(235)
P-D(425)
P-D(128)
P-D(304)
P-D(199)
P-D(87)
P-D(9)
P-D(81)
JM. PIKE PARK
STATE HWY
COUNTY


M-1
COUNTY
P-M-1
M-2
P-D (500)
P-D (437)
P-D (324)
C-2
C-3
R-1
P-D (373)
P-D (225)
P-D (496)
R-2
FUTURE HIGHWAY
WOODLAND AVE
COLDWELL AVE
TEMPERANCE AVE
TORING AVE
CARPENTER ROAD
TULLY ROAD
SANTA FE RAILROAD
SOUTHERN PACIFIC RAILROAD
STATE HWY 99
COUNTY
LOLETTA AVE
LAUREL AVE
BENNETT AVE
ELM
ARBOLEDA DR
ALAMEDA DR
LATERAL NO. 4
HILLVIEW DR
FISH DR
MATHIA DR
PETALUMA DR
MAZE BLVD
LOCUST ST
SHERMAN AVE
EMERALD AVE
LAUREL
ZONING MAP OF THE CITY OF MODESTO
30-3-9

Print

ORDINANCE NO. 3126 -C.S.

AN ORDINANCE AMENDING SECTIONS 1-2.07 AND 1-2.10 OF CHAPTER 2 OF TITLE 1 OF THE MODESTO MUNICIPAL CODE RELATING TO PENALTY PROVISIONS. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 1-2.07 and 1-2.10 of Chapter 2 of Title 1 of the Modesto Municipal Code are hereby amended to read as follows:

1-2.07. SUPERVISION OF PRISONERS DURING SUCH WORK.

Prisoners working on any public work of the City shall be under the custody of the Police Chief and under the supervision of the Operations and Maintenance Director. The Operations and Maintenance Director is hereby authorized and empowered to perform any and all acts necessary to carry out the provisions of Section 1-2.06 of this Code.

1-2.10. ISSUANCE OF CITATIONS BY DESIGNATED EMPLOYEES.

Pursuant to the provisions of Penal Code Section 836.5, the code enforcement staff of the Neighborhood Preservation Unit of the Community Development Department and the Animal Licensing Officers of the Modesto Police Department are authorized to arrest a person without a warrant whenever such employee has reasonable cause to believe that the person to be arrested had committed, in the employee's presence, a misdemeanor or infraction violation of an ordinance which he or she has the discretionary duty to enforce; and to issue a notice to appear; and release such person on his or her written promise to appear in court, pursuant to California Penal Code Sections 853.5 through 853.6a. Employees so designated shall not be deemed to be peace officers.

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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3126-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3127 -C.S.

AN ORDINANCE AMENDING SECTIONS 3-2.105, 3-2.204, 3-2.301, 3-2.304, 3-2.305, 3-2.306, 3-2.307, 3-2.308, 3-2.401, 3-2.402, 3-2.404, 3-2.501, 3-2.502, 3-2.601, 3-2.701, 3-2.808, 3-2.901, 3-2.1007, 3-2.1008, 3-2.1101, 3-2.1102, 3-2.1103, 3-2.1201, 3-2.1204, 3-2.1302, 3-2.1402, 3-2.1501, 3-2.1502, 3-2.1503, 3-2.1504, 3-2.1607, 3-2.1701, AND 3-2.1911 OF CHAPTER 2 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE RELATING TO TRAFFIC REGULATIONS. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 3-2.105, 3-2.204, 3-2.301, 3-2.304, 3-2.305, 3-2.306, 3-2.307, 3-2.308, 3-2.401, 3-2.402, 3-2.404, 3-2.501, 3-2.502, 3-2.601, 3-2.701, 3-2.808, 3-2.901, 3-2.1007, 3-2.1008, 3-2.1101, 3-2.1102, 3-2.1103, 3-2.1201, 3-2.1204, 3-2.1302, 3-2.1402, 3-2.1501, 3-2.1502, 3-2.1503, 3-2.1504, 3-2.1607, 3-2.1701, and 3-2.1911 of Chapter 2 of Title 3 of the Modesto Municipal Code are hereby amended to read as follows:

3-2.105. DIRECTOR MAY RELATE TO THE ENGINEERING AND TRANSPORTATION DIRECTOR OR THE OPERATIONS AND MAINTENANCE DIRECTOR.

Director is the Engineering and Transportation Director in relation to design or direction measures or the Operations and Maintenance Director in relation to implementation or maintenance measures of the City of Modesto.

3-2.204. PERSONS OTHER THAN OFFICIALS SHALL NOT DIRECT TRAFFIC.

Except for City employees performing a duty within the scope of their employment which necessitates the direction of traffic, no person other than an officer of the Police Department or a person deputized by the Police Chief, or a person authorized to do so by a police officer in an emergency, or a person authorized by law, shall direct or attempt to direct traffic by voice, hand or other signal, except that persons may operate when and as herein provided any

mechanical pushbutton signal erected by order of the Engineering and Transportation Director and the Operations and Maintenance Director.

3-2.301. AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.

(a) The Engineering and Transportation Director shall have the power and duty to place and maintain or cause to be placed and maintained official traffic-control devices when and as required under the traffic laws of the City to make effective the provisions of said laws.

(b) Whenever the Vehicle Code of the State of California requires for the effectiveness of any provisions thereof that traffic-control devices be installed to give notice to the public of the application of such law, the Engineering and Transportation Director is hereby authorized to install or cause to be installed the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto.

(c) The Engineering and Transportation Director may also place and maintain or cause to be placed and maintained such additional traffic control devices as he/she may deem necessary to regulate traffic or to guide or warn traffic, but he/she shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations and rules as may be set forth in the traffic laws of the City, or as may be determined by ordinance or resolution of the Council.

3-2.304. INSTALLATION OF TRAFFIC SIGNALS.

(a) The Engineering and Transportation Director shall install official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.

(b) The Engineering and Transportation Director shall ascertain and determine the locations where such signals are deemed by him/her to be necessary for the preservation of the public safety by resort to field observations, traffic counts and other traffic information as may be pertinent.

3-2.305. LANE MARKINGS.

The Engineering and Transportation Director is hereby authorized to mark or caused to be marked center lines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway.

3-2.306. DISTINCTIVE ROADWAY MARKINGS.

The Engineering and Transportation Director is authorized to place and maintain or cause to be placed and maintained distinctive roadway markings as described in the Vehicle Code of the State of California on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such markings or signs and markings. Such marking or signs and markings shall have the same effect as similar markings placed by the State Department of Public Works pursuant to provisions of the Vehicle Code of the State of California.

3-2.307. AUTHORITY TO REMOVE OR DISCONTINUE TRAFFIC CONTROL DEVICES.

The Engineering and Transportation Director is hereby authorized to remove or discontinue the operation of any traffic control device not specifically required by state law or this chapter whenever he/she shall determine in any particular case that the conditions which warranted or required the installation no longer exist or obtain.

3-2.308. TRAFFIC CONTROL DEVICES. HOURS OF OPERATION.

The Engineering and Transportation Director shall determine the hours and days during which any traffic control device shall be in operation or in effect, except in those cases where such hours or days are specified in or pursuant to the provisions of this chapter, or by ordinance or resolution of the Council.

3-2.401. AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS, INTERSECTIONS. MULTIPLE LANES.

The Engineering and Transportation Director is authorized to place or cause to be placed markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The Engineering and Transportation Director is authorized to allocate and indicate more than one lane of traffic from which drivers of vehicles may make right- or

left-hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law.

3-2.402. AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Engineering and Transportation Director is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right turn, left turn or U-turn, and shall place proper signs at such intersections, when such signs are required by the State Vehicle Code. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

3-2.404. AUTHORITY TO PROHIBIT TURNS AGAINST TRAFFIC STOP SIGNAL.

The Engineering and Transportation Director is hereby authorized to determine those intersections at which drivers of vehicles shall not make right or left turns against a red or stop signal and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey the directions of any such sign.

3-2.501. ONE-WAY STREETS AND ALLEYS.

The Council shall determine and designate one-way streets or alleys or portions thereof, by resolution, which designation shall become effective when appropriate signs are in place giving notice of said designations to the public. Whenever any resolution of this City designates any one-way street or alley, the Engineering and Transportation Director shall cause to be placed and maintained signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

3-2.502. TRAFFIC CONTROL THROUGH CERTAIN ALLEYS.

Whenever any resolution of this City designates an alley as a one-way alley it shall be unlawful to drive any vehicle through said alley except in the direction authorized, or to stop or park any vehicle in said alley except on the side thereof designated by the Engineering and Transportation Director and as near the property line as is practicable. The Engineering and Transportation Director shall cause signs to be erected on one-way alleys indicating the side or portion thereof upon which loading or unloading is authorized.

3-2.601. STOP SIGNS.

The Engineering and Transportation Director is authorized to erect and maintain stop signs at those locations where he/she deem such controls to be necessary in order to protect the public safety. When signs are erected giving notice thereof, drivers of vehicles shall stop at the entrance or entrances to such intersections.

3-2.701. YIELD-RIGHT-OF-WAY SIGNS.

Pursuant to the authority contained in Section 21356 of the Vehicle Code of the State of California, the Engineering and Transportation Director is authorized to erect or cause to be erected yield-right-of-way signs at one or more approaches to an intersection of streets and highways in the City which are not through streets.

3-2.808. USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

It shall be unlawful for any person upon roller skates or riding on or by means of a skateboard, coaster or similar device to go upon any roadway in the city or in any city-owned parking lot or city-owned parking structure or in the City of Modesto Transportation Center or upon the sidewalk in any business district as defined by Section 235 of the Vehicle Code of the State of California or any property of the Modesto City School District, Sylvan Unified School District or Empire Union School District. Provided, however, the Council may, by resolution, grant approval for the use of roadways, city-owned parking lots, city-owned parking structures, and sidewalks for organized skating events of community-wide interest and importance, and that the Operations and Maintenance Director, or such persons as may be designated by the Director, may grant approval for use of City park parking lots for organized skating events of community-wide interest and importance. In granting such approval, the Council and the Director or the Director's designee may impose such conditions, restrictions and requirements as they deem necessary or desirable in order to protect the public interest and promote the general welfare.

3-2.901. CROSSWALKS.

The Engineering and Transportation Director is hereby authorized to establish, designate and shall cause to be maintained crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway.

3-2.1007. STOPPING OR PARKING PROHIBITED. SIGNS REQUIRED.

The Engineering and Transportation Director may appropriately sign or mark or cause to be signed or marked any place where said Director determines that it is necessary in order to eliminate dangerous traffic hazards, and when so signed or marked, no person shall stop, stand or park a vehicle in any of said places.

3-2.1008. EMERGENCY SIGNS.

(a) Whenever the Engineering and Transportation Director shall determine that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, or for other reasons, he/she shall have the power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as he/she shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency, and said Director shall cause such signs to be removed promptly thereafter.

(b) When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs.

3-2.1101. CURB MARKINGS TO INDICATE NO STOPPING AND PARKING REGULATIONS.

(a) The Engineering and Transportation Director is hereby authorized, subject to the provisions and limitations of this chapter, to place and when required herein shall cause to be placed, the following curb markings to indicate parking or standing regulations, and said curb markings shall have the meanings as herein set forth:

(1) Red shall mean no stopping, standing or parking at any time except as permitted by the Vehicle Code of the State of California and except that a bus may stop in a red zone marked or signed as a bus zone.

(2) Yellow shall mean no stopping, standing or parking at any such times of any day as are designated, for any purpose other than the loading or unloading of passengers or materials, provided that the loading or unloading of passengers shall not consume more

than three (3) minutes nor the loading or unloading of materials more than twenty (20) minutes.

(3) White shall mean no stopping, standing or parking for any purpose other than loading or unloading of passengers or for the purpose of depositing mail in an adjacent mailbox which shall not exceed three (3) minutes and such restrictions shall apply at such times as are designated.

(4) Green shall mean no standing or parking for longer than twenty-four (24) minutes at any time between 9:00 a.m. and 6:00 p.m. of any days except Sundays.

(5) Blue shall mean no stopping, standing or parking at any time, except that vehicles which display a disabled person's license plate or placard, or a disabled veteran's license plate or placard, as provided by the Vehicle Code of the State of California may stop, stand or park in the spaces so designated.

(b) When the Engineering and Transportation Director, as authorized under this chapter, has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb markings in violation of any of the provisions of this section.

3-2.1102. UNAUTHORIZED PAINTING OF CURBS.

No person other than the Engineering and Transportation Director, shall be authorized to cause to be painted any curb surface unless granted permission to do so by the City.

3-2.1103. AUTHORITY TO ESTABLISH LOADING ZONES.

The Engineering and Transportation Director and the Operations and Maintenance Director are hereby authorized to determine and establish zones and time limits for the loading and unloading of motor vehicles in designated streets, or portions thereof, in the City, which regulations shall become effective without curb markings when appropriate signs are placed giving notice of said regulations to the public. The zones authorized by this section shall include any or all of the following: Loading zone, bus loading zone, freight loading zone and passenger loading zone.

3-2.1201. RESTRICTION OR PROHIBITION OF PARKING.

Any other provisions of this chapter to the contrary notwithstanding, the Engineering and Transportation Director may authorize, restrict or prohibit the parking of motor vehicles in designated streets, or portions thereof, in the City if the general welfare and safety of the citizens so require it, which regulations shall become effective when appropriate signs or markings are in place giving notice of said regulations to the public.

3-2.1204. PARKING SPACE MARKINGS.

The Operations and Maintenance Director is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbings where authorized parking is permitted.

When such parking space markings are placed in the street subject to other and more restrictive limitations, no vehicles shall be stopped, left standing or parked other than within a single space unless the size or shape of such vehicle makes compliance impossible.

3-2.1302. INTERSTATE TRUCK ROUTES.

(a) Use of Interstate Truck Routes. It shall be unlawful for the operator of any vehicle or combination of vehicles authorized to operate in the State of California by Vehicle Code Section 35401.5 to operate said vehicle or combination of vehicles upon any street other than on an interstate truck route.

(b) Designation of Interstate Truck Routes. The Council is authorized to designate interstate truck routes by resolution, which designation shall become effective when appropriate signs are in place giving notice of said designation to the public.

(c) Procedure for Designation of Interstate Truck Routes. The procedure for obtaining designation of interstate truck routes shall be as follows:

(1) Application by individuals, firms or corporations for designation of routes to interstate truck terminals shall be made to the Engineering and Transportation Director. The application shall include the name and address of the applicant, the location of the terminal, the preferred route and alternates if appropriate, evidence that terminal parking and entries are adequate, and other considerations noted by the applicant that need to be resolved.

The application shall be accompanied by a non-refundable application fee to be established from time to time by resolution.

(2) The Engineering and Transportation Director shall cause an investigation to be made of the proposed route to include traffic safety considerations, adequacy of street surfaces and geometrics, approval or disapproval of the California Department of Transportation, an estimate of the cost of establishing the route, and other considerations as appropriate.

(3) If the Engineering and Transportation Director determines, upon completion of the investigation, that the proposed route is acceptable, he/she shall recommend to the Council that the route be adopted. If the Council denies the application, its action shall be final.

(4) If the Council adopts the route, the applicant shall have thirty (30) days in which to deposit the estimated cost for establishing the route with the Finance Director.

(5) If a route is adopted, within thirty (30) days after completion of the route the City shall make an accounting and any overpayment will be returned to the applicant. If the deposit was insufficient to cover cost for establishing the route, the applicant shall pay the additional cost within thirty (30) days after being billed therefore.

(6) If the Engineering and Transportation Director determines, upon completion of the investigation, that the route is not acceptable, he/she shall notify the applicant that the application is denied, noting the reasons for the denial.

(7) If the Engineering and Transportation Director denies an application, the applicant may appeal the denial to the Council in accordance with the provisions of Chapter 4 of Title 1 of this Code.

(8) If the Council grants the appeal, the establishment of the route shall be in accordance with the procedures specified in subparagraphs (4) and (5) above.

(9) Termination of Interstate Truck Routes. The Council may, in its sole discretion, terminate interstate truck route designations or designate alternate routes.

3-2.1402. REGULATION OF SPEED BY TRAFFIC SIGNALS.

The Engineering and Transportation Director is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections, and may erect appropriate signs giving notice thereof.

3-2.1501. ESTABLISHMENT OF PARKING METER ZONES.

The Council from time to time may establish and designate parking meter zones as parking conditions require. The time limitations for legal parking in parking meter zones shall be those established by the Operations and Maintenance Director based on engineering surveys, and the time limitations shall be indicated by appropriate signs posted in such zones.

The locations and boundaries of the various zones are as shown on that certain map being marked and designated a "Parking Meter Zoning Map, City of Modesto," attached hereto. Said map and all notations, references and other information shown thereon are hereby made a part of this chapter.

Where uncertainty exists as to the boundary of any zone, the following rules shall apply:

(a) Wherever the zone boundary is indicated as being approximately upon the center line of a street, alley or block, or along or adjacent to a property line, then, unless otherwise definitely indicated on the map, the center line of such street, alley or block, or such property line, shall be construed to be the boundary of such zone.

(b) Where the zone lines are shown adjacent to the street property line, the zone boundary shall be construed to be the street property line.

(c) Where such zone boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing upon the map.

(d) Where the application of the above rules does not clarify the zone boundary location, the Council shall interpret the map.

Said Parking Meter Zoning Map may, for convenience, be divided into individual section maps for the purpose of more readily identifying the territory included within each parking meter zone. Said Parking Meter Zoning Map is

hereby adopted and approved as the official Parking Meter Zoning Map of the City of Modesto.

Changes in the boundaries of the parking meter zones shall be made by ordinance adopting an amended parking meter zoning map, or section or unit of said Parking Meter Zoning Map, which said amended map or section or unit, when so adopted, shall be published in the manner prescribed by law and become a part of this chapter.

3-2.1502. INSTALLATION OF METERS.

The Operations and Maintenance Director shall install parking meters in the parking meter zones established by the Council in such numbers and at such places as in his/her judgment may be necessary for the regulation, control, and inspection of the parking of vehicles therein.

3-2.1503. METHOD OF PARKING.

The Operations and Maintenance Director shall cause lines or markings to be painted or placed upon the pavement adjacent to each parking meter designating the parking space for which said meter is to be used, and each vehicle parked adjacent or next to any parking meter shall park within the lines or markings so established. It shall be unlawful for any person to back into a parking space when signs are erected giving notice thereof.

3-2.1504. TIME LIMITS AND RATES OF FEES.

(a) It shall be unlawful for any person to permit any vehicle registered in his/her name or operated or controlled by him/her to be parked in any parking space in the parking meter zone for more than the time indicated by proper signs placed on the parking meter or zone indicating the maximum parking time allowed in such parking space. Each period of overparking for more than the period stated on the parking meter or time limit sign shall constitute a separate offense.

(b) It shall be unlawful for any person to permit any vehicle registered in his/her name or operated or controlled by him/her to be parked in any parking space controlled by a parking meter at any time during which the meter is displaying a signal indicating that the space is illegally in use, except during the time necessary to set the meter to show legal parking. Each period of overparking while the meter is displaying said signal for more than the period stated on the parking meter or time limit sign constitutes a separate offense.

(c) The time limits for the parking of vehicles in parking meter zones shall be established by the Operations and Maintenance Director based upon engineering surveys. The rate of fees for such parking shall be one cent ($0.01) per twelve (12) minutes or fraction thereof.

3-2.1607. RESERVED PARKING ON OFF-STREET PARKING LOTS.

The Operations and Maintenance Director is hereby authorized to reserve and identify, by appropriate markings or signs which indicate types of vehicles, location and time limits, such parking spaces as are necessary for any use approved by the City Manager on any off-street parking facility owned or operated by the City of Modesto, including designation of spaces to be used only by disabled persons and disabled veterans. Only vehicles authorized by the Operations and Maintenance Director shall use such parking spaces during the time limits indicated, and use by any unauthorized vehicle shall be unlawful.

3-2.1701. PERMITS: AUTHORITY AND FEES.

The Police Chief is hereby authorized to grant permits for the temporary use of the following public facilities:

(a) Temporary closing of City streets;

(b) Temporary use of City sidewalk areas;

(c) Temporary use of on-street parking spaces; and

(d) Temporary use of off-street parking spaces.

Before granting a permit for the temporary use of off-street parking spaces as provided in subsection (d) above, the Police Chief shall obtain the recommendation of the Operations and Maintenance Director.

Every person who seeks to obtain the above-described permit shall pay to the Police Chief an application fee in an amount as established from time to time by resolution of the City Council to cover the costs of processing the permit application.

3-2.1911. DURATION AND ISSUANCE OF PERMITS.

There shall be no limit to the number of annual permits issued to any residential address within a Residential Permit Parking Zone, provided that the resident can prove ownership or control of each of the vehicles for which an annual permit is

issued. A separate application shall be filed for each motor vehicle. Each Residential Parking Permit issued by the Operations and Maintenance Director shall be valid for a maximum of one year unless otherwise stated on the permit. The City Manager shall cause to be prepared and issued, effective on January 1st of each year, a distinctively colored sticker for issuance to permittees of Residential Parking Zones, which sticker shall be affixed to the motor vehicle as required herein.

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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3127-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3128 -C.S.

AN ORDINANCE AMENDING SECTIONS 4-1.310 AND 4-1.1006 OF CHAPTER 1 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO REGULATION OF AMUSEMENTS AND AMUSEMENT DEVICES; SECTIONS 4-2.09 AND 4-2.30 OF CHAPTER 2 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO MISDEMEANORS; SECTIONS 4-3.01, 4-3.02, 4-3.03, 4-3.04, 4-3.06, 4-3.07.2, 4-3.09, 4-3.10, 4-3.11, 4-3.12, 4-3.13, 4-3.14, 4-3.19, 4-3.20, AND 4-3.21 OF CHAPTER 3 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO MOVING OF BUILDINGS; SECTIONS 4-4.302, 4-4.401, 4-4.404, 4-4.503, 4-4.509, 4-4.510, 4-4.511, 4-4.513, 4-4.515, 4-4.516, 4-4.517, 4-4.518, 4-4.601, 4-4.602, 4-4.603, 4-4.604, 4-4.605, 4-4-606, 4-4.801, 4-4.802, 4-4.802.1, AND 4-4.804 OF CHAPTER 4 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO SUBDIVISION OF LAND; SECTIONS 4-5.03, 4-5.05 AND 4-5.06 OF CHAPTER 5 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO REGULATION OF STREETS AND SIDEWALKS; SECTIONS 4-6.205, 4-6.206.1, 4-6.211, 4-6.212, 4-6.213, 4-6.214, 4-6.217, 4-6.301, 4-6.306, 4-6.402, 4-6.403, 4-6.501, 4-6.502, AND 4-6.801, OF CHAPTER 6 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICABS; SECTIONS 4-7.1103, AND 4-7.1106 OF ARTICLE 11 OF CHAPTER 7 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO COLLECTION OF PRUNED REFUSE; SECTION 4-8.10 OF CHAPTER 8 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO REGULATION OF PARADES; SECTION 4-11.203 OF ARTICLE 2 OF CHAPTER 11 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO FORTUNE-TELLING; SECTIONS 4-15.103, 4-15.104, 4-15.105, 4-15.106, 4-15.203, 4-15.301, 4-15.302, AND 4-15.401 OF CHAPTER 15 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO OUTDOOR DINING IN THE PUBLIC RIGHTS-OF-WAY PERMITTED. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 4-1.310 and 4-1.1006 of Chapter 1 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-1.310. EMERGENCY LIGHTING.

The area around and between tents, facilities and equipment of any amusement activity shall be well lighted at all times during the operation of such amusement activity or any part thereof. An emergency lighting system approved by the Development Services Division of the Community Development Department and Fire Prevention Division of the Fire Department to provide adequate lighting for orderly evacuation in event of disaster or emergency shall be provided by the permittee when required by the City Manager. The operation of any amusement activity at any time such requirements are not being fully met is prohibited.

4-1.1006. INVESTIGATION OF APPLICANT.

Upon receipt of the completed application, the Police Chief shall make an investigation to determine if all of the statements in the application are true and shall refer the application to the Community Development Director, the Chief Building Official, the Health Officer and the Fire Marshal to determine if the appropriate zoning regulations, building codes, health regulations and the provisions of the Uniform Fire Code have been or will be complied with. The Police Chief may refuse to issue a permit if any officer of the organization or any operator mentioned in Section 4-1.1013:

(a) Has a felony conviction.

(b) Has a conviction for theft, fraud, gambling, crimes involving moral turpitude, or bingo ordinance violations in this or any other city or county.

(c) Is under current investigation for a criminal offense set forth in subparagraphs (a) and (b) above by any law enforcement agency.

SECTION 2. AMENDMENT OF CODE. Sections 4-2.09 and 4-2.30 of Chapter 2 of Title 4 of the Modesto Municipal Code is hereby amended to read as follows:

4-2.09. DRINKING IN PUBLIC.

No person shall drink and/or be in possession of an open container, including, but not limited to, any bottle, can or other receptacle containing any beer, wine or other intoxicating beverage on any public street, sidewalk, alley, playground, or walkway except:

(a) In the geographic area immediately surrounding a community-wide event which has received the prior written approval of the City Manager which shall specify the boundaries of the exempted area and the duration of the exemption;

(b) In or on the property of an establishment, business place, outdoor dining area or other location properly licensed for the consumption of alcoholic beverages under the Alcoholic Beverage Control Act of the State of California.

No person shall drink and/or be in possession of an open container containing any intoxicating beverage on any private parking lot held open to the public except for intoxicating beverages dispensed or consumed on a private parking lot pursuant to a license issued for that purpose by the State of California. Nor shall any person drink and/or be in possession of any open container containing any intoxicating beverage on any public parking lot except those that directly abut a City park, and only with advance written approval of the Operations and Maintenance Director. This section shall not be deemed to make punishable any act or acts which are prohibited by any law of the State of California.

4-2.30. TELEGRAPH AND TELEPHONE APPARATUS.

It shall be unlawful and a misdemeanor:

(a) For any person wantonly or negligently to break, remove, damage, disturb, or interfere with any wire, pole, apparatus or appurtenance of any telephone or telegraph company.

(b) For any person not in the course of service in or for such company to break, remove, damage, disturb or interfere with any wire, pole, apparatus or appurtenance belonging to or being used by any telephone or telegraph company, the same being lawfully in place, without having first obtained a specific permit to do so from the local superintendent or manager of such company, or in case of his/her absence or refusal, and when such wire, pole, apparatus or appurtenances are in, or over or

across any public street, way or square, from the Operations and Maintenance Director.

(c) For any person to climb or ascend any pole, mast or tower of any telephone, telegraph, fire-alarm or electric light system without the consent first had of the officer or person having local superintendence of the same, except that in cases of emergency such permission may be given by the Operations and Maintenance Director.

SECTION 3. AMENDMENT OF CODE: Sections 4-3.01, 4-3.02, 4-3.03, 4-3.04, 4-3.06, 4-3.07.2, 4-3.09, 4-3.10, 4-3.11, 4-3.12, 4-3.13, 4-3.14, 4-3.19, 4-3.20, and 4-3.21 of Chapter 3 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-3.01. PERMIT REQUIRED.

It shall be unlawful for any person to move or cause to be moved any building in, into, through, or from the City without first obtaining a permit therefor from the Engineering and Transportation Director. Such permit shall be known as a "House Moving Permit".

4-3.02. APPLICATION FOR PERMIT.

Any person desiring such a permit shall file with the Engineering and Transportation Director and application therefor in writing on a form to be furnished by the City for that purpose.

Such application shall specify the following:

(a) The character and size of the building to be moved;

(b) The reason for such moving;

(c) The use, purpose and occupancy for which said building or structure is to be used;

(d) The location from which and to which said building is to be moved;

(e) A plot plan showing the proposed location of the building upon the property to which said building is to be moved, provided said location is in the City;

(f) The streets on, over or through which it is desired to move said building;

(g) Whether the building conforms to the zoning laws in the location to which it is to be moved.

4-3.03. INVESTIGATION.

Upon the filing of the application, the Community Development Director shall cause the Chief Building Official to investigate the building and report to him/her the results of such investigation, together with recommended action thereon.

4-3.04. WHEN PERMIT SHALL BE DENIED.

No permit shall be issued to move any building or structure which, in the opinion of the Engineering and Transportation Director or the Community Development Director:

(a) Is so constructed or in such condition as to be dangerous;

(b) Is infested with pests or insanitary;

(c) If it is a dwelling or habitation, is unfit for human habitation;

(d) Is so dilapidated, defective, unsightly or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district within a radius of one thousand (1000) feet from the proposed site;

(e) If the proposed use is prohibited by the zoning laws of the City;

(f) If the structure is of a type prohibited at the proposed location by any law of the City; or

(g) If the moving of the building or structure causes unreasonable damage to the trees, plants and shrubs on and along the public streets.

Provided, however, that if the condition of the building or structure, in the judgment of the Community Development Director, admits of practicable and effective repair, the permit may be issued upon the terms and conditions as set forth in Section 4-3.05 of this Code.

4-3.06. ESTIMATE OF COST AND DEPOSIT.

The applicant shall also deposit with the City Clerk a cash deposit or a savings and loan certificate and share in a form approved by the City Attorney in accordance with Article 6 of Chapter 4 of Title 2 of the Modesto Municipal Code sufficient to cover the cost to the City as estimated by the Operations and Maintenance Director, of trimming, moving, removing or re-planting of trees and/or shrubs, and of moving, removing, or displacing any pole or other structure, supporting any wires, cables or other equipment belonging to the City or the cutting, displacing or changing the location of any wire, cable or other equipment upon said poles or structures belonging to the City.

4-3.07.2. CLEARANCE OF SITE AND SAFETY MEASURES REQUIRED.

Prior to the issuance of a permit to move a building, the owner of the property from which the building is to be moved or his/her agent, shall file with the City Clerk a bond or other form of security in favor of the City of Modesto conditioned as follows:

(a) Before any work is started on a building or structure, the permittee or his/her authorized agent shall notify the appropriate utilities in order that all gas, water and oil pipelines that are to be disconnected from the building may be securely capped and sealed.

(b) Immediately after the moving of any building or structure, the permittee or his/her authorized agent shall securely barricade all basement excavations and other holes or openings.

(c) Within ten (10) days after the moving of any building or structure, the permittee or his/her authorized agent shall complete the following work:

(1) Securely close and seal any sanitary piping located on the property.

(2) Fill with dirt or sand any septic tanks or cesspools located on the property.

(3) Fill any openings, excavations, or basements remaining on the land with dirt or sand to street level or the natural level of adjoining property unless otherwise directed by the Engineering and Transportation Director.

(4) Remove any buried underground tanks formerly used for storage of flammable liquids as may be required by the Fire Department.

(5) Remove all refuse, debris and waste materials from the property.

The bond required by this section shall be in an amount equal to the cost of the work proposed to be done, as estimated by the Engineering and Transportation Director.

The bond may be in the form of a corporate surety bond, cash deposit, saving and loan certificate, or an instrument of credit.

An extension of time for completion of the work required by this section may be granted by the Engineering and Transportation Director, when, in his/her discretion, circumstances justify such an extension; but no such extension shall release any bond or other security furnished pursuant to this section.

4-3.09. ISSUANCE OF PERMIT.

The Engineering and Transportation Director shall approve the issuance of a House Moving Permit when all the necessary requirements and conditions of this chapter have been complied with. It then shall be the duty of the City Clerk to issue the permit.

4-3.10. SUSPENSION OR REVOCATION OF PERMIT.

The Engineering and Transportation Director, at any time, for sufficient cause, may revoke or suspend any permit granted under this chapter.

4-3.11. CONTROL AND SUPERVISION.

Every building which is moved on, over or through any public street, way or park in the City shall be under the control of the Engineering and Transportation Director and every such building shall be moved in a careful manner and the work shall be prosecuted with diligence and to the satisfaction and approval of said Engineering and Transportation Director. This section in no way relieves the person having charge of the moving of any building of his/her obligation to furnish proper supervision.

4-3.12. 36 TO 48 HOUR NOTICE REQUIRED.

Notice must be given by the person to whom the permit is issued, or his/her representative, to the Engineering and Transportation Department, the Operations and Maintenance Department and the Police Department of the City not less than thirty-six (36) hours nor more than forty-eight (48) hours before the actual work of moving a building or structure is to commence.

4-3.13. DEFAULT IN PERFORMANCE OF CONDITIONS.

Whenever a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the permittee by the Engineering and Transportation Director, said notice to state the work to be done, the estimated cost thereof, and the period of time deemed to be reasonably necessary to complete such work. After receipt of such notice, the permittee must, within the time therein specified, either cause the work to be done or pay over to the City Clerk of the City the estimated cost of doing the work, as set forth in the notice, plus ten (10) percent of said estimated cost. Upon receipt of notice from the City Clerk that the permittee has deposited such money, the Engineering and Transportation Director shall cause the required work to be performed and completed.

If the permittee defaults, the City shall have the option, in lieu of completing the work required, to demolish the buildings or structure and to clear, clean and restore the site or sites.

4-3.14. APPROVAL OF ROUTE.

The streets over which any building or structure is to be moved must be approved by the Engineering and Transportation Director and the Police Chief.

4-3.19. TREES, PLANTS AND SHRUBS.

In the event that the moving of any building for which a permit shall have been granted hereunder makes it necessary to trim, move, remove or replant any tree, plant or shrub belonging to or under the control of the City, the person to whom such permit has been granted, or his/her authorized representative, shall notify the Operations and Maintenance Director at least forty-eight (48) hours prior to the time that the moving of such building will necessitate the removal of such obstructions.

The person to whom said permit is granted shall not at the expiration of said time notice or at any time, trim, move, remove, replant or otherwise disturb

such trees, plants, or shrubs; and such work shall be done only by the authorized workmen of the City unless otherwise approved and so ordered by the Operations and Maintenance Director.

The person to whom said permit is granted shall pay to said City any and all costs or expense for the trimming, moving, removing or replanting of any trees, plants or shrubs or of any damage thereto.

4-3.20. REPAIRS TO PUBLIC PROPERTY.

In the event that the moving of any building for which a permit shall have been granted hereunder causes damage to the public streets and/or other public property, in addition to any other remedies the City may have, the Engineering and Transportation Director may cause such damage to be repaired and the cost thereof shall be deducted from the deposit required by Section 4-3.06 hereof, or he/she may require the person to whom such a permit has been granted, or his/her authorized representative, upon written notification from the Engineering and Transportation Director to make all necessary repairs to such streets and/or property; provided, however, that should said person to whom said permit has been granted, and to whom said notice has been given, or his/her authorized representative, fail to make said necessary repairs within the period of time designated in said written notice, said Engineering and Transportation Director may cause such necessary repairs to be made and the cost thereof deducted from the deposit required by Section 4-3.06 hereof.

4-3.21. REFUNDING OF DEPOSITS.

When the moving of any building for which a permit has been granted is completed, and all damage to public streets and/or other public property has been repaired to the satisfaction of the Engineering and Transportation Director and all costs of repairing damage and/or performing other work as provided herein, have been paid, and the deposit as required by Section 4-3.06 hereof, or such portion thereof then remaining unused under the provisions of this chapter shall be refunded upon surrender of the deposit receipt representing the said money so deposited. Should the cost, however, of repairing damages and/or performing other work as in this chapter provided, exceed the total amount of money deposited, the person to whom said permit was granted shall be held liable for the amount of damage and/or other costs which are in excess of the amount deposited, and it shall be the duty of the City Clerk, upon receipt of the request from the Engineering and Transportation Director, to collect such part of the claim which is in excess of the deposit from the person to whom the permit was granted.

SECTION 4. AMENDMENT OF CODE. 4-4.302, 4-4.401, 4-4.404, 4-4.503, 4-4.509, 4-4.510, 4-4.511, 4-4.513, 4-4.515, 4-4.516, 4-4.517, 4-4.518, 4-4.601, 4-4.602, 4-4.603, 4-4.604, 4-4.605, 4-4-606, 4-4.801, 4-4.802, 4-4.802.1, and 4-4.804 of Chapter 4 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-4.302. GENERAL CONDITIONS OF DESIGN.

The following general conditions of design shall apply:

(a) **Streets and Highways.**

(1) **Relationship to Existing Streets.** The street system in the proposed subdivision shall relate functionally to the existing streets in the area adjoining the subdivision.

(2) **Center Lines.** The center lines of all streets wherever practicable shall be the continuations of the center lines of existing streets, or shall be offset at least one hundred (100) feet.

(3) **Intersections.** Each street intersection or interception shall be as near to a right angle as is practicable.

(4) **Cul-de-sac or Dead-End Streets.** No cul-de-sac or dead-end streets shall be more than five hundred (500) feet in length. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the property and the resulting dead-end streets may be approved without a turnaround. In all other cases a turnaround having a minimum radius of fifty (50) feet measured to the property line or a comparable area in another form shall be required separated to the depth of one lot from the exterior boundary line or other topographical feature of the subdivision.

(5) **Curve Radius.** The center line curve radius on all streets and highways shall conform to accepted engineering standards of design and shall be subject to approval of the Engineering and Transportation Director.

(6) **Intersection Corner Rounding.** At street intersections, the block corners shall be rounded at the property line with a curve

having a radius of not less than fifteen (15) feet. A greater curve radius may be required if streets intersect other than at right angles.

(7) **Street Names.** All names shall be as approved by the Planning Commission. Duplications of existing names will not be allowed unless the streets are obviously in alignment with existing streets and not so far removed as to be confusing.

(8) **Part-Width Streets.** In case of a part-width street, a minimum of forty (40) feet along and adjacent to a boundary of the subdivision shall be required except in cases in which proper deed or instrument of dedication to the City duly executed by the owner or owners of the adjacent lands is filed with the map of the subdivision, granting sufficient land to make a street of the required full width. Part-width streets shall be permitted only on the periphery of a subdivision and only when the street design approved by the Planning Commission requires the street to be so located that a full dedication would require land not in the subdivider's ownership or control. In no case shall a part-width street be less than forty (40) feet in width, except as provided below. The words "part-width street" shall be lettered on the map following the name of such street.

Exception--A part-width street less than forty (40) feet may be permitted upon recommendation of the Planning Commission and subject to the approval of the City Council, as set forth in Section 1805 of the Streets and Highways Code of the State of California. The recommendation of the Planning Commission and the approval of the City Council shall be based upon the following factors:

(aa) The extension of the street is along property lines which form a boundary of the subdivision.

(ab) Adherence to the forty (40) foot part-width standards creates an offset in the center of the street.

(ac) The public interest in having a street without an offset in the center line thereof outweighs the general public policy, set forth above of having all

part-width streets a minimum of forty (40) feet in width.

In all cases in which a part-width street less than forty (40) feet is permitted, on-street parking may be prohibited until such time as a minimum of forty (40) feet of the street is improved.

(9) **Width of Streets.** Street right-of-way widths shall be not less than those set forth herein. Increased widths may be required when determined necessary by the Planning Commission in the public interest. Approval or determination of street classification shall be made by the Planning Commission.

STREET CLASS	MINIMUM WIDTH
Freeway	As determined by State Highway Commission
Expressway	As determined by precise plan
Major streets	100 feet
Collector streets	60 feet
Collector streets within 250 feet of major street	70 feet
Industrial streets	60 feet
Residential streets	50 feet
Frontage road	As required
Cul-de-sac	50 feet (plus 50-foot radius)

(b) **Alleys.**

(1) Alleys shall be prohibited in residential subdivision except when approved or required by the Planning Commission for any one of the following reasons:

(aa) To widen an existing part-width alley which has been dedicated and improved in an adjacent subdivision;

(ab) To complete the continuity of existing alleys where the property to be subdivided is located adjacent to existing blocks containing alleys;

(ac) The special nature of the design or density of a residential subdivision where dwellings are to be grouped in such a manner as to require access from other than street frontage;

(ad) The relationship to existing or proposed adjacent commercial, industrial or high-density residential development, or adjacent railroad, canal rights-of-way or other physical barrier;

(ae) The unusual size, shape or topographical character of the property to be subdivided.

(2) Residential alleys shall be a minimum of twenty (20) feet in width.

(3) Alleys shall be provided where needed to serve existing or proposed commercial or industrial areas, and shall have a minimum width of thirty (30) feet, with adequate provision for ingress and egress.

(4) Where two (2) alleys intersect, ten (10) foot corner cutoffs measured along the property lines from the point of intersection will be required.

(5) Alleys shall be so laid out and aligned as to provide reasonable access for utilities and other services.

(c) **Blocks.**

(1) **Acre or Large Lot Subdivisions.** Where a parcel is first subdivided into small farms or acre tracts, the blocks shall be of such size and shape and be so divided as to provide for the opening of major and collector streets and for the ultimate extension and opening of minor streets and alley at such intervals as will permit a subsequent division of any parcel into lots of normal size.

(2) **Block Lengths.** Block lengths shall not exceed eleven hundred (1,100) feet. For those blocks of an "el" shape, "tee" shape, or superblock configuration, the width shall not exceed five hundred (500) feet in each of any other direction perpendicular or nearly perpendicular to the length. For the purposes of measurement,

the distance between extreme property lines measured generally along rear property lines will be utilized. The above limitations shall not apply to blocks which will abut irrigation canals, railroads, freeways, limited-access expressways, existing subdivisions with a block over eleven hundred (1,100) feet in length, or other existing barriers over eleven hundred (1,100) feet in length.

(3) **Block Widths.** Blocks shall be of sufficient width to permit the plotting of two (2) tiers of lots except where blocks are adjacent to major streets, freeways or expressways and lots are created with back up to such street and front onto a residential or collector street and access rights to such major street, freeway or expressway are waived by the subdivider. The Planning Commission may grant an exception to these provisions to permit through lots which are to be developed with uses facing both streets when it is determined that such exception is warranted by the circumstances of a particular subdivision and is in compliance with an existing zoning classification.

(d) **Lots.**

(1) **Side Lines.** The side lines of all lots wherever practicable shall be at right angles to the center line of the street.

(2) **Division of Lots.** No lot shall be divided by a county, city, school or any other taxing district boundary line.

(3) **Lot Widths and Depths.** The size and shape of each lot shall be in conformance to the zoning regulations effective in the area of the proposed subdivision.

(4) **Suitability of Lots.** All lots shall be suitable for the purpose for which they are intended to be sold. No land subject to flooding or deemed by the Planning Commission to be uninhabitable shall be plotted for residential occupancy.

(e) **Easements.**

(1) **For Utilities.** The subdivider shall grant easements for public utility use along lot lines where necessary for the extension of any such utility and for the relocation of existing public utility facilities.

(2) **For Planting.** Where streets are less than sixty (60) feet in width, easements three (3) feet in width for planting and utilities shall be required adjacent to each street right-of-way line.

(3) **Dedication.** Dedication of easements shall be for the purpose of installing and maintaining utilities, planting strips and for other public purposes as may be ordered or directed by the Council.

(4) **Protection of Easements.** No person other than a public utility shall erect, construct or place any building or structure except fences or walls on any public utility easement. No person shall permit or allow vines or other climbing plant materials to become attached to public utility poles. It shall be the responsibility of the owner and\or occupant of real property to maintain any public utility easement area thereon in such a manner that its condition will not interfere with the proper operation and maintenance of public utility facilities located thereon. Any public utility using such easement, its representatives, agents or employees, shall have the right to trim or top such trees or shrubs growing within or overhanging the easement as may endanger or interfere with public utility facilities constructed therein and may have free access to said public utility facilities and every part thereof at all times for the purpose of constructing, operating and maintaining said public utility facilities.

(5) **Design of Easements.** Easements shall be located and designed in subdivisions to provide for reasonable, practical and useful placement, replacement, enlargement, repair and maintenance of utility facilities.

(f) **Underground Utilities.** All utility distribution facilities and lines, including, but not limited to, gas, water, sewer, electrical communications, street lighting and cable television shall be installed underground, except that overhead utility lines may be permitted when it is determined by the Planning Commission that such facilities are designed to serve areas larger than that being subdivided and that it is impractical to locate such facilities underground.

When overhead lines are approved by the Planning Commission, they shall extend along alleys, side lot, rear yard or privately owned easements whichever is possible, except where such overhead lines cross

streets, or must be located outside of easements for good and sufficient reasons as determined by the Planning Commission.

Overhead service to lots abutting existing overhead lines is permitted where no extension of overhead lines is required.

It shall be the responsibility of the subdivider to insure that utilities are installed in compliance with the requirements of this section. He/she shall make the necessary arrangements with the utility companies or other agencies for such installation, according to the specifications of the governing agency. For the purpose of this section, appurtenances and associated equipment such as, but not limited to, surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets may be placed aboveground.

(g) **Subdivisions Along Major Streets.** When a subdivision is developed adjacent to a freeway, expressway or major street as shown on the General Plan, the Planning Commission may require the subdivider to dedicate and improve a frontage road to provide ingress and egress to adjacent lots or to create backup lots which front upon an interior residential street and back up to such freeway, expressway or major street. When backup lots are created, the subdivider shall waive direct access rights from the lots to the freeway, expressway or major street and shall construct a masonry wall, fence or other suitable barrier as required by the Planning Commission between the subdivision and the adjacent freeway, expressway or major street.

(h) **Watercourses.** The subdivider shall, subject to riparian rights, dedicate a right-of-way for storm drainage purposes conforming substantially with the lines of any natural watercourse or channel, stream or creek that traverses the subdivision, or at the option of the subdivider, provide by dedication further and sufficient easements or construction, or both, to dispose of such surface and storm water.

(i) **Sewage Disposal.** Provision shall be made for adequate sewerage to be installed in accordance with the provisions of the applicable laws of the City.

4-4.401. FILING AND DEPARTMENTAL APPROVAL.

(a) **Number and Time of Filing.** Twenty (20) copies of a tentative map and statement of the proposed subdivision of any land shall be filed with

the Planning Commission at least thirty-five (35) days prior to the meeting of the Commission at which consideration is desired.

(b) **Acceptance.** The representative of the Planning Commission authorized to receive such maps shall examine any such map upon presentation and shall not accept such map unless the same is in full compliance with the law and of this article as to form, the data, information and other matters required to be shown thereon or furnished therewith. The tentative map shall not be considered as filed until stamped, signed and dated by said representative.

(c) **Distribution.** Within ten (10) days of the filing of a tentative map, the Secretary of the Planning Commission shall transmit copies of such map and notice of the filing of the map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. Copies of the tentative map shall also be sent to the Engineering and Transportation Director, Chief Engineer of the Modesto Irrigation District, District Manager of the Pacific Gas and Electric Company, District Manager of the Pacific Telephone and Telegraph Company, and such other department heads and agencies as deemed advisable, and if a state highway is concerned, to the District Engineer of the Department of Transportation, State of California.

(d) **Action by Interested Agency or Department.** The governing board of any school district or other agency or department receiving a notice of the filing of a tentative map or a copy of the tentative map may respond in writing to such notice or tentative map within twenty (20) working days of the date on which such notice or tentative map was mailed by the Secretary of the Planning Commission. In the event that the governing board of any school district or other agency or department fails to respond to a notice of filing or a tentative map within said period, such failure to respond shall be deemed approval of the proposed subdivision by the school district, agency, or department.

4-4.404. ACTION ON TENTATIVE MAP.

(a) **Action by Planning Commission.** The Planning Commission shall review the tentative map to determine whether it is in conformity with the provisions of law and of this chapter and upon that basis, within fifty (50) days after the filing of the tentative map, adopt a resolution approving, conditionally approving or disapproving the tentative map. The Planning Commission is authorized to report its action directly to

the subdivider and shall also transmit to the Engineering and Transportation Director a copy of the tentative map and a copy of the resolution setting forth the action of the Planning Commission.

(b) **Consistency With General Plan.** A tentative map shall not be approved or conditionally approved by the Planning Commission unless the Planning Commission finds that the proposed subdivision, together with the provisions for its design and improvements, is consistent with the General Plan and applicable specific plans of the City.

(c) **Discharge of Waste.** In connection with their review of a tentative map, the Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California. In the event that the Planning Commission finds that the proposed waste discharge would result in or add to violation of requirements of such board, it may disapprove the tentative subdivision map.

(d) **Limitations on Approval.** A tentative map shall not be approved or conditionally approved by the Planning Commission if it makes any of the following findings:

(1) That the proposed map is not consistent with applicable general and specific plans.

(2) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(3) That the site is not physically suitable for the type of development.

(4) That the site is not physically suitable for the proposed density of development.

(5) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(6) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

(7) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the Planning Commission may approve a map if it finds that alternate easements, for access or for use, will be provided and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.

(e) **Reports and Recommendations.** Any reports or recommendations on the map or maps of any subdivision submitted to the Planning Commission or City Council shall be submitted in writing to the subdivider at least three (3) days prior to any hearing or action on the map or maps by the Planning Commission or City Council. Such required submission in writing shall be deemed complied with when such reports or recommendations are placed in the mail, bearing proper postage, and directed to the subdivider at his/her address shown on the map.

(f) **Appeal.** If the subdivider or any interested person is dissatisfied with any action of the Planning Commission with respect to the tentative map, or the kinds, nature and extent of the improvements required by the Planning Commission, he/she may, within fifteen (15) days after such action is taken by the Planning Commission, appeal in writing to the City Council for a public hearing thereon. The City Council shall hear the appeal, upon notice being given in accordance with the provisions of Section 66451.3 of the Government Code and to the appellant and the Planning Commission, within thirty (30) days after the date of filing the appeal, unless the appellant consents to a continuance. At the time fixed for the hearing the City Council shall proceed to hear the testimony of the appellant or any witnesses in his/her behalf. It may also hear the testimony of other competent persons respecting the character of the neighborhood in which the subdivision is to be located; the kinds, nature and extent of improvements; or the quality or kinds of development to which the area is best adapted; and any other phase of the matter with respect to which it may desire to inquire into. Upon conclusion of the hearing the City Council shall, within ten (10) days, declare its findings based upon the testimony and documents produced before it. It may sustain, modify, reject or overrule any recommendations or rulings of the Planning Commission and may make such findings as are not

inconsistent with the provisions of this chapter and the Subdivision Map Act.

(g) **Presence of Subdivider.** The subdivider or his/her representative should be present at the time set for the consideration of the tentative map.

(h) **Extension of Time Limits.** The time limits for acting and reporting on tentative maps as specified in this section may be extended by mutual consent of the subdivider and the Planning Commission or City Council as the case may be.

(i) **Information To Be Furnished to Engineering and Transportation Director.** When the approval or conditioned approval of the tentative map of any subdivision has become final, the subdivider shall furnish the following information to the Engineering and Transportation Director and shall receive his/her authorization prior to construction of any of the improvements or preparation of the final map:

(1) Typical cross sections and proposed final finished grades of all roads, streets and highways in the proposed new subdivision, together with a profile showing the relation between finished grade and existing ground elevations.

(2) Proposed lengths, size and type of any pipes, culverts or structures necessary for drainage, erosion control or the public safety with plans and specifications therefor.

(3) Any information required by the conditional approval of the Planning Commission or City Council.

(4) Elevations shall be referenced to the Modesto City Datum.

4-4.503. FILING PARCEL MAPS.

(a) **Filing Within Twenty-Four Months of Tentative Approval.** The subdivider or his/her agent may file a parcel map with the Engineering and Transportation Director for his/her examination and certification within twenty-four (24) months after the approval or conditional approval of the tentative map. A map shall be deemed to be filed when it is accepted by the City as being in compliance with the provisions of this chapter and in substantial compliance with the tentative map. The twenty-four-month period shall not include any days during which the

final map is being reviewed by the City. Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend the time for filing a parcel map for a period or periods not exceeding two (2) years if it determines that conditions affecting the parcel map have not substantially changed. In any case where a parcel map has not been recorded within twenty-four (24) months or such extended period of time as may be granted by the Planning Commission, approval of a new tentative parcel map shall be required.

If a subdivider's application for an extension of time for filing a parcel map is denied by the Planning Commission, the subdivider may appeal to the City Council within fifteen (15) days after the Planning Commission has denied the time extension. The City Council shall hear such appeal in accordance with the provisions of Section 4-4.404(f) of this chapter.

A parcel map shall be prepared by a registered civil engineer or licensed land surveyor and shall substantially conform to the tentative parcel map and conditions thereto as approved by the Planning Commission.

(b) **Fees.** A tracing of the parcel map shall be filed with the Engineering and Transportation Director. In addition, the subdivider shall deposit with the City the Recorder's fee for recording the parcel map.

(c) **Form of Parcel Map.** The parcel map shall conform to the provisions of Section 4-4.602 for final maps where applicable. The map shall show the definite location of the parcel or parcels and particularly their relation to surrounding surveys. The location of any remainder of the original parcel shall be shown, but need not be shown as a matter of survey, but only by reference to the existing record boundaries if such remainder has a gross area of five (5) acres or more.

The parcel map may be compiled from record data when sufficient survey information exists on filed maps to locate and retrace the exterior boundary lines of the parcel map and when the location of at least one (1) of these boundary lines can be established from an existing monument line. In any case, the parcel map may be based upon a field survey made in conformance with the Land Surveyor's Act.

(d) **Consent by Owner.** The parcel map shall contain a certificate, which shall be signed and acknowledged by all parties having any record title interest in the real property being subdivided, consenting to the

preparation and recording of the parcel map. Such signatures shall be in accordance with the provisions of Section 4-4.603(a)(1) of this chapter pertaining to final maps.

(e) **Dedications.** If dedications of streets, alleys, walkways, easements, public utility easements, or other public ways, or access rights are required by the Planning Commission as conditions of approval of a parcel map, such dedications shall either be shown on and offered by a certificate on the parcel map or made by separate instrument as determined by the Engineering and Transportation Director . Such certificate or instrument shall be signed by those parties having any record title interest in the real property being subdivided in accordance with the provisions of Section 4-4.603(a)(1) of this chapter pertaining to final maps.

(f) **Certification by Engineering and Transportation Director.** Upon receipt of the parcel map, together with the recording fees, and any required improvement security, the Engineering and Transportation Director shall examine the same to determine whether said map is technically correct and substantially conforms with the tentative parcel map and with all changes and requirements imposed as conditions of approval by the Planning Commission. The Engineering and Transportation Director shall also refer the parcel map to the Secretary of the Planning Commission for examination and determination if all of the lots and parcels created by said map conform with the requirements and the zoning regulations of the City of Modesto. If the Engineering and Transportation Director shall determine that the parcel map fully conforms with all of the requirements set forth herein, he/she shall so certify on said map.

(g) **Acceptance of Dedications.** Offers of dedication as set forth in subsection (e) of this section shall be reviewed by the Engineering and Transportation Director for compliance with the conditions of approval imposed by the Planning Commission. If all offers of dedication are in accordance with the requirements of the Planning Commission, the Engineering and Transportation Director shall consent to such dedications and shall accept such dedications by a certificate on the parcel map.

(h) **Recordation of Parcel Maps.** Upon certification by the Engineering and Transportation Director, the parcel map shall be transmitted to the City Clerk, who shall cause said map to be recorded in the office of the County Recorder.

4-4.509. NOTICE.

The Engineering and Transportation Director shall give at least thirty (30) days' notice in writing to the owner(s) of said parcel(s) to construct said improvements. Said notice shall set forth the location of the parcel, the improvements to be constructed, and the number of the resolution approving the parcel map and the volume and page at which the parcel map is recorded in the Stanislaus County Records. Said notice shall be deemed to have been delivered five (5) days after deposit in the United States mail.

4-4.510. FAILURE TO COMMENCE WORK.

Whenever the required construction is not commenced within thirty (30) days after delivery of notice or within any period of extension granted pursuant to this article, the City Council may authorize the Engineering and Transportation Director to have said improvements constructed.

4-4.511. EXTENSION OF TIME TO PERFORM WORK.

Upon receipt of an application from the person required to construct said improvements and an agreement by such person that he/she will comply with the requirements if allowed additional time, the Engineering and Transportation Director may, in his/her discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said improvements.

4-4.513. PROCEDURE.

When any work is to be done pursuant to this article, the Engineering and Transportation Director shall cause the work to be accomplished by City personnel or by contract. Plans and specifications therefor may be prepared by the Engineering and Transportation Director, or he/she may employ such architectural and engineering assistance on a contract basis as he/she may deem reasonably necessary.

4-4.515. ACCOUNT OF EXPENSES, FILING OF REPORT: CONTENTS.

The Engineering and Transportation Director shall keep an itemized account of the expenses incurred by the City in the construction of any improvements done pursuant to the provisions of this article. Upon the completion of the work, the Engineering and Transportation Director shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the

work, a description of the location and type of improvements, and the names and addresses of the persons entitled to notice.

4-4.516. REPORT TRANSMITTED TO COUNCIL, SET FOR HEARING.

Upon receipt of said report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date and place for hearing said report, and any protests or objections thereto. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by certified mail, postage prepaid, addressed to the owner of the property as his/her name and address appears on the last equalized assessment roll of the county, if such so appear, or as known to the Clerk. Such notice shall be given at least ten (10) days prior to the date set for hearing and shall specify the day, hour, and place when the Council will hear and pass upon the Engineering and Transportation Director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

4-4.517. PROTESTS AND OBJECTIONS, HOW MADE.

Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk at any time prior to the time set for the hearing on the report of the Engineering and Transportation Director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The City Clerk shall endorse on every such protest or objection the date it was received and shall present such protests or objections to the City Council at the time set for the hearing.

4-4.518. HEARING OF PROTESTS.

Upon the day and hour fixed for the hearing the City Council shall hear and pass upon the report of the Engineering and Transportation Director together with any such objections or protests. The Council may make such revision, correction or modification in the report or the charge as it may deem just; and when the Council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the City Council on the report and the charge, and on all protests or objections, shall be final and conclusive.

4-4.601. FILING.

(a) **Filing Within Twenty-Four Months of Tentative Approval.** The subdivider or his/her agent may file a final map within twenty-four (24) months after the approval or conditional approval of the tentative map. A map shall be deemed to be filed when it is accepted by the City as being in compliance with the provisions of this chapter and in substantial compliance with the tentative map. The twenty-four-month period shall not include any days during which the final map is being reviewed by the City. Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend the time for filing a final map for a period or periods not exceeding three (3) years if it determines that conditions affecting the subdivision have not substantially changed. In any case where a final map has not been filed within twenty-four (24) months or such extended period of time as may be granted by the Planning Commission, approval of a new tentative map shall be required.

If a subdivider's application for an extension of time for filing a final map is denied by the Planning Commission, the subdivider may appeal to the City Council within fifteen (15) days after the Planning Commission has denied the time extension. The City Council shall hear such appeal in accordance with the provisions of Section 4-4.404(f) of this chapter.

(b) **Fees.** A tracing of the final map shall be filed with the Engineering and Transportation Director. The subdivider shall deposit with the City the County Recorder's fee for recording the final map and shall pay to the City the fees for checking the map. The subdivider shall also pay at that time all other fees required by law to be paid in connection with the approval of a subdivision.

(c) **Filing of Traverse Sheets.** At the time of the filing of final map with the Engineering and Transportation , the subdivider shall also file therewith traverse sheets showing traverse closures and the computation of all distances, angles, and course shown on the final map. The traverse of the boundaries of the tract and of lots and blocks shall close within a limit of error of one (1) in ten thousand (10,000).

(d) **Report and Guarantee of Clear Title.** The final map shall be accompanied by a report prepared by a duly authorized title company naming the persons whose consent is necessary to the preparation and recordation of said map and to the dedication of the streets, alleys, and other public places shown on the map and certifying that as of the date of the preparation of the report, the persons therein named are all the

persons necessary to give clear title to said subdivision. At the time of recording the approved map, there shall be filed with the County Recorder a guarantee executed by a duly authorized title company for the benefit and protection of the City showing that persons (naming them) consenting to the preparation and recordation of said map and offering for dedication the streets, alleys and other public places shown thereon are all the persons necessary to pass clear title to said subdivision and to the dedication shown thereon.

4-4.602. FORM OF FINAL MAP.

(a) **Legibility and Size.**

(1) The final map shall be clearly and legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film, except that affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with black opaque ink. The map shall be so made and shall be in such condition when filed that good legible prints and negatives can be made therefrom. The size of each sheet shall be eighteen (18) by twenty-six (26) inches leaving an entirely blank margin of one (1) inch.

(2) When the final map consists of more than two (2) sheets, a key map showing the relation of the sheets shall be placed on sheet one. Every sheet comprising the map shall bear the scale, north point, legend, sheet number and number of sheets comprising the map.

(b) **Title.** The final map shall contain a title consisting of the name of the tract and subtitle or general description of all the property being subdivided with reference to maps which have been previously recorded. In no case shall the title be the same, or so nearly the same as to cause confusion as a name of any existing city, town, tract or subdivision of land of which a map has been previously recorded.

(c) **Distances and Bearings.** Sufficient data must be shown to determine readily the bearing and length of every lot line, block line and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner, and shall be shown in feet and hundredths of a foot. Lots containing one acre or more shall show total acreage to nearest hundredth. Bearing and length of straight lines, and radii and arc length

for all curves as may be necessary to determine the location of the centers of curves and tangent points shall be shown.

(d) **Boundary References and Monuments.**

(1) The final map shall show clearly any stakes, monuments or other evidence found on the ground to determine the boundaries of the tract. The corners of adjoining subdivisions or portions thereof shall be identified by lot and block numbers, subdivision and properties shown.

(2) Whenever the Engineering and Transportation Director has established the center line of a street or alley, adjacent to or in the proposed subdivision, the data shall be shown in the final map indicating all monuments found and making reference to a field book or map. If the points were reset by ties the course and detail of relocation data used shall be stated.

(3) The map shall show the location and description of all monuments and bench marks found or placed in making the survey of the subdivision with proper reference sufficient for relocation.

(e) **Information Required.** In addition, the final map shall be prepared in full compliance with the following requirements:

(1) High Water Line. The line of high water shall be shown in any case where the subdivision is adjacent to a stream, channel or any body of water.

(2) Flood Areas. The boundaries of any areas within the proposed subdivision which are subject to inundation by water shall be shown.

(3) Boundary of Subdivision. The boundary of the subdivision shall be designated by a blue border one-eighth (1\8) inch in width applied to the reverse side of the tracings. Such border shall not interfere with the legibility of figures or other data.

(4) Right of Way Dimensions. The center lines and said lines of all streets, the total width of all streets, the widths each side of the center line, the widths of any portion of a street being dedicated,

and the widths of existing dedications, and the widths of all railroad, Irrigation District or other rights of way shall be shown.

(5) Easements. The map shall show the side lines of all easements to which the lots are subject. Such easements must be clearly labeled and identified and if already of record, the record references given. If any easement is not definitely located of record, a statement of such easement must appear on the title sheet. Easements for storm drain, sewers and other purposes shall be denoted by the fine broken lines. The width of the easement and the lengths and bearings of the lines thereof and sufficient ties thereto definitely locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

(6) Acreage. The total acreage of the subdivision to the nearest one hundredth of an acre shall be shown on the face of the final map.

(7) Block Numbers. Block numbers shall be assigned by the office of the Planning Commission. The numbers shall be solid and of sufficient size and thickness to stand out, and shall be so placed as not to obliterate any figure and shall not be enclosed in any design. Each block in its entirety shall be shown on one sheet. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets complete with center line and property line data.

(8) Lot Numbers. Lot numbers shall begin with the number "1" in each block and shall be consecutive with no omissions or duplications. If deemed necessary by the Secretary of the Planning Commission, omissions may be made when only a portion of the block is to be recorded and the remainder of the block is to be completed as part of a subsequent subdivision.

(9) Other Data. The map shall also show all other data that is or may be required by law.

(10) Disposition of Lots. The final map shall particularly define, delineate and designate all lots intended for sale or reserved for private purposes, all parcels offered for dedication for any

purpose, public or private with all dimensions, boundaries and courses clearly shown and defined in every case.

(11) Reversion to Acreage. Maps filed for the purpose of reverting subdivided land to acreage shall be conspicuously so designated under the title "The Purpose of This Map is a Reversion to Acreage."

4-4.603. CERTIFICATES AND TAX BOND.

(a) The following certificates and acknowledgments and others required by law shall appear on the final map; such certificates may be combined where appropriate.

(1) **Certificate by Parties Holding Title.** A certificate signed and acknowledged by all parties having any title interest in the land subdivided, consenting to the preparation and recordation of said map, provided however, that the signatures of parties owning the following types of interests may be omitted if their names and the nature of their interests are set forth on the map.

(aa) Rights of way, easements or other interest which cannot ripen into a fee, except those owned by a public entity or public utility unless it is determined by the City Council that division and development of the property in the manner set forth on the final map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement; provided that such signatures may be required by the City Council. If such signatures are not required by the City Council, the subdivider shall send, by certified mail, a sketch of the proposed final map, together with a copy of this section, to any public entity or public utility which has previously acquired a right-of-way or easement. If the public entity or public utility objects to recording the final map without the signature of each public entity or public utility, it shall so notify the subdivider and within thirty (30) days after receipt thereof, otherwise the signature may be omitted. Failure of the public entity or public utility to object to recording the final map without its signature shall in no way affect its rights under a right-of-way easement.

(ab) Rights of way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and which signature it is impossible or impractical to obtain. In this case, a reasonable statement of the circumstances preventing the procurement of the signature shall be set forth on the map.

(ac) Any subdivision map including land originally patented by the United States or this State, under patent reserving interest to either or both of these entities, may be recorded under the provisions of this article without the consent of the United States or of this State thereto, or to dedication made thereon.

(ad) Interest in or rights to minerals including but not limited to oil, gas or other hydrocarbon substances, if

(i) The ownership of such interests or rights does not include a right of entry on the surface of the land; or,

(ii) The use of the land, or the surface thereof, in connection with the ownership of such interests or rights, is prohibited by zoning or other local ordinances or regulations, provided that such signatures may be required by the City Council.

(2) **Dedication Certificate.** A certificate signed and acknowledged as above offering for dedication all parcels of land shown on the final map and intended for any public use, except those parcels other than streets which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

(3) **Engineer's Certificate.** A certificate by the Civil Engineer or Licensed Surveyor responsible for the survey and final map. The signature of such Civil Engineer or Surveyor, unless accompanied by his/her seal, must be attested.

(4) **Certificates for execution by each of the following:**

(aa) Engineering and Transportation Director

(ab) Secretary of the Planning Commission
(ac) City Clerk
(ad) County Recorder

(5) **Certificates Regarding Tax Liens.**

(aa) Prior to the filing of the final map with the governing body, the subdivider shall file with the Clerk of the Board of Supervisors of Stanislaus County, a certificate from the official, computing redemptions in the County or any municipal corporation in which any part of the subdivision is located, showing that, according to the records of his/her office, there are no liens against the subdivision or any part thereof for unpaid State, County, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

(ab) As to taxes or special assessments collected as taxes not yet payable, the subdivider shall file with the Clerk of the Board of Supervisors mentioned, a certificate by each proper officer giving the Clerk's estimate of the amount of taxes and assessments which are a lien but which are not yet payable.

(ac) Whenever any part of the subdivision is subject to lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the owner or subdivider executes and files with the Board of Supervisors, a good and sufficient bond to be approved by said Board and by its terms made to inure to the benefit of the County and conditioned upon the payment of all State, County, municipal and local taxes and all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable. In lieu of a bond, a deposit may be made of money or negotiable bonds in the same amount, and of the kind approved for securing deposits of public money.

4-4.604. ACTION ON FINAL MAP.

(a) **Approval of Planning Commission.** The Secretary of the Planning Commission upon receiving the final map from the subdivider or his/her

agent shall examine the same to determine whether said map conforms with the tentative map and with all changes and requirements imposed as a condition to the acceptance of said tentative map by the Planning Commission. If it is determined that the final map does not conform, the subdivider shall be advised of the changes or additions that must be made before the final map can be certified by the Secretary of the Planning Commission. If the subdivider is not satisfied with the determination made by the Secretary of the Planning Commission, he/she may appeal in writing, within fifteen (15) days, to the Planning Commission. If it is determined that the map is in conformity, the Secretary of the Planning Commission shall certify approval thereon.

(b) **Approval by Engineering and Transportation Director.** Upon approval by the Secretary of the Planning Commission, the final map and other data shall be submitted to the Engineering and Transportation Director, who shall examine and determine that the subdivision as shown is substantially the same as it appeared on the tentative map, and any improved alterations thereof, that all provisions of the law and of this chapter applicable at the time of approval of the tentative map have been complied with, and that he/she is satisfied that the map is technically correct. If the Engineering and Transportation Director shall determine that full conformity therewith has been made, he/she shall so certify on said map. In the event a subdivision is partly in the City and partly outside the City, the County Surveyor and the Engineering and Transportation Director shall enter into an agreement by and with the consent of their respective governing bodies, providing that the County Surveyor may perform the duties of the Engineering and Transportation Director or vice versa, or providing for an apportionment between them of said duties. The County Surveyor or the Engineering and Transportation, when by such agreement all such duties devolve upon either one, may after his/her performance thereof make the aforesaid certification upon said map and, when by such agreement said duties are apportioned between the County Surveyor and Engineering and Transportation Director, it shall be sufficient, if each shall, after the performance thereof, make a certification on said map, touching the duties performed by each. When all certificates required on the final map have been signed, except the approval certificate of the Council, the Engineering and Transportation Director shall transmit said map to the City Clerk.

(c) **Approval by City Council.**

(1) At its first regular meeting following the transmittal of the final map to the City Clerk, the Council shall consider said map, the plan of subdivision, and the offers of dedication. The Council may reject any or all offers of dedication. In the event that all improvements required or conditions imposed upon approval under the terms of this chapter or by law are not completed before the filing of the final map, the Council may enter into an agreement with the subdivider for posting improvement security as provided in Section 4-4.605 of this article. In such case, when the agreement has been approved by the City Attorney as to form and by the Engineering and Transportation Director as to sufficiency, and when the improvement security has been approved by the City Attorney as to form and by the Finance Director as to sufficiency, the Council may consider the final map.

(2) The Council shall approve said map if it is determined to be in conformity with the provisions of law and of this article. The Council shall disapprove said map if it is determined to be not in conformity with the provisions of law and of this chapter and shall advise the subdivider of its disapproval, and the reason or reasons therefor.

(d) **Action by City Clerk.** The City Clerk upon receipt of the necessary fees, and after the signatures and seals have been affixed and upon the approval of the final map by the Council shall transmit the map to the County Recorder who shall file the same. No map shall have any force or effect until the same has been approved by the Council, and no title to any property described in any offer of dedication shall pass until recordation of the final map.

4-4.605. AGREEMENT AND SECURITY FOR IMPROVEMENT.

(a) **Provisions of Agreement.**

(1) Prior to the approval by the Council of the final map, the subdivider shall execute and file an agreement between himself and the City, specifying the period within which he/she shall complete all improvement work to the satisfaction of the Engineering and Transportation Director or designee, and providing that if he/she shall fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the subdivider. The agreement

shall also provide for inspection of all improvements by the Engineering and Transportation Director or designee, and reimbursement of the City by the subdivider for the cost of such inspection. The agreement shall also provide that the subdivider shall guarantee and warrant subdivision improvements for a period of one year following the completion and acceptance thereof against any defective work or labor done, or any defective materials furnished.

(2) Such agreement may also provide:

(aa) For the construction of the improvements in units.

(ab) For extension of time under conditions therein specified.

(ac) For partial release of the improvement securities upon acceptance by the City Council of the work as it progresses.

(ad) For the financing and construction of any or all of such improvements under an appropriate special assessment act proceeding, the subdivider shall agree, in writing, to initiate, and so far as may be in his/her power, to consummate such proceedings, within such time as may be prescribed by the Council.

(b) **Improvement Security.** The subdivider shall also file with the aforesaid agreement, two (2) improvement securities, each to be in an amount based upon the total estimated cost of the improvement as determined by the Engineering and Transportation Director. One improvement security shall secure faithful performance of said agreement and shall be in an amount equal to one hundred (100) percent of the estimated cost of the improvement. The second improvement security shall secure the obligations set forth in subsection (b) of Section 66499.2 of the Government Code, for payment of the contractor, his/her subcontractors and to persons renting equipment or furnishing labor or materials to them for said improvements, and shall be in an amount equal to fifty (50) percent of the total estimated cost of the improvements. Such improvement securities shall be in one of the following forms:

(1) A cash deposit or deposits.

(2) A bond or bonds issued by one or more duly authorized corporate sureties.

(3) A savings and loan certificate and share in accordance with Article 6 of Chapter 4 of Title 2 of the Modesto Municipal Code.

(4) An instrument or instruments of credit from one or more financial institutions subject to regulations by the state or federal government pledging that the funds necessary to meet the performance are on deposit and guaranteed for payments and agreeing that the funds designated by the instrument shall become trust funds for the purposes set forth in the instrument.

(5) Any other form of improvement security authorized by the Subdivision Map Act, including the deposit, with a responsible escrow agent or trust company approved by the Council, of money or negotiable bonds of the kind approved for securing deposits of public money.

The required security shall be in an amount determined by the Engineering and Transportation Director as sufficient to cover the cost of said improvements, engineering, inspection, fees and incidental expenses. The required improvement security shall be approved by the Finance Director as to sufficiency and by the City Attorney as to form.

(c) **Forfeiture of Improvement Security.** In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this chapter and the City shall have to complete same, or if the subdivider shall fail to reimburse the City for the cost of inspection, engineering, fees and incidental expenses, the City shall call on the surety for reimbursement, or shall appropriate from any cash deposits, savings and loan certificates and shares, or instruments of credit, funds for reimbursement. In any case, if the amount of the surety bond, savings and loan certificate and shares, instrument or credit, or cash deposit shall exceed all cost and expenses incurred by the City it shall release the remainder of such bond, savings and loan certificate and share of cash deposit. If the amount of the surety bond, savings and loan certificate and share, instrument of credit, or cash deposit shall be less than the cost and expense incurred by the City, the subdivider shall be liable to the City for such difference.

(d) **Release of Improvement Security.** Improvement securities may be released or reduced, in whole or in part, only in the time and manner prescribed in Section 66499.7 of the Government Code, as it now exists or is hereafter amended, and only after certification by the Engineering and Transportation Director that the work covered thereby has been satisfactorily completed and upon approval of the Council.

(e) **Guarantee and Warranty Security.** In addition to the improvement securities specified in subsection (b) of this section, the subdivider shall file with the subdivision agreement an amount as specified in said agreement to guarantee and warrant subdivision improvements for a period of one (1) year following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished. The Engineering and Transportation Director is authorized to release said security upon expiration of the guarantee and warranty period if it is determined that subdivision improvements so guaranteed and warranted are satisfactory.

4-4.606. PRELIMINARY SOIL REPORT.

Prior to the submission of the final map, the subdivider shall file with the Chief Building Official a preliminary soil report, prepared by a civil engineer who is registered by the State of California, based upon adequate test borings or excavations of every subdivision for which a final map is required. The preliminary soil report may be waived if the Chief Building Official shall determine that, due to the knowledge of the Development Services Division of the Community Development Department as to soil qualities of the subdivision, no preliminary analysis is necessary.

4-4.801. STANDARDS AND APPROVAL.

All improvements shall conform to the requirements contained in the Standard Specifications of the City of Modesto prepared by the Engineering and Transportation Director, recommended by the Planning Commission, and adopted by the Council as the same now exists or may hereafter be amended. Copies of said Standard Specifications shall be maintained on file in the office of the City Clerk, Planning Commission and Engineering and Transportation Director.

4-4.802. GENERAL REQUIREMENTS.

The subdivider shall install improvements in accordance with the standards specified in this chapter and in the Standard Specifications referred to in Section 4-4.801 hereof.

(a) **Streets and Alleys.** All streets and alleys shall be improved in accordance with the requirements of the Standard Specifications referred to in Section 4-4.801 hereof.

(b) **Drainage Facilities.** Drainage facilities shall be installed as deemed necessary by the Engineering and Transportation Director to provide for the removal of surface water. Such drainage facilities shall be of a character and design approved by the Engineering and Transportation Director and in accordance with the requirements of the Standard Specifications referred to in Section 4-4.801 hereof, in order to insure proper grading and erosion control including the prevention of sedimentation or damage to off-site property.

(c) **Curbs and Gutters.** Curbs and gutters shall be installed to grades, cross section, layout and location approval by the Engineering and Transportation Director.

(d) **Sidewalks.** Sidewalks shall be installed along all streets and may be required in other locations where sidewalks are deemed necessary by the Planning Commission.

(e) **Sewage Disposal.** Sanitary sewer facilities connecting with the existing City system shall be installed to serve each lot when connection to such system is available. Sewers shall be installed to grades, location, design and sizes approved by the Engineering and Transportation Director in accordance with the provisions of applicable laws of the City.

(f) **Water.** Water mains connecting with the existing City or public utility system shall be installed to serve each lot when connection to such system is available. In the latter case, when it is proposed that water will be supplied by a private water company, the subdivider shall submit a letter from the governing body of such water system showing the ability of the system to serve the proposed subdivision and evidence that a satisfactory agreement has been entered into for connection to the system. Water mains shall then be installed to grades, location, design and sizes approved by the Engineering and Transportation Director and the engineer of the governing body of the water system.

(g) **Street Lights.** Street lighting standards, underground cables or conduit and conductors and all materials and appurtenances necessary shall be installed of a design and location approved by the Engineering and Transportation Director. There shall be at least one (1) electrolier at each intersection, and intermediate electroliers not more than three hundred thirty (330) feet apart in blocks exceeding three hundred thirty (330) feet in length. Electroliers shall be spaced not more than three hundred thirty (330) feet apart on both sides of major streets.

When a cul-de-sac is longer than one hundred fifty (150) feet measured from the center of the turnaround at the end of the cul-de-sac to the center line of the intersecting street, an electrolier shall be provided at the turnaround in a location approved by the Engineering and Transportation Director.

(h) **Railroad Crossings.** Provisions shall be made for any and all railroad crossings necessary to provide access to or circulation within the proposed subdivision, including the preparation of all documents necessary for application to the California State Public Utilities Commission for the establishment and improvement of such crossing. The cost of such railroad crossing improvement shall be borne by the subdivider.

(i) **Street Signs.** Each subdivider shall pay to the City a fee for each street sign required in the subdivision at the time of approval of the final map, as a condition of said approval; provided, that when only a part of an intersection requiring a street sign is within or contiguous to the subdivision, the charge for said street sign for such an intersection shall be proportional to the number of corners of the intersection within or contiguous to the subdivision. Said fee shall be in accordance with a schedule approved by the Council from time to time by resolution.

4-4.802.1. REIMBURSEMENT FOR IMPROVEMENTS.

(a) Improvements shall be dedicated to the public and have sufficient size, capacity and number to provide for orderly development both of the property being subdivided and for adjacent areas. The size, capacity and number of improvements shall be determined by the Engineering and Transportation Director. The City will reimburse the subdivider that portion of the cost of improvements equal to the difference between the amount it would cost the subdivider to install improvements to serve only the subdivision and the actual cost of such improvements. The reimbursement shall be provided in accordance with provisions of the

Subdivision Map Act. The City may enter into an agreement with the subdivider to specify the details of the reimbursement procedure. Interest will not be paid to the subdivider.

(b) To pay for the reimbursement required hereby, the City may:

(1) Collect a reasonable charge from other persons, including public agencies, using such improvements for the benefit of the real property not within the subdivision.

(2) Contribute to the subdivider that part of the cost of improvements that is attributable to the benefit of real property outside the subdivision and levy a charge upon real property benefited to reimburse the City for such costs.

(3) Establish and maintain local benefit districts for the levy and collection of such charge or cost from property benefited.

4-4.804. MONUMENTS.

(a) At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Profession Code so that another engineer or surveyor may readily retrace the survey.

(b) Permanent monuments as required by the Standard Specifications of the City of Modesto shall be set at each corner and angle point in the exterior boundaries of the subdivision except where such monuments already exist in the proper positions. The exterior boundary of the subdivision shall be adequately monumented or referenced before the final map is recorded.

(c) Interior monuments shall be set as required by the Standard Specifications of the City of Modesto. Interior monuments need not be set at the time the map is recorded, if the engineer or surveyor certifies on the map that the monuments will be set on or before a specified later date, and if the subdivider furnishes to the City a cash deposit in an amount for each monument to be set as established by resolution of the City Council adopted from time to time.

(d) Within five (5) days after the final setting of all monuments has been completed by the engineer or surveyor, he/she shall give written notice

to the subdivider, and to the Engineering and Transportation Director, that the final monuments have been set.

Upon payment to the engineer or surveyor for setting the final monuments, the subdivider shall present to the Engineering and Transportation Director evidence of such payment and receipt thereof by the engineer or surveyor. Upon receipt of such evidence the Engineering and Transportation Director is authorized to release the cash deposit. The Engineering and Transportation Director is authorized to cause payment to be made to the engineer or surveyor for the setting of the final monuments from said cash deposit, if so requested by the depositor.

If the subdivider does not present evidence to the Engineering and Transportation Director that he/she has paid the engineer or surveyor for the setting of the final monuments, and if the engineer or surveyor notifies the Engineering and Transportation Director that he/she has not been paid by the subdivider for the setting of the final monuments, the Engineering and Transportation Director may, within three (3) months from the date of said notification, authorize payment to the engineer or surveyor from the cash deposit the amount due.

SECTION 5. AMENDMENT OF CODE: Sections 4-5.03, 4-5.05, and 4-5.06 of Chapter 5 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-5.03. EXCEPTIONS.

The provisions of Section 4-5.01 herein, shall not apply to cases where lumber or other building material or building appliances are placed in such street or alley for the purpose of erecting, altering or repairing any building or structure located upon adjoining property; provided, however, that in such cases material or appliances shall be so placed as to offer the least possible obstruction to the free passage of such street or alley; and provided further, that any such material or appliances shall be placed or stored as directed by the Engineering and Transportation Director of the City.

4.5.05. SAFEGUARDS REQUIRED FOR NECESSARY OBSTRUCTIONS.

Whenever it becomes necessary for any reason, temporarily to place, or cause to be placed, upon any street or sidewalk in the City, any obstruction whatever, which obstructs the use of said street or sidewalk, or when it becomes necessary

to make any excavation in any street or sidewalk, the person placing such obstruction, or making such excavation, or causing the same to be made in or upon such street or sidewalk in the City, shall, during the time such obstruction exists, maintain at such obstruction, such safeguards as may be ordered by the Engineering and Transportation Director of the City, and said person shall, during the time such obstruction exists, cause to be maintained one (1) or more lighted lanterns showing a red light, hung on each side of said obstruction so as to indicate the location of same, and to give warning to the existence of said obstruction. Said light must be placed and maintained from the hour of 5:30 p.m. to 6:30 a.m. of each day during the months of November, December, January and February, and during the months of March, April, May, June, July, August, September and October from the hour of 6:30 p.m. to 5:30 a.m. of the following day.

4-5.06. DUTY AND AUTHORITY OF ENGINEERING AND TRANSPORTATION DIRECTOR TO PLACE LIGHTS AT OBSTRUCTIONS.

The Engineering and Transportation Director of the City shall have the authority place to, and it is hereby made his/her duty to see that sufficient lights are placed at any obstruction.

SECTION 6. AMENDMENT OF CODE: Section 4-6.205, 4-6.206.1, 4-6.211, 4-6.212, 4-6.213, 4-6.214, 4-6.217, 4-6.301, 4-6.306, 4-6.402, 4-6.403, 4-6.501, 4-6.502, and 4-6.801 of Chapter 6 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-6.205. INVESTIGATION OF APPLICATION.

Before any application is acted upon by the Council, the City Manager shall cause the Engineering and Transportation Director to make an investigation and shall report his/her findings in writing to the Council on the following:

(a) The demand of the public for additional taxicab service.

(b) The adequacy of existing mass transportation and taxicab service.

(c) The financial responsibility and experience of the applicant.

(d) The number, kind and type of equipment and the color scheme to be used.

(e) The effect which such additional taxicab service may have upon traffic congestion and parking.

(f) Such other relevant facts as the Council may deem advisable or necessary.

4-6.206.1. POSTING OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

Each taxicab operator to whom a certificate of public convenience and necessity has been issued shall cause an authenticated copy of the certificate to be posted on the dash in a position clearly visible to the passenger in the taxicab, or in some other area approved by the Engineering and Transportation Director.

4-6.211. REPLACEMENT OF TAXICABS.

Whenever an owner sells or transfers title to a taxicab for which a certificate has been granted and purchases another taxicab, the Engineering and Transportation Director, as a matter of right, upon written request of applicant, shall issue a new certificate for the operation of such replacement taxicab, provided said owner has complied with all the provisions of this article. No replacement cab shall be put into operation before a certificate covering its operation has been obtained as required by this section.

4-6.212. SUBSTITUTE TAXICABS.

Any owner holding a certificate to operate one or more taxicabs, who desires to substitute a different vehicle for a taxicab operated under such certificate, shall do so only upon obtaining from the Engineering and Transportation Director, permission therefor, which shall be granted only upon written application setting forth the particulars of such proposed substitution, and upon otherwise complying with the requirements of this article.

4-6.213. REVOCATION OF CERTIFICATES.

A certificate may be revoked by the Council at any time after proper notice to and opportunity of hearing given to the owner thereof if:

(a) The Council finds the owner's past record to be unsatisfactory.

(b) The owner fails to operate the taxicab in accordance with the provisions of this chapter.

(c) The owner fails to operate any taxicab for a period of seventy-two (72) hours without first having obtained permission for cessation of such operation from the Engineering and Transportation Director.

(d) When the owner's service to the public is inadequate or inefficient.

(e) The taxicabs are operated at a rate of fare other than that approved by the Council.

(f) The owner fails to pay any of the fees or payments required to be paid by him/her by the provisions of this chapter or by the provisions of Chapter 1 of Title 6 of this Code.

4-6.214. SURRENDER OF CERTIFICATE.

A certificate which shall have been automatically canceled or revoked by the Council shall forthwith be surrendered to the Engineering and Transportation Director, and the operations of any taxicab covered by such a certificate shall cease and further operation of such a taxicab shall be unlawful. Any owner who shall permanently retire any taxicab from taxicab service and within ten (10) days thereof not replace said taxicab or make arrangements satisfactory to the Engineering and Transportation Director for said replacement, shall immediately surrender any certificate granted for the operation of such taxicab to the Engineering and Transportation Director. An owner may not secure a new certificate for the operation of any taxicab for which a certificate has been automatically canceled, revoked or surrendered without having first made application therefor in the manner provided in this article.

4-6.217. ANNUAL OPERATING STATEMENT.

Each person granted a certificate of public convenience and necessity to engage in the business of operating any taxicab within the City pursuant to the provisions of this chapter shall annually file with the Engineering and Transportation Director a detailed financial statement, including a balance sheet and profit and loss statement, for the operation of said taxicab business separate from any other business owned or operated by said person. Said financial statement shall cover the fiscal or calendar year used by said person for federal income tax purposes and shall be filed with the Engineering and Transportation Director on or before the filing date of said person's federal income tax return for said taxicab business. Alternatively, such person may satisfy the filing

requirement by filing a copy of the filer's federal income tax return. Any person who fails to file said statement on or before said date shall pay a penalty of five dollars ($5.00) a day for each calendar day, or part thereof, until said statement is filed.

4-6.301. TAXIMETER REQUIRED.

It shall be unlawful for any owner or driver to operate any taxicab in the City unless such vehicle is equipped with a taximeter of such type, style and design as may be approved by the Engineering and Transportation Director. It shall be the duty of every owner operating a taxicab to keep such taximeter in perfect condition so that said taximeter will at all times correctly and accurately indicate the correct charge for the distance traveled and waiting time. Such taximeter shall be at all times subject to inspection by the Engineering and Transportation Director. The Engineering and Transportation Director is hereby authorized at his/her instance or upon compliant of any person to investigate or cause to be investigated such taximeter. Upon the discovery of any inaccuracy in said meter, the Engineering and Transportation Director shall remove or cause to be removed such vehicle equipped with such taximeter shall have been correctly adjusted. No such taxicab shall be equipped with a "dual speed" taximeter or any other device which is set to compute or register any charges for taxicab service other than the charges prescribed in this article.

4-6.306. POSTING OF FARES.

Each taxicab operator shall cause to be displayed a card not less than two (2) inches by four (4) inches in size which shall have plainly printed thereon the name of the owner or the fictitious name under which owner operates, the business address, and telephone number of said owner, "the rated capacity of the taxicab," and a correct schedule of the rates to be charged for conveyance in said vehicle. Said card shall be conspicuously posted on the rear side window of the taxicab or in some other area approved by the Engineering and Transportation Director.

4-6.402. INSPECTION OF TAXIMETERS.

Taximeters placed upon taxicabs, to replace broken or faulty meters, shall under no condition be operated more than twenty-four (24) hours prior to being approved, inspected and tested by the Engineering and Transportation Director and Stanislaus County Sealer of Weights and Measures.

4-6.403. NUMBER.

Each taxicab shall bear a number on the outside of the vehicle at such places and of the type and design prescribed by the Engineering and Transportation Director.

4-6.501. INSPECTION OF TAXICABS.

Before a certificate is issued to any owner, the taxicab for which such certificate is requested shall be delivered to the Operations and Maintenance Director, who shall inspect such taxicab, its equipment and taximeter to ascertain whether such taxicab complies with the provisions of this chapter.

4-6.502. RIGHT OF ENTRY.

The Engineering and Transportation Director, the Operations and Maintenance Director, the Police Chief, or any member of the Engineering and Transportation Department, Operations and Maintenance Department, or the Police Department, shall have the right at any time after displaying proper identification, to enter into or upon any certificated taxicab for the purpose of ascertaining whether or not any of the provisions of this chapter are being violated.

4-6.801. DESIGNATION OF STANDS: FEES.

The Engineering and Transportation Director is hereby authorized to locate and establish taxicab stands on city streets. Such regulations shall become effective when appropriate signs are placed giving notice of such regulations to the public. The right to use a taxicab stand heretofore or hereafter established for the use of a specific taxicab operator shall be nontransferable.

The number of taxicab stands to which each person operating taxicabs shall be entitled shall be determined by the Engineering and Transportation Director based on his/her finding as to the need for same in order to adequately serve the public.

The fee to be paid to the City for each taxicab stand heretofore or hereafter established for the use of a taxicab operator shall be as follows:

There shall be no charge for the first stand; for each additional stand there shall be paid to the City a fee of fifteen dollars ($15.00) per month, payable in advance at the beginning of each month.

SECTION 7. AMENDMENT OF CODE: Sections 4-7.1103 and 4-7.1106 of Article 11 of Chapter 7 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-7.1103. PLACEMENT FOR COLLECTION.

The following regulations shall govern the placement of pruned 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 pruned refuse collected by the City shall place it in an abutting alley, if one exists. Where alleys do not exist, pruned refuse shall be placed in the abutting street for collection. During designated leaf season, leaves shall be placed in the abutting street at all locations.

(b) **Location.** Pruned refuse and leaves during the designated leaf season placed in streets shall not be combined but be placed in separate piles 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. Pruned refuse and leaves will not be collected when obstructed by parked vehicles, overhead obstruction, or not immediately accessible to the collection vehicle. With the exception of leaf season, no power blowers or any other method shall be used to blow or move any nonpruned refuse into the streets at any time. Pruned 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.** Pruned 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) **Size.** All tree limbs put out for collection shall not exceed six (6) feet in length or six (6) inches in diameter, and no single piece shall weigh more than fifty (50) pounds.

(e) **Time.** Pickup will be on a once-a-month basis and pruned refuse may only be placed in conformance with this section during the time designated by the Operations and Maintenance Director at the beginning

of pickup week. Pruned refuse shall not be placed out for collection more than seventy-two (72) hours prior to the first Monday of each month.

(f) **Leaves.** Leaves shall be collected in the street only between November 1 and December 31 of each year or as directed by the Operations and Maintenance Director. Leaves shall be placed separately from pruned refuse, grass clippings, shrubbery, Christmas trees and other similar materials. Leaves shall not be placed in plastic bags for collection by the City.

(g) **Containers.** All refuse (grass clippings, leaves, twigs, shrubbery) shall be placed in containers of not more than ninety (90) gallons' nor less than sixty (60) gallons' capacity unless authorized by the Operations and Maintenance Director.

(h) **Christmas Trees.** Christmas trees are to be placed in street or alley with pruned refuse to be collected by the City. Wooden tree stands attached to Christmas trees are acceptable for collection by the City.

4-7.1106. ADMINISTRATION OF COLLECTION SERVICE.

The Operations and Maintenance Director shall be responsible for the operation of the City pruned refuse collection service and leaf season pickup. He/she shall have charge and supervision of collection and removal, and shall prescribe and establish routes and days for the collection and removal of pruned refuse or leaves from various parts of the City, and may change the same from time to time. When such routes or days of collection are established or changed, he/she shall give notice thereof to the public in such a manner as he/she deems best. He/she shall have the power to implement this article by issuing such traditional rules, regulations and instructions in writing as he/she deems necessary to carry out the purpose and intent of this article.

SECTION 8. AMENDMENT OF CODE: Section 4-8.10 of Chapter 8 of Title 4 of the Modesto Municipal Code is hereby amended to read as follows:

4-8.10. OFFICIALS TO BE NOTIFIED.

Immediately upon the granting of a parade permit, the Police Chief shall send a copy thereof to the following:

(a) The Fire Chief;

(b) The City Manager;

(c) The Operations and Maintenance Director;

(d) The Engineering and Transportation Director;

(e) The Community Services and Neighborhood Connections Director;

(f) The Community Development Director;

(g) The Postmaster of the Modesto Post Office; and

(h) Any public transportation or other utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

SECTION 9. AMENDMENT OF CODE: Section 4-11.203 of Article 2 of Chapter 11 of Title 4 of the Modesto Municipal Code is hereby amended to read as follows:

4-11.203. REFERRAL OF APPLICATION TO OTHER DEPARTMENTS.

(a) All applications for permits for fortune-telling establishments shall be referred by the Police Chief to the Community Development Director, who shall make written recommendations to the Police Chief concerning compliance with the laws and ordinances that he or she administers and enforces.

(b) The Police Chief shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant.

SECTION 10. AMENDMENT OF CODE: Sections 4-15.103, 4-15.104, 4-15.105, 4-15.106, 4-15.203, 4-15.301, 4-15.302, and 4-15.401 of Chapter 15 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-15.103. AUTHORITY TO ISSUE OUTDOOR DINING PERMITS.

The Engineering and Transportation Director, or his or her designated representative, is hereby authorized to issue outdoor dining permits, revocable at will, to owners or operators of business establishments for the placement of tables and chairs in the public sidewalk, court, alley or street adjacent to and

incidental to the operation of a food service establishment, according to the procedures as set forth in this article. An outdoor dining permit will not be issued where, in the opinion of the Engineering and Transportation Director, or his or her designated representative, the speed, volume or nearness of vehicular traffic is not compatible with outdoor dining. Issuance will not be unreasonably withheld.

4-15.104. APPLICATION FOR OUTDOOR DINING PERMIT.

Every owner or operator of a business establishment desiring to place tables and chairs in a public sidewalk, court, alley or street shall first submit an application for the issuance of such a permit to the Engineering and Transportation Department. Each application shall state the name of the applicant, the name and address of the establishment, the proposed area to be occupied by the tables and chairs, and the hours and days that the area is to be so occupied. The application shall be accompanied by a space-use plan which indicates the location, number and arrangement of the tables and chairs to be used, the location of the entrance to the establishment, and the location of any existing sidewalk obstructions in the proposed area to be occupied by the tables and chairs. Trees, traffic signs, benches and all similar obstacles shall constitute obstructions.

4-15.105. ISSUANCE OF OUTDOOR DINING PERMIT.

If the proposed design and location of the tables and chairs to be used for outdoor dining, as described in the application, conforms to those guidelines set forth by the Engineering and Transportation Director, the Engineering and Transportation Director, or his or her designated representative, shall issue an encroachment permit to the applicant.

No permit shall be issued until the permit applicant has paid a one-time fee for the permit. The amount of the permit fee is in an amount as shall be set forth from time to time by resolution of the City Council.

Once an encroachment permit is issued by the Engineering and Transportation Director, the permittee shall display a copy of the approved permit within the business establishment in an area clearly visible from the sidewalk.

4-15.106. CONDITIONS AND RESTRICTIONS PERTAINING TO OUTDOOR DINING.

The issuance of permits by the Engineering and Transportation Director for the use of City sidewalks and public rights-of-way for the consumption of food or beverages in front of business establishments are subject to the following:

(a) The outdoor dining area shall leave not less than four (4) consecutive feet of sidewalk width to ensure adequate space for pedestrian traffic on the adjacent sidewalk. The minimum width stated above must be free of all obstacles and obstructions for a clear path of travel. For the purpose of minimum clear path, traffic signs, trees and all similar obstacles shall constitute obstructions. It is the responsibility of the permittee to keep this sidewalk pedestrian zone clear and unimpeded for pedestrian movement. The specific requirements for this minimum clear path are set out on a diagram available to the applicant from the Engineering and Transportation Department.

(b) Outdoor dining areas may not intrude on pedestrian "clear zones" at corners and thus must be set back a minimum of six (6) feet from any crosswalk. The outdoor dining area must not interfere with curbs, ramps or driveways. No element of the outdoor dining area may interfere with access to any building including all paths of travel or exit.

(c) When the sidewalk area is not in use for seating and service, all removable fixtures (i.e. chairs, planters, tables, etc.) shall be stored inside the restaurant premises.

(d) The outdoor dining area must remain clear of litter at all times. The permittee shall maintain the tables and chairs in the permitted outdoor dining area in a clean condition at all times.

(e) Outdoor dining areas must conform to and comply with all relevant regulations in this Code and all applicable building laws including State laws and regulations.

(f) Tables, chairs, and customers shall be confined to the area shown on the application submitted by the permittee.

4-15.203. SUSPENSION OR REVOCATION OF OUTDOOR DINING PERMIT.

The outdoor dining permit granted under this chapter shall be subject to suspension or revocation by the Engineering and Transportation Director when the permittee violates any of the restrictions and conditions set forth in this chapter, or any rule or regulation of the Engineering and Transportation

Director adopted in pursuance of the provisions of this chapter. The outdoor dining permit shall be automatically suspended upon the termination of the insurance required under Section 4-15.107 of this chapter. Upon termination of the insurance required under Section 4-15.107, permittee agrees to indemnify and hold the City of Modesto, its officers, agents and employees free and harmless from any and all damages, costs, charges or liability of any kind or character that may arise out of, relate to, or in any way be connected with the exercise of the rights granted pursuant to the issuance of the encroachment permit.

The City of Modesto must notify the State Department of Alcoholic Beverage Control of any suspension or revocation of an outdoor dining permit granted under this chapter.

4-15.301. PROTEST ISSUANCE OF PERMIT.

Any person or persons who deem their interests or property, or that of the general public, will be adversely affected by the occupancy of a public sidewalk, court, alley or street with tables and chairs for outdoor dining and for which permission has been applied for under the provisions of this chapter, may protest the issuance of said permit by writing to the Engineering and Transportation Director within thirty (30) calendar days after the applicant has posted the outdoor dining permit as required under Section 4-15.105 of this chapter. Upon receipt of any such protest, the Engineering and Transportation Director will schedule a hearing to hear all protests or oppositions to the issuance of an outdoor dining permit.

4-15.302. DENIAL OF PERMIT.

Upon denial of a permit by the Engineering and Transportation Director, an applicant may, within fifteen (15) calendar days following notification of such denial, file a notice of appeal to the City Council, who shall then hear all appeals concerning the application for permit.

4-15.401. PENALTIES.

The placement of tables and chairs on a public sidewalk or other public right-of-way without a permit issued in compliance with this chapter shall constitute an infraction punishable by a fine of one hundred dollars ($100.00). The nonpayment of such fine, or the continued existence of a condition in violation of this chapter, shall be grounds for the Engineering and Transportation Director to prohibit placement of tables and chairs by the responsible owner or

operator of the fronting business establishment until such penalty has been paid or the condition corrected.

SECTION 11. 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 12. 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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3128-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

ORDINANCE NO. 3129 -C.S.

AN ORDINANCE AMENDING SECTIONS 5-1.102 5-1.503, 5-1.504, 5-1.505, 5-1.506, 5-1.510, 5-1.511, 5-1.512, 5-1.513, 5-1.514, 5-1.515, 5-1.516, AND 5-1.518 OF CHAPTER 1 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO GENERAL SANITATION; SECTION 5-2.203 OF ARTICLE 2 OF CHAPTER 2 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS AND SCHOOLS OF MASSAGE; SECTIONS 5-5.03, 5-5.05, 5-5.09, 5-5.10, 5-5.11, 5-5.15, 5-5.16, 5-5.18, 5-5.33, 5-5.38, AND 5-5.41 OF CHAPTER 5 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO SOLID WASTE; SECTIONS 5-6.01, 5-6.08, 5-6.09, 5-6.10, 5-6.12, 5-6.12.2, 5-6.13, 5-6.13.1, 5-6.13.2, 5-6.15, 5-6.21, AND 5-6.27 OF CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO SEWAGE COLLECTION AND DISPOSAL; AND SECTIONS 5-10.104, 5-10.105, 5-10.108, 5-10.109, 5-10.112, 5-10.206, 5-10.207, 5-10.208, 5-10.209, 5-10.301, 5-10.303, AND 5-10.312 OF ARTICLE 1 OF CHAPTER 10 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO STORM DRAIN REGULATIONS. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 5-1.102 5-1.503, 5-1.504, 5-1.505, 5-1.506, 5-1.510, 5-1.511, 5-1.512, 5-1.513, 5-1.514, 5-1.515, 5-1.516, and 5-1.518 of Chapter 1 of Title 5 of the Modesto Municipal Code are hereby amended to read as follows:

5-1.102. ENFORCEMENT OF HEALTH AND SANITATION REGULATIONS.

The Health Officer, or such representatives as he/she may authorize, shall be responsible for the enforcement of the provisions of this title insofar as they relate to health and sanitation, and are authorized to issue a written notice to appear, pursuant to the provisions of Penal Code Section 853.6, whenever they have reasonable cause to believe that a violation of this title has been committed

in their presence. The Operations and Maintenance Director shall be responsible for enforcing the provisions of these regulations insofar as they relate to the functions and duties of his/her department. Any enforcement officer, so named, shall have the right to enter any and all premises for the purposes of determining the sanitary condition thereof, if there are reasonable grounds to believe that the violation of these regulations is occurring; and any person denying or obstructing such entry shall be guilty of a misdemeanor and subject to the penalty provided by this Code.

5-1.503. DEFINITIONS.

(a) "**Abandoned well**" means a well that has not been used for a period of one (1) year, unless the owner or person in lawful possession of the well demonstrates his or her intention to use the well again for supplying water or other associated purpose (such as an observation well). The well shall then be considered "inactive". As evidence of his/her intentions for continued use, the owner shall properly maintain the well in such a way that:

(1) The well has no defects which will allow the impairment of quality of water in the well or in the water-bearing formations penetrated.

(2) The well is covered such that the cover is watertight and cannot be removed except with the aid of equipment or the use of tools.

(3) The well is marked so that it can be clearly seen.

(4) The area surrounding the well is kept clear of brush or debris.

If the pump has been removed for repair or replacement, the well shall not be considered "abandoned". During the repair period, the well shall be adequately covered to prevent injury to people and to prevent the entrance of undesirable water or foreign matter.

Observation or test wells used in the investigation or management of groundwater basins by governmental agencies or engineering or research organizations are not considered "abandoned" so long as they are maintained for this purpose. However, such wells shall be covered with an appropriate cap, bearing the label, "Observation Well", and the name of the agency or organization, and shall be secured and locked when measurements are not being made. When these wells are no longer used

for this purpose or for supplying water, they shall be considered "abandoned".

(b) "**Cathodic protection well**" means any artificial excavation by any method for the purpose of installing equipment or facilities for the electrical protection of metallic equipment in contact with the ground.

(c) "**Code**" means the Municipal Code of the City of Modesto.

(d) "**Department**" means the Engineering and Transportation Department or the Operations and Maintenance Department of the City of Modesto.

(e) "**Director**" means the Engineering and Transportation Director or the Operations and Maintenance Director of the City of Modesto or their duly authorized representative.

(f) "**Monitoring well**" means any well used exclusively for monitoring or sampling conditions of a water-bearing aquifer, e.g., water pressure, depth, movement, or quality.

(g) "**Exploratory boring**" means an uncased excavation used to determine the engineering or geological properties of subsurface materials by seismic investigation, direct observation or any other means.

5-1.504. PERMIT.

The Engineering and Transportation Director is authorized to issue a permit to install, construct, repair, modify or destroy a water well, observation well, monitoring well, emergency extraction well, or any other excavation that may intersect groundwater in the City for any purpose whatsoever. A nonrefundable fee shall be paid upon application for the permit in an amount as approved from time to time by resolution of the City Council.

5-1.505. PERMIT APPLICATION.

Applications for permits shall be made to the Engineering and Transportation Director, on forms supplied by the Engineering and Transportation Director, and shall include the following:

(a) A plot plan indicating the exact location of the well with respect to the following features within a radius of five hundred (500) feet of the well:

(1) Approximate property lines;

(2) All sewage disposal systems or works carrying or containing sewage or storm water runoff;

(3) All intermittent, perennial, natural, or artificial water bodies or water courses;

(4) Drainage pattern of the property;

(5) All existing wells of all types, regardless of whether they are subject to regulation under this Article;

(6) All access roads; and

(7) All subsurface utilities.

(b) Location of property, including street address, township/range/quarter section, or other information sufficient to identify the well site location.

(c) Name and address of the person who will perform the work on the well.

(d) Name and credentials affiliation of inspector.

(e) Proposed depth of well.

(f) Proposed use of well.

(g) Proof satisfactory to the Engineering and Transportation Director that the person who will construct, modify or abandon the well or boring(s) possesses a valid license to perform such work which has been issued in accordance with the California Contractors License Law (Chapter 9 of Division 3 of the Business and Professions Code, Sections 7000-7173).

(h) A certificate satisfying the requirements of the California Workers Code (Sections 3800 et seq.). Compensation and Insurance Law (Part 1 of Division 4 of the Labor Code Sections 3200-4418).

(i) Such fee as Council may from time to time impose. The required fee shall accompany the application and shall be nonrefundable.

(j) Such other information as the Engineering and Transportation Director may deem necessary to determine whether underground waters meet minimum protection standards as set below.

5-1.506. PERMIT ISSUANCE.

Prior to the issuance of a permit, if the Engineering and Transportation Director so requires, an applicant shall deposit with the City Clerk a security instrument, in a form acceptable to the City Attorney and in an amount deemed necessary by the Engineering and Transportation Director to insure proper and complete performance of permitted work. The security amount shall not exceed one hundred (100) percent of the total estimated cost of the permitted work.

5-1.510. EXTENSION OF PERMIT TERM.

The Engineering and Transportation Director may grant one (1) or more extensions of a permit, each for a period not exceeding three (3) months, if the permittee demonstrates to the satisfaction of the Engineering and Transportation Director that circumstances beyond the permittee's control prevented completion of the permitted work prior to permit expiration. Any such extension granted may be subject to such conditions as the Engineering and Transportation Director may deem necessary, including but not limited to a cash deposit, security bond, or other security instrument to insure proper and complete performance of the permitted work.

5-1.511. PERMIT DENIAL OR REVOCATION.

Whenever it appears to the Engineering and Transportation Director that an application should be denied under the standards herein, or that a permittee is in violation of any of the provisions of the permit, this Code, or any applicable federal, state, or local provisions of law, he/she shall have the authority to deny the application or to summarily suspend the permit. The suspension order shall also constitute notice of proposed revocation.

Written notice of such proposed revocation shall be given by depositing in the United States mail a notice directed to said permittee at the address given in the application. The notice shall set forth the reasons for the proposed revocation and shall notify the permittee that he or she has ten (10) days in which to file a written request for a hearing before the Engineering and Transportation Director.

5-1.512. NOTICE AND REVIEW OF DENIAL OR REVOCATION.

The applicant or permittee shall be notified in writing that applicant or permittee shall have ten (10) days from the date of such notice to request in writing a hearing before the Engineering and Transportation Director or his/her designee to appeal denial of the permit application or to determine if the permit should be

revoked. If the applicant or permittee fails or declines to make any such timely request, such omission shall be deemed a waiver of the applicant's or permittee's rights to be heard on the pending matter, and the application will be deemed denied or the permit may be revoked.

In case of an application denial, or a summary suspension or notice of revocation, the Engineering and Transportation Director shall provide a hearing within fifteen (15) days after receipt of a written request from the permittee, at which hearing the permittee may present oral or written evidence why the application should be granted or why the permit should not be revoked. Notice of the time and place of such hearing shall be given to the applicant or permittee by deposit of the notice in the United States mail at least ten (10) days before the hearing to the address given in the application.

If the application is denied or the permit is revoked, written notice shall be given to the applicant or permittee within twenty-five (25) days of the close of the hearing. Notice shall be given by United States mail. The permittee will be presumed to have received said notice within five (5) days after mailing. It shall be unlawful for any person whose application is denied or whose permit is revoked under this action to construct, operate, or maintain any well within the City. Any person who does so without a permit is guilty of an infraction and subject to criminal prosecution and/or civil litigation as provided in this Code.

No person whose permit is denied or revoked may apply for a permit to construct, operate, or maintain any well in the City of Modesto for a period of three (3) months from the date of such denial or revocation.

Any person whose application is denied or whose permit is revoked under this article shall have the right, after receiving notice in writing of the denial or revocation, to file a written appeal to the City Council pursuant to the provisions of Chapter 4 of Title 1 of this Code.

5-1.513. STANDARDS: ADOPTION BY REFERENCE.

Standards for the construction, repair, modification, abandonment, or destruction of well so as to protect groundwater from contamination and pollution and to preserve health, safety, and welfare shall be those set forth in the California Department of Water Resources Bulletin No. 74-81 dated December 1981 and entitled Water Well Standards: State of California as supplemented by California Department of Water Resources Bulletin No. 74-90 (Supplement to Bulletin 74-81), dated January 1990 and entitled California Well Standards: Water Wells, Monitoring Wells, Cathodic Protection Wells, together with all appendices thereto, as compiled and published by the

Department of Water Resources of the Resources Agency of the State of California.

These certain documents, three (3) copies of which are on file in the Office of the City Clerk of the City of Modesto, as hereinafter amended, deleted, modified and added to, and the same are hereby adopted by this reference as the Groundwater Conservation Code of the City of Modesto, with the following additions:

(a) Every new, repaired, or modified community water supply well or individual domestic water well, after construction, modification, or repair and before being placed into service, shall be thoroughly cleaned of all foreign substance and shall be thoroughly disinfected utilizing the procedures set forth in Appendix C of the aforementioned Bulletin No. 74-81.

(b) Exploratory boring deeper than ten (10) feet shall be destroyed immediately upon completion of testing by complete filling and/or sealing of the borehole in accordance with criteria established by the Engineering and Transportation Director. The Engineering and Transportation Director may waive complete sealing if the permittee demonstrates to the Engineering and Transportation Director's satisfaction that City's groundwater protection and conservation shall not be impaired by the permittee's proposed methods.

5-1.514. WELL LOGS.

Any person who has performed any work for which a permit is required hereunder and which involves drilling, digging, excavating or boring of a well, or exploratory boring, shall, within thirty (30) days following completion of such work, submit to the Department an accurate and complete well log on forms satisfactory to the Engineering and Transportation Director (DWR 188 [latest revision]). In areas for which the Engineering and Transportation Director deems the available subsurface information insufficient, the permit may require any person performing a completion operation to submit a well log prior to commencement of the completion operation. Well logs shall include all of the following:

(a) A detailed record of the boundaries, character, size, distribution and color of all lithologic units penetrated;

(b) The specifications and approvals for well casing;

(c) The location of perforations filter pack and sealing zones;

(d) Reports on the quantity and quality of groundwater (if available); and

(e) Any other data required by the Engineering and Transportation Director in the permit conditions.

5-1.515. INSPECTION.

The Engineering and Transportation Director and City inspectors may, at any and all reasonable times, enter any and all places, property, premises, enclosures, and structures for the purpose of making examinations and investigations to determine compliance with any provision of this article.

5-1.516. WELL INSPECTION REPORTS.

Any inspector who has inspected any work pursuant to conditions of a permit required hereunder and which involves drilling, digging, excavating or boring a well shall, not later than thirty (30) days after completion of such work, submit to the Department an accurate and complete well inspection report on forms satisfactory to the Engineering and Transportation Director. Well inspection reports shall include all of the following:

(a) Permit number;

(b) Type and volume of sealing material and depth of seal(s);

(c) Diameter of borehole and well casing in sealing zone(s);

(d) Method of placement (if grout pipe, include number and length of sections);

(e) Confirmation that casing was ripped or perforated (destruction only);

(f) Conditions which may have caused sealing to be less than satisfactory;

(g) Date sealed;

(h) An opinion as to whether the well sealing operation was satisfactory or unsatisfactory certified by signature of the registered inspector; and

(i) Any other data required by the Engineering and Transportation Director in the permit conditions.

5-1.518. CERTIFICATE OF EXEMPTION.

Any owner or lawful possessor of a water well or monitoring well which is abandoned or soon to be abandoned but who intends to use such well again may apply to the Engineering and Transportation Director, in a form satisfactory to the Engineering and Transportation Director, for exemption from the requirement that such well be destroyed. If the Engineering and Transportation Director determines from review of said application that exemption from destruction would not pollute or contaminate groundwater and would not create or aggravate a hazard to health or safety, the Engineering and Transportation Director shall issue a certificate of exemption. A certificate of exemption shall expire three (3) years after issuance and may be terminated by the Engineering and Transportation Director at any time prior to expiration upon the Engineering and Transportation Director's determination that destruction of the well is necessary to prevent pollution or contamination of groundwater or to avoid health or safety hazards. Successive certificates of exemption may be issued with respect to a well in the same manner as the original certificate.

SECTION 2. AMENDMENT OF CODE: Section 5-2.203 of Article 2 of Chapter 2 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

5-2.203 REFERRAL OF APPLICATION TO OTHER DEPARTMENTS.

(a) All applications for permits for massage establishments or schools of massage shall be referred to the Chief Building Official, the Fire Chief, the Health Officer, the Community Development Director, and the Police Chief who shall make written recommendations to the City Manager concerning compliance with the laws and ordinances that they administer and enforce.

(b) All other applications shall be referred to the Health Officer and Police Chief for their written recommendations to the City Manager concerning compliance with the laws and ordinances that they administer and enforce.

(c) The Police Chief shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant.

SECTION 3. AMENDMENT OF CODE: Sections 5-5.03, 5-5.05, 5-5.09, 5-.10, 5-5.11, 5-5.15, 5-5.16, 5-5.18, 5-5.33, 5-5.38, and 5-5.41 of Chapter 5 of Title 5 of the Modesto Municipal Code are hereby amended to read as follows:

5-5.03. DEFINITIONS.

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

(a) "**Annexation**" means the legal process of including new territory within the incorporated boundaries of the City.

(b) "**Automated collection container**" means a standard container designed for automated collection.

(c) "**Cannery or food processing waste**" means the solid residues resulting from canning/food processing operations, which is segregated by the generator and which is collected for reuse.

(d) "**Collection**" means the collection and transport of solid waste.

(e) "**Collection routes**" means streets or areas designated for collection on a particular day/schedule.

(f) "**Collection vehicle**" means any vehicle used by the collector for the collection of solid waste.

(g) "**Collector**" means a person or firm authorized by a valid service agreement with the City of Modesto to collect solid waste within the City limits.

(h) "**Commercial**" means occurring in a business zone.

(i) "**Construction and demolition sites**" means sites where construction or demolition activities are taking place.

(j) "**Containerized yard waste**" means yard waste set out for collection in a standard container.

(k) "**Customer**" shall mean any person, firm or corporation receiving service under the provisions of this chapter.

(l) "**Designated recycling collection location**" means the location where an authorized recycling collector has agreed with a customer to pick up segregated recyclable materials as approved by the Engineering and Transportation Director.

(m) "**Detachable container**" means a container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one (1) cubic yard in capacity, as approved by the Engineering and Transportation Director, and furnished by a collector.

(n) "**Disposal**" means the final disposition of solid waste at a solid waste facility.

(o) "**Drop box container**" means a metal box designed for loading upon a vehicle for transportation to a solid waste facility, with a minimum of twenty (20) cubic yards' capacity, of a design approved by the Engineering and Transportation Director, and furnished by a collector.

(p) "**Finance Director**" means the Finance Director of the City of Modesto or his/her duly authorized agent.

(q) "**Garbage**" means putrescible kitchen and table food waste and animal, fish, food, fowl, fruit or vegetable matter, or any portion thereof, resulting from the storage, preparation, cooking, or handling of food stuffs, or any other material contaminated by or rendered useless because of contact with any putrescible matter, except that garbage shall not include cannery or food processing wastes as defined in Section 5-5.03(c), industrial garbage as defined in Section 5-5.03(w), or swill as defined in Section 5-5.03(ap).

(r) "**Garbage/Recyclables**" means garbage and recyclables commingled in the same container. Garbage/recyclables shall also include rubbish when said rubbish is included in the same container.

(s) "**Hazardous substance or hazardous wastes**" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in the Health and Safety Codes or in future amendments to or recodifications of such statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act and all future amendments thereto.

(t) "**Household hazardous waste**" means hazardous waste generated at a residential location within the City.

(u) "**Health Officer**" means the Stanislaus County Department of Environmental Resources.

(v) "**Industrial areas**" means areas which are zoned industrial by the City's Zoning Code.

(w) "**Industrial garbage**" means garbage produced by any person, firm or corporation engaged in the business of processing or manufacturing agricultural products, animals, poultry, goods, wares or other products or materials, who processes or manufactures the same for the purpose of wholesale in processed or manufactured form, and shall include cannery/food processing waste. Industrial garbage also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.

(x) "**Industrial garbage collector**" means an agent or employee of the City, or any person, or the employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of industrial garbage.

(y) "**Initial term and any extensions**" means the term of a service agreement and any extensions beyond that time period as established by the City Council.

(z) "**Place**" or "**Premises**" means every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, hospital, office building, department store; manufacturing, processing or assembling shop or plant; warehouse; and every other property or building where any person resides or any business or activity is carried on or conducted within the City of Modesto.

(aa) "**Property value**" means a worth to the extent that a person will collect the materials involved with compensation to the owner or producer, or at no cost to the owner or producer.

(ab) "**Pruned refuse**" means tree trimmings and similar material not to exceed six (6) feet in length and six (6) inches in diameter, and no single piece shall weigh more than fifty (50) pounds.

(ac) "**Engineering and Transportation Director**" means the Engineering and Transportation Director of the City of Modesto and his/her duly authorized agent.

(ad) "**Recyclable materials**" means domestic, commercial or industrial by-products which may have an economic value if recycled, which may be source separated, set aside, handled, packaged or offered for collection by the residence/business. Recyclables include, but are not limited to, glass, newspaper, plastics, metal, bi-metal, aluminum, and other materials.

(ae) "**Recyclables**" means recyclable materials.

(af) "**Recycling**" means the process of collecting, sorting, cleansing, treating, reconstituting, and/or marketing recyclable materials which would otherwise be disposed of in a landfill. The collection, transport or disposal of solid waste which is not intended for, or capable of being, reused, shall not be construed to be recycling.

(ag) "**Recycling collector**" means a person, firm, organization or company which the City has authorized to provide recycling service in the City.

(ah) "**Recycling container**" means any container provided by an authorized recycling collector to a customer for the purpose of segregating recyclable materials for collection by collector. Recycling containers shall be clearly marked to indicate purpose and to warn that theft of the container, theft of its contents, or diversion for uses other than by the collector are punishable under this Code.

(ai) "**Removal**" means transportation and disposal of solid waste by noncustomers in accordance with the provisions of this chapter.

(aj) "**Residential premises**" means any dwelling unit the occupant of which places his/her solid waste in a standard container.

(ak) "**Rubbish**" means nonputrescible, useless, unused, unwanted or discarded material or debris, either combustible or noncombustible, which by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.

(al) "**Salvageable waste**" means matter and material which will be reused and which has a property value.

(am) "**Service area**" means the area of the City to be served by a collector as described in the service agreement between City and collector.

(an) "**Solid waste**" means all putrescible and nonputrescible solid, semi-solid and liquid waste accumulated or delivered for collection and disposal within the City and includes, but is not limited to, construction debris, demolition debris, bulky waste, and yard waste. Solid waste does not include hazardous waste or household hazardous waste, designated waste, infectious waste, recyclable materials when recycled, sewage, or abandoned automobiles.

(ao) "**Standard container**" means a plastic container, watertight and with a close-fitting cover, of not less than sixty (60) nor more than ninety (90) gallons' net capacity of a design satisfactory to the Engineering and Transportation Director or such other disposal unit approved by the Engineering and Transportation Director, and supplied by the solid waste collector to its residential customers. The Engineering and Transportation Director shall make the determination whether a residential customer receives a sixty- or a ninety-gallon container.

(ap) "**Swill**" means all classes of putrescible, animal, fish, fowl, fruit or vegetable matter, and shall include matter or substances used in the preparation, cooking, dealing in or storage of meats, fowl, fish, fruits and vegetables that are subject to immediate decay and the attraction of flies or rodents, and having a property value.

(aq) "**Swill collector**" means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of swill.

(ar) "**Term**" means the length of an agreement entered under the terms of this chapter.

(as) "**Yard waste**" means leaves, weeds, grass cuttings, vines, shrubbery, similar soft vegetative materials, and woody prunings from trees which are cut up into two (2) foot lengths no larger than six (6) inches in diameter for placement in a yard waste recycling container, except that yard waste shall not include pruned refuse or source separated leaves set out for collection between November 1 and December 31 of each year pursuant to Article 11 of Chapter 7 of Title 4 of this Code.

(at) **"Yard waste recycling container"** means a dark green standard container to be used for the separate collection and recycling of yard waste. Yard waste recycling container shall also mean a detachable or other container as approved by the Engineering and Transportation Director, used for the collection and recycling of yard waste from commercial or other customer classes.

5-5.05. DEPOSITING OR BURYING SOLID WASTE.

No person shall throw, drop, leave, dump, bury, place, or otherwise dispose of any solid waste upon any property within the City limits of the City, either with or without intent to remove the same from such property; or upon any street, way, sidewalk, gutter, stream or creek or the banks thereof, or any public place or public property within the City limits of the City, except as otherwise approved by the Engineering and Transportation Director, or at a permitted solid waste facility approved for such use.

5-5.09. NUMBER OF CONTAINERS REQUIRED.

All places or premises within the City shall have sufficient containers of the approved type to hold all garbage, garbage/recyclables, and yard waste generated, produced or accumulated on the place or premises during a one (1) week period, unless a more frequent collection schedule has been approved or directed pursuant to this chapter. In determining the sufficiency of the number of containers required, the following minimum standards shall apply.

(a) One (1) family and two (2) family dwellings: Effective January 1, 1997, one (1) black standard container for garbage and garbage/recyclables, and one (1) dark green standard container for yard waste recycling per dwelling unit.

(b) Three (3) family dwellings, apartment houses, and multiple-dwelling buildings: Effective January 1, 1998, one (1) standard container per dwelling unit for garbage and garbage/recyclables, unless a lesser number is authorized by the Engineering and Transportation Director, and sufficient yard waste collection containers of a type approved by the Engineering and Transportation Director.

(c) Motel, hotel, trailer park, or mobile home park: One (1) standard container for garbage and garbage/recyclables per unit or space, unless a lesser number is authorized by the Engineering and Transportation Director, and sufficient yard waste collection containers of a type approved by the Engineering and Transportation Director.

(d) Commercial place or premises: Effective January 1, 1998, not less than one (1) standard container for garbage or garbage/recyclables, and sufficient yard waste collection containers of a type approved by the Engineering and Transportation Director.

Customers responsible for solid waste removal or collection services for apartment houses, multiple-dwelling buildings, commercial and industrial places or premises may arrange for the use of detachable containers and/or drop box containers instead of standard containers. These arrangements shall be made with the collector on the basis of charges established for this purpose.

Nothing herein shall be construed to prohibit the joint use of a detachable container or drop box container by two (2) or more customers upon approval of the Engineering and Transportation Director.

5-5.10. PROHIBITED LOCATION OF CONTAINERS.

Solid waste, rubbish, swill, and industrial garbage containers shall not be placed or allowed to remain in or on any street right-of-way, except on solid waste pickup day or as otherwise authorized by the Engineering and Transportation Director.

5-5.11. CONTAINER LOCATIONS.

(a) On single-family and two (2) family premises, standard solid waste containers shall be placed by the customer on the premises and when subject to collection may be collected by the collector as follows:

(1) Where alleys exist, immediately adjacent to and accessible from the alley without the necessity of entering the premises.

(2) Where alleys do not exist, on the asphaltic portion of the street next to the curb, or the edge of the driveway apron, or such other location as approved by the Engineering and Transportation Director.

(3) All containers shall be placed no more than four (4) feet from an area where the collection vehicle can reasonably park. All residential containers set out for collection shall have the necessary clearance from obstructions on either side of the container as well as overhead clearance needed for the collection vehicle to empty contents of the container without causing damage to public or private property. In case of dispute, an

acceptable residential container location shall be as determined by the Engineering and Transportation Director.

(4) All containers shall be screened from public view, except on pickup day, in a manner approved by the Engineering and Transportation Director.

(b) Standard and detachable containers for solid waste service to multiple-dwelling buildings, apartments, commercial and industrial premises shall be placed in a location no greater than fifty (50) feet from the nearest point where the collector's vehicle can reasonably be parked. Drop box containers shall be located as agreed upon between the customer and the collector. In case of dispute, the location shall be as determined by the Engineering and Transportation Director.

(c) Containers for solid waste may be placed on premises at locations other than described in this section if the customer is handicapped or disabled and the location is approved by the Engineering and Transportation Director.

5-5.15. HOURS OF COLLECTION.

(a) No collections shall be made in residential districts, as shown on the Zoning Map of the City of Modesto, or at schools, churches, hospitals, offices or commercial establishments in or adjacent to said residential district except between the hours of 6:00 a.m. and 6:00 p.m. year-round.

(b) No collections shall be made in commercial areas when in or adjacent to residential areas except between the hours of 6:00 a.m. and 9:00 p.m. Monday through Sunday.

(c) No collection shall be made from premises in residential or commercial areas other than described in subsections (a) and (b) above except when prior approval has been given by the Engineering and Transportation Director.

5-5.16. COLLECTION EQUIPMENT.

All collections shall be made with vehicles of a design approved by the Engineering and Transportation Director. All collections shall be made as quietly as possible, and use of any unnecessarily noisy trucks or equipment is prohibited.

5-5.18. REMOVAL OF SOLID WASTE BY PRODUCERS.

Notwithstanding the provisions of Section 5-5.17:

(a) Any person may remove or may cause to be removed from premises occupied by that person or under their control, such solid waste as is created or produced on such premises in excess of the regular solid waste collection made by City's collector if the following conditions have been or will be complied with: Subsections (b)(1) and (b)(2) of this section.

(b) Any person may remove or may cause to be removed from premises occupied by that person or under their control, all solid waste created or produced on such premises if all of the following conditions have been met or will be complied with:

(1) Such removal shall be made only by the owner or occupant personally, or by employees of such owner or occupant.

(2) All vehicles used in carrying out such removal shall be owned by or under the exclusive control of the owner or occupant, and such vehicles and activities shall meet all the requirements of this chapter and all other laws and ordinances of the State of California and the City relating to solid waste disposal.

(3) Persons removing solid waste in excess of normal annual residential volume (defined herein as three thousand (3,000) pounds per year) shall comply with the following additional requirements:

(i) No waste shall be permitted to leak, blow, litter or fall from any vehicle engaged in such removal.

(ii) All removal shall be done safely and quietly with due regard to the property of others.

(iii) No person shall remove solid waste from any location within two hundred (200) feet of a public or private elementary, junior high, or high school, where such school is shown on an official map of the City, as designated by the Engineering and Transportation Director, as said map shall be periodically updated, during the forty-five (45) minutes before the

commencement of the regular school day and forty-five (45) minutes following the conclusion of the regular school day, where such locations are accessible to and used by children as routes to or from school.

(iv) Persons engaged in solid waste removal pursuant to these requirements shall be responsible for any damage in excess of normal wear and tear to the City's driving surfaces, whether or not paved, resulting from the illegal weight of, or any leakage or spillage of oils, fluids or solids by vehicles used in such solid waste removal.

(v) Vehicles used shall comply with CHP and D.O.T. regulations, and shall be thoroughly washed and disinfected inside the collection body following each use.

(vi) No driver shall operate a vehicle as in subsection (b)(3)(v) of this section, without a valid and appropriate driver's license.

(vii) All vehicles as in subsection (b)(3)(v) of this section shall be clearly identified with the name and local telephone number of its operator affixed thereto.

(viii) Garbage shall be disposed of at a permitted transfer facility or at the Fink Road Sanitary Landfill. If disposed of outside of Stanislaus County, the county where disposal occurs shall have an export agreement with the City of Modesto.

(ix) Yard waste shall be separated from garbage/recyclables and taken to a permitted composting facility or such other locations as directed by the Engineering and Transportation Director.

(x) Materials placed in blue, see-through recycling bags for the purpose of separating recyclables from other solid waste shall be recycled at a permitted recycling facility.

(xi) Insurance requirements as specified from time to time by the City's Risk Manager shall be complied with.

(4) A cash security deposit shall be deposited with the City in an amount set from time to time by Council resolution, to ensure prompt removal of solid waste in the event it is not removed from the premises on a regular weekly basis by a noncustomer owner or person in control of the premises. The security deposit shall be made for each separate residential property or business location owned or controlled by a noncustomer, based on the frequency and volume of past collection. Events requiring City to use a noncustomer's deposit for solid waste removal shall be treated as a public nuisance subject to immediate abatement and charged to such noncustomer. Conduct requiring City to expend noncustomer deposit monies shall constitute a misdemeanor.

(5) Persons engaged in solid waste removal shall procure and retain a receipt from a permitted solid waste facility for each week they remain a noncustomer of a collector and display all such receipts for the preceding one-quarter calendar year upon reasonable request by appropriate City authority. Failure to show proof of solid waste disposal for each week that a person is a noncustomer shall constitute a public health and safety risk sufficient to permit City to administratively require such person to become a customer.

(c) Any producer of industrial garbage or swill, or their employees, may transport the same upon or through any street or public place of the City for disposal at a permitted disposal facility or site.

(d) It shall be unlawful for any person acting as an employee of a producer of industrial garbage or swill to collect or transport such industrial garbage or swill from more than one (1) industrial producer thereof.

(e) Any person engaged in the business of gardening or tree trimming, or building demolition, or construction cleanup work, including both yards and building interiors, is authorized to remove and dispose of yard waste, rubbish or salvageable waste produced as an incident to such business.

5-5.33. TERMINATION OF AGREEMENTS.

Any agreement entered by the Council pursuant to the provisions of this chapter may be terminated by the Council, if after conducting a public hearing on said termination, the Council finds and determines that the person doing business by virtue of such agreement has failed to comply with any of its material terms, or

this chapter, has failed to render satisfactory collection services, or without cause in accordance with the provisions of the agreement.

(a) **Termination for Cause.** The City further reserves the right to terminate the service agreement or impose liquidated damages in the event of any of the following:

(1) If collector practices, or attempts to practice, any fraud or deceit upon the City.

(2) If collector becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of collector in a bankruptcy proceeding.

(3) If collector fails to provide or maintain in full and in effect, any or all of the bonds and/or coverages required by its service agreement with the City.

(4) If collector willfully and materially violates any orders or rulings of any regulatory body having jurisdiction over collector relative to its service agreement with the City, provided that the collector may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the service agreement shall be deemed to have occurred.

(5) If collector ceases to provide collection services as required by the service agreement over all or a substantial portion of its service area for a period of seven (7) days or more, for any reason within the control of the collector.

(6) If the collector willfully fails and/or refuses to provide City with required information, reports, and/or test results related to vehicle incidents or other incidents where such tests are conducted as part of an investigation of an incident, in a timely manner as provided in its service agreement.

(7) Any other act or omission by the collector, which materially violates the terms, conditions, or requirements of its service agreement.

(b) **Process for Imposing Damages for Termination.** The Solid Waste Program Manager, may file a complaint with the Engineering and

Transportation Director charging a failure of collector to comply with the provisions of this chapter or the service agreement.

(1) Upon issuance of the Solid Waste Program Manager's complaint, the Director shall conduct a factual investigation thereof and render a decision relative to the justification for complaint, in writing, within ten (10) days following the decision.

(2) If the Director determines that the collector's performance pursuant to its service agreement with the City has not been in conformity with the provisions of either the service agreement, the requirements of this chapter, or the requirements of the California Integrated Waste Management Board, including, but not limited to, the laws governing transfer, storage, or disposal of special wastes, the Director may advise collector in writing of such deficiencies. The Director may set a reasonable time within which correction of all such deficiencies is to be made. Unless otherwise specified, a reasonable time for correction shall be thirty (30) days from the receipt by the collector of such written notice. The Director shall review the collector's response and notify the collector of his/her decision, in writing.

(3) A decision or order of the Director shall be final and binding on collector if the collector fails to file a "Notice of Appeal" with the City Manager within thirty (30) days of receipt of the Director's decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall either refer the appeal to the City Council for proceedings in accordance with subsection b(4) of this section, or refer the matter to a hearing officer.

(4) The City Council shall set the appeal on the matter referred by the City Manager for hearing within sixty (60) days from receipt by the City Manager of the appeal or referral. At the hearing, the City Council shall consider the report of the Engineering and Transportation Director indicating the deficiencies, and shall give the collector, or its representatives and any other interested person, a reasonable opportunity to be heard.

(5) Based on the evidence presented at the public hearing, the Council shall determine whether the service agreement should be terminated, liquidated damages imposed, or both. The City Council may also find in favor of collector. The decision of the City Council shall be final and binding. Collector's performance

under the service agreement is not excused during the period of time prior to the City Council's final determination as to whether such performance is deficient.

(c) **Remedies: Liquidated Damages.** The City Council may, at its discretion, assess liquidated damages not to exceed the sum of five thousand dollars ($5,000.00) per day, for each calendar day that service is not provided by collector in accordance with the service agreement for a period not to exceed forty-five (45) days.

(d) **Additional Remedies.** In addition to liquidated damages, above, the City shall have the following rights:

(1) **To rent or lease equipment from collector.** The City may rent or lease equipment from collector for the purpose of collecting, transporting, and disposing of solid waste which collector is obligated to collect, transport, and dispose of pursuant to its service agreement, for a period not to exceed six (6) months.

(2) **To contract with others to perform the services.** The City may contract others to perform the services otherwise to be performed by collector hereunder, or perform such services itself.

(3) **To obtain injunctive relief.** In the event of a breach under the terms of the service agreement by collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of the service agreement and to enjoin the breach thereof.

(4) **To reduce the service area.** If at the time of the annual review the total number of unresolved complaints exceeds two and one-half tenths (0.25) of one (1) percent of the total annual stops for the prior year, the City Council may determine whether it is appropriate to decrease the service area of collector because of poor performance and authorize another collector to provide services. The maximum reduction in service area for poor performance under this provision shall be ten (10) percent for each occurrence.

(5) **To invoke eminent domain.** Nothing set forth in a service agreement entered into between City and collector shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the

collector, either by purchase or through the exercise of the right of eminent domain, at fair market value, or be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.

(6) **To collect and bill collector.** Should collector fail to provide collection services as stipulated in its service agreement, within twenty-four (24) hours of a request being communicated by the City to collector to do so, the City may collect and dispose of same and collector shall be liable for all expenses incurred including, but not limited to, disposal, operating, administration, and legal costs. Reimbursement to City for such expenses will be paid by collector within thirty (30) days after date of invoice.

(7) **To conduct inspections.** At all reasonable times during any normal business hours, the collector shall permit the City's authorized representatives to examine all property of the collector, and to examine and copy any and all records kept or maintained by the collector under its control which pertain to the service agreement.

(e) **Force Majeure.** Collector shall not be in default under its service agreement in the event that any of the services provided by the collector under the terms of the agreement are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts, other labor disturbances or other catastrophic events which are beyond the reasonable control of collector. Other catastrophic events do not include the financial inability of the collector to perform or failure of the collector to obtain any necessary permits or licenses from other governmental agencies or the right to use the omissions of the collecfor. In the event a labor disturbance interrupts collection services as required by a service agreement, City may elect to exercise its rights under the service agreement.

5-5.38. INSPECTION AND ENFORCEMENT.

The Health Officer and the Engineering and Transportation Director may, from time to time, inspect all premises within the City to determine compliance with and to enforce the provisions of this chapter.

5-5.41. UNATTENDED NEWSPAPER RECYCLING RECEPTACLES PROHIBITED WITHOUT THE ISSUANCE OF A TEMPORARY PERMIT.

(a) It shall be unlawful for any person, other than a collector authorized by a service agreement with City and as expressly permitted by the Engineering and Transportation Director, to place, locate, establish, maintain, erect, leave, or otherwise make available any unattended newspaper recycling receptacle which is in public view, in the City of Modesto, for the purpose of collecting discarded newspaper as hereinafter defined; provided, however, that in the case of undertakings sponsored by and located on a site owned by a bona fide nonprofit organization, or religious organization, or public agency, the City Manager or his/her delagee shall be authorized to issue temporary permits for the location and use of newspaper recycling receptacles.

(b) The City Manager shall promulgate, and from time to time Amending rules and regulations for the issuance of temporary permits; and such rules and regulations as adopted or amended are hereby incorporated herein by reference as if fully set forth herein.

(c) For the purposes of this section, the following words and phrases shall have the meanings set forth herein:

(1) "**Newspaper**" shall mean newspapers, magazines, or print material of like purpose.

(2) "**Newspaper recycling receptacle**" shall mean any unattended bin, box, container, structure or device, the purpose of which is to serve as a container for the collection of discarded newspaper as herein defined.

(3) "**Person**" shall mean any natural person, partnership, corporation, association, firm, company or entity, and shall include both male and female gender.

SECTION 4. AMENDMENT OF CODE. Sections 5-6.01, 5-6.08, 5-6.09, 5-6.10, 5-6.12, 5-6.12.2, 5-6.13, 5-6.13.1, 5-6.13.2, 5-6.15, 5-6.21, and 5-6.27 of Chapter 6 of Title 5 of the Modesto Municipal Code are hereby amended to read as follows:

5-6.01. DEFINITIONS.

Unless the context requires a different meaning for the purposes of this chapter, the following terms shall be defined as follows:

(a) **"Apartment":** A building or portion thereof containing three (3) or more dwelling units.

(b) **"Biochemical Oxygen Demand (B.O.D.)":** The quantity of oxygen required by sewage for biochemical oxidation in five (5) days at twenty (20) degrees Celsius in ppm.

(c) **"Categorical Industry":** Any industry classified in a category according to 40 CFR 403.6 and uses or has the potential to use priority pollutants as classified in 40 CFR 413 and 433, including heavy metals and/or toxic organics, in its industrial process(es).

(d) **"Commercial User":** Any user whose premises are used to provide a product or service for retail or wholesale. Commercial shall include, but shall not be limited to, the following: Motel; hotel; boarding and rooming house; health care facility.

(e) **"Director":** The Engineering and Transportation Director or the Operations and Maintenance Director of the City or such other persons as may be designated by the Engineering and Transportation Director or the Operations and Maintenance Director shall perform the services or make the determinations permitted or required in this chapter.

(f) **"Duplex":** A building containing two (2) dwelling units.

(g) **"Dwelling Group":** Two (2) or more buildings on any one (1) lot, containing three (3) or more dwelling units.

(h) **"Dwelling Unit":** A suite of one (1) or more rooms which is occupied by or intended to be occupied by one (1) family.

(i) **"House Sewer Line":** The line connecting a user's property to the sewage system.

(j) **"Industrial User":** Any industry which can be classified as significant or nonsignificant which is any user 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 sale, resale, or redelivery in processed or manufactured form.

(k) **"Industrial Waste":** Liquid and/or solids contained within a liquid, other than sanitary sewage, and discharged into the sewage system by an industrial user.

(l) **"Lot":** A parcel of land consisting of one (1) or more contiguous lots of record in one (1) ownership.

(m) **"Major Industry":** Any industry discharging four (4) million gallons of industrial wastewater per month, and/or twenty thousand (20,000) pounds of BOD or more per month, and/or ten thousand (10,000) pounds of SS or more per month.

(n) **"Minor Industry":** Any industry which is neither a major or categorical industry.

(1) **Wet Minor Industry:** Any industry which uses water and/or generated additional wastewater in its industrial process.

(2) **Dry Minor Industry:** Any industry that generates only domestic waste.

(3) **Surveillance Minor Industry:** Any industry which has hazardous waste located on its premises.

(o) **"Mobile Home Park":** Any area or tract of land where two (2) or more spaces are rented or leased or held for rent or lease to accommodate mobile homes.

(p) **"Mobile Home Space":** Each space in a mobile home park designed to be used for parking a mobile home on a temporary, semipermanent or permanent basis.

(q) **"Mobile Home Subdivision":** Any area or tract of land improved to subdivision standards with mobile home lots.

(r) **"Nonsignificant Industry":** An industry which is classified as a minor industry.

(s) **"Premises":** Any lot, piece or parcel of land, and building or other structure or any part of any building or structure used or useful for

human habitation or gathering or carrying on any business, industry, or occupation.

(t) **"Residential User":** Any user whose premises contain a dwelling unit(s) intended for permanent occupancy. Residential shall include, but shall not be limited to, the following: single-family residential; multi-family residential; condominiums/townhouses; mobile homes; senior residential housing.

(u) **"Sanitary Sewage":** Waste discharging into the City sewage system and which contains human or animal excreta.

(v) **"Sewage":** Industrial waste or sanitary sewage, or both.

(w) **"Sewage System":** The facilities for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

(x) **"Sewer Bond Redemption Charge":** A charge established to compensate the City for having provided collection and treatment facilities before being able to collect revenue from the benefited properties.

(y) **"Sewer District":** Modesto Municipal Sewer District No. 1 established by the City Council by Resolution No. 66-543 effective August 16, 1966, encompassing the City of Modesto and portions of contiguous unincorporated areas, the legal description and boundaries of which have been recorded in the office of the Recorder of the County of Stanislaus, including areas heretofore or hereafter annexed thereto.

(z) **"Sewer Lateral":** A pipeline which collects sewage from individual users and transports it to subtrunk and trunk sewers.

(aa) **"Sewer Service":** The services and facilities for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

(ab) **"Sewer Service Charge":** A charge established to pay the cost of operation, maintenance, and debt service of the sewage system.

(ac) **"Significant Industry":** Any industry which can be classified as a major or categorical industry.

(ad) **"Subtrunk Sewer":** A sewer lateral which has been deepened and/or enlarged to serve areas in addition to those immediately adjacent to the trunk sewer.

(ae) **"Subtrunk Sewer Extension Charge":** A charge established to equalize the costs of connecting the in-track facilities and/or oversize facilities of a particular subdivision or are to the trunk sewers so that developments close to the chosen trunk sewer alignments do not receive unfair advantage over those located further away.

(af) **"Suspended Solids (SS)":** Organic and inorganic solids which do not tend to separate in sewage.

(ag) **"Trunk Sewer":** A pipeline which transports sewage from sewer laterals and subtrunk sewers to the water quality control plant.

(ah) **"User":** Any person responsible for payment of sewer service charges for premises served by the sewage system as provided in this chapter.

(ai) **"Water Quality Control Plant":** The plant owned by the City and designed for the treatment and disposal of sewage, including a remote oxidation ponding site.

The decision of the Director as to the type of use for determining the assessment of sewer fees shall be final.

5-6.08. CONSTRUCTION OF NEW SEWER LATERALS.

Any person within the Sewer District may connect his/her property to the City sewer system by constructing a sewer lateral under one of the following methods and constructing a house sewer line connecting the property to a sewer lateral:

(a) **By Improvement District Proceedings.** Sewer laterals may be financed by the formation of assessment districts and sale of improvement bonds in accordance with existing state laws governing the formation of such districts and the sale of such bonds.

(b) **By Private Contract: Undeveloped Land.** The owner of any undeveloped subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer laterals to serve such subdivision, tract, area or lot in accordance with plans and specifications prepared by a registered engineer and approved by the

City, at his/her own expense, and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it in the inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolutions and on file in the offices of the City Clerk and Engineering and Transportation Director.

(c) **By Private Contract: Developed Land.** The owner of any developed subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer laterals to serve such subdivisions, tract, area or lot in accordance with plans and specifications prepared by a registered engineer and approved by the City, or in accordance with plans and specifications prepared by the Engineering and Transportation Director and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it for any preparation of plans and specifications and for inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolutions and on file in the offices of the City Clerk and Engineering and Transportation Director.

5-6.09. PARTICIPATION IN COST OF CONSTRUCTING SUBTRUNK SEWERS.

(a) Whenever the City requires a design and construction of a sewer lateral beyond that which is required to serve a subdivision, improvement district, or area by itself, the City may provide the portion of the increased cost of constructing the sewer lateral directly resulting from such increased design. Said cost shall be determined by the Engineering and Transportation Director.

(b) Expenditures of funds by the City in accordance with the provisions of this section shall be on the basis that said expenditures will be recovered by the City from subtrunk sewer extension charges set forth in Section 5-6.06.

5-6.10. PARTICIPATION IN COST OF EXISTING SEWERS.

No property shall be permitted to connect to the City sewage system without participating in the cost of the sewer laterals which serve the area where the property is located.

Any property connecting to the City sewage system that has not already participated in the cost of a sewer lateral and which is to be served by an existing sewer shall either make reimbursement, through the City, of the property's proportionate share of private funds expended on the existing sewer line in accordance with any agreements on file with the Engineering and Transportation Director or shall pay to the City a fee which shall be in accordance with a schedule approved by the Council from time to time by resolution, whichever is the greater sum.

The acreage used to determine the lateral fee shall be the total area developed or being developed which is owned, leased or controlled by the user.

In those instances where the total acreage owned, leased or controlled by the user is greater than that developed, the Engineering and Transportation Director is authorized to determine the acreage to be used in determining the lateral fee. The remaining acreage shall pay a lateral fee at such time as it is developed.

Notwithstanding anything to the contrary contained in this chapter, the Council shall have the power to determine, by agreement, the total acreage developed or being developed which is owned, leased or controlled by a user meeting the criteria set forth below:

(a) The user will establish a new industry or expand an existing industry within the Modesto Municipal Sewer District that results in more than two hundred twenty-five (225) new, permanent, on-site, full-time employees;

(b) The user will construct a new industrial building or building addition with total floor space in excess of one hundred seventy-five thousand (175,000) square feet with total project costs in excess of twenty million dollars ($20,000,000).

If the property is developed beyond that development approved by the Council the developer shall pay a sewer lateral fee on the additional acreage developed. If the user fails to meet either of the criteria after development, the agreement shall be void and a sewer lateral fee shall be paid based on the total acreage developed or being developed had the above criteria not been applied.

5-6.12. PERMITS.

(a) **Industrial Users and Liquid Waste Haulers.** Before an industrial waste connection is made to the sewage system, a permit must first be obtained from the Operations and Maintenance Director. Application

for a permit to discharge such wastes shall be in writing and shall contain the following information:

(1) Name and address of applicant.

(2) Proposed location of connection.

(3) Estimated gallonage of wastes proposed to be discharged, estimated time of discharge, time of peak loads, and other similar data.

(4) Character of waste proposed to be discharged.

(5) Other information as may be deemed to be necessary by the Operations and Maintenance Director.

Upon receipt of an application as provided, the Operations and Maintenance Director shall promptly make such investigation as he/she shall deem necessary.

A permit shall be issued to the applicant as requested if the Operations and Maintenance Director finds and determines that:

(1) The trunk sewer in which the connection is to discharge has sufficient unused carrying capacity for the disposition of these wastes; and

(2) The character of the wastes proposed to be discharged by the applicant is such that they can successfully be treated; and

(3) Such wastes will not result in damage to the sewage system.

The Operations and Maintenance Director, at his/her discretion, and toward the end of fulfilling the intent and purposes of this chapter, may grant a permit in part only and may thereupon prescribe conditions with respect to discharge of such waste into such system, including pretreatment and installation and maintenance of pretreatment facilities, and/or maintenance of individual screens to collect waste products, and/or may require the construction and use of tanks designed to equalize flow and reduce peak load.

In the event that, after the granting of a permit, there shall develop a change of conditions, such as an increased flow or change of character

of discharge or operations or for any cause whatsoever, the permittee must immediately report such changes to the Operations and Maintenance Director. If, in the opinion of the Operations and Maintenance Director, it becomes necessary or desirable to change the conditions prescribed at the time of issuing said permit, then the Industrial Waste Division at the discretion of the Operations and Maintenance Director may change said permit or may impose further conditions with respect thereto, toward the end of remedying such conditions.

(b) **Capacity Allocation.** Each major industrial user, at the time a permit is issued in accordance with subsection (a) above, shall be assigned a capacity allocation for monthly discharge and annual discharge measured in million gallons (MG).

(c) **Pretreatment Facilities.** Any facilities required to pretreat industrial wastewater including all effluent monitoring equipment, to a level acceptable to the Operations and Maintenance Director shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Operations and Maintenance Director for all existing industrial user's facilities as well as before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent changes in the pretreatment facilities or operating procedures shall be reported to and be acceptable to the Operations and Maintenance Director prior to the industrial user's initiation of the changes. All records relating to compliance with pretreatment standards shall be made available to the Operations and Maintenance Director upon request.

(d) **All Other Users.** Permits for all sewer connections, except industrial users and liquid waste haulers, shall be obtained in accordance with the provisions of the Plumbing Code of the City.

(e) **Non-Transferable**. A permit issued under this section may not be transferred, assigned, or sold. If ownership or control of a facility changes, the permit is revoked and a new application must be made.

5-6.12.2. ACCIDENTAL DISCHARGE.

(a) **Preplanning.** Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this article. Such facilities shall be provided and maintained at the industrial user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Operations and Maintenance Director for review and shall be acceptable to the Operations and Maintenance Director before construction of the facility. All existing industrial users shall complete such a plan as required by the Operations and Maintenance Director. No industrial user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this article.

(b) **Notification Required.** In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the Operations and Maintenance Director of the incident. The notification shall include location of discharge, type of waste concentration and volume, and corrective actions. Within five (5) days following an accidental discharge, the industrial user shall submit to the Operations and Maintenance Director a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater treatment facility, or any other damage to person or property, nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed.

(c) **Violation.** Failure to provide notification to the City of an accidental discharge as described above shall be a violation of the Municipal Code and shall be punishable as a misdemeanor.

(d) **Notice.** A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

5-6.13. RULES AND REGULATIONS.

(a) No person shall discharge, or allow the discharge of, or dump sanitary sewage or industrial waste or other waste matter into the sewage system except in compliance with the terms of and upon payment of the charges provided in this chapter.

(b) No person shall discharge or allow the discharge of toxic or flammable material or any other material which would be injurious to sewage treatment processes, ground water, or to the conduits carrying domestic or industrial waste.

(c) No person shall connect property outside the Sewer District to the sewage system without first obtaining the consent of the City Manager and the Engineering and Transportation Director, and paying the fees and charges imposed by the City. In considering applications for furnishing sewer service to property located outside the Sewer District, the City Manager may impose such reasonable conditions to the granting of such privilege as the City Manager deems to be in the best interest of the City. Any agreements for the provision of such sewer service shall be approved as to form by the City Attorney.

(d) Each industrial user shall have one (1) industrial waste line connection to the City's sewer system. All major industries must have a twenty-four (24) composite sampler and effluent flow meter.

(e) Major industries will have a twenty-four-hour composite sampler for BOD and SS collected and analyzed a minimum of four (4) times per month by the Industrial Waste Division.

Wet minor industries shall have a grab sample for BOD and SS inspected, analyzed, and averaged a minimum of four (4) times per month for billing purposes.

Surveillance minor industries shall have one (1) grab sample for BOD and SS collected and analyzed per month for billing purposes.

Flow will be based on influent meter readings if the minor industry does not have an effluent meter.

Dry minor industries' monthly billing shall be based on influent flow only.

(f) Each user shall be responsible for the construction, maintenance and repair of his/her house sewer line. Each user shall be liable for damages which may result to the sewage system from his/her failure to keep his/her house sewer line in good order. A City inspector shall be admitted at all reasonable hours to all parts of any premises connected with the sewage system for purposes of checking the house sewer line and all fixtures and facilities connected thereto.

(g) When a sewer 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 density changes that will increase the fees.

5-6.13.1. COMPLIANCE BY INDUSTRIAL USERS WITH FEDERAL AND STATE STANDARDS.

(a) All industrial users shall comply with the strictest of any applicable federal 40 CFR 401-471 or state pretreatment standards or regulations, including but not limited to those adopted pursuant to the Clean Water Act, Pub. L. 95-217, as amended, and the National Pollutant Discharge Elimination System.

(b) Any industrial user not complying with the standards or regulations as required by subsection (a) hereof may be required by the Operations and Maintenance Director to develop and implement a compliance schedule for the installation of such technology as may be necessary to meet said standards and regulations or the regulations promulgated under subsection (d) hereof.

(c) The Operations and Maintenance Director may require the submission of such notices or self-monitoring reports from industrial users as he/she may consider necessary to assure compliance with said standards and regulations. Failure to submit such reports shall be a violation of the Municipal Code and shall be prosecuted as a misdemeanor.

(d) The Operations and Maintenance Director is hereby authorized to and shall establish such regulations as are necessary to ensure compliance by industrial users with applicable federal, state and local pretreatment standards or regulations, and shall regulate industrial waste loading as necessary through industrial waste permits issued annually to comply with interim and long-term National Pollutant Discharge Elimination System permit conditions. The Operations and Maintenance Director is hereby authorized to and shall revise industrial waste loading allocations

annually through meetings with major industries and/or modify treatment plant operations to meet National Pollutant Discharge Elimination System permit conditions, as necessary.

(e) The Operations and Maintenance Director is hereby authorized upon the presentation of proper credentials and/or other documents as may be required by law to enter onto any premises of an industrial user to assure compliance with this section and said standards and regulations.

5-6.13.2. VIOLATIONS.

(a) **Cease and Desist Order.** The Operations and Maintenance Director may issue a Cease and Desist Order to any industrial user who shows significant noncompliance or creates situations in which a discharge may pose a threat to the safety of operation of the Publicly Owned Treatment Works. The order shall require immediate correction of the situation or may impose additional requirements. The order shall be enforceable in court.

(b) **Revocation of Permit.** Any industrial user who performs the following actions, or who violates any condition of its permit, or of applicable state and federal regulations, may have its permit revoked:

(1) Failure of an industrial user to factually report the sewage constituents and characteristics of its discharge;

(2) Failure of an industrial user to report significant changes in operations, site plans, floor plans, mechanical and plumbing plans or sewage constituents and characteristics; or

(3) Refusal of reasonable access to an industrial user's premises for the purpose of inspection or monitoring.

(c) **Fine.** Any industrial user who intentionally or negligently violates any provision of any permit issued pursuant to this chapter, or who intentionally or negligently discharges waste or wastewater which causes pollution or who violates any cease and desist order, established effluent limitations, national standard of performance or national pretreatment or toxicity standard, shall be fined not more than ten thousand dollars ($10,000.00) for each offense. The Operations and Maintenance Director may determine the existence of a violation and may levy a fine which shall be in accordance with a schedule approved by the Council from time to time by resolution. Each day on which a violation may

occur or continue shall be deemed a separate and distinct offense. The Operations and Maintenance Director's determination can be appealed as provided in this chapter. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations and permits hereunder.

(d) **Liability.** In the event that a permittee does not comply with the conditions of a permit and wastes are discharged to the sewage system that cause, or threaten to cause, the water quality control plant's waste treatment facilities to malfunction or otherwise result in a violation of waste discharge requirements or limitations imposed by state or federal regulatory agencies (40 CFR 403.8), the permittee shall be liable for any or all of the following:

(1) It shall be a violation of the Municipal Code for an industrial user to violate any provision of any permit issued pursuant to this chapter. Such violation may be prosecuted as a misdemeanor.

(2) To pay any and all monetary penalties, charges, fees and other costs that may be imposed on the City by state or federal regulatory agencies as a result of threatened or actual violation(s) or malfunction(s), including administrative and legal fees.

(3) To pay any and all judgments and associated costs that may be awarded to individuals or entities as a result of threatened or actual violation(s) or malfunction(s).

(4) To pay the total cost of any interim waste treatment measures that the Operations and Maintenance Director may deem necessary to abate threatened or actual violation(s) or malfunction(s), including consulting and administrative fees.

(5) To pay the total cost of providing waste treatment facilities needed to remedy threatened or actual violation(s) or malfunction(s).

(e) **List of Violators.** The Operations and Maintenance Director shall annually publish in a newspaper of general circulation in the Modesto area, a list of the industrial users which significantly violated applicable pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any

enforcement actions taken against the industrial user(s) during the same twelve (12) months. A significant violation is defined in the Enforcement Response Plan adopted by the City.

5-6.15. ENFORCEMENT RESPONSIBILITIES.

(a) **Responsibility.** The City Manager shall ensure enforcement of this chapter by coordinating the actions of the Finance Director, the Engineering and Transportation Director, the Operations and Maintenance Director, and any other City departments concerned in applying the City's Enforcement Response Plan. The Engineering and Transportation Director and Operations and Maintenance Director are hereby charged with the enforcement of all of the provisions of this chapter.

(b) **Appeals.** In the event of a violation of any of the terms of this chapter, or any rule or regulation established thereunder, the Director shall notify in writing the person causing, allowing, or committing such violation, specifying the violation, and if applicable, the time after which (upon the failure of such person to prevent or rectify the violation) the Director will exercise his/her authority to disconnect the system from the municipal water system and/or the sewage system; provided that such time shall not be less than five (5) days after the deposit with postage paid of such notice in the United States Post Office at Modesto, California, addressed to the person to whom notice is given; provided, however, that in the event such violation results in a public hazard or menace, then the Director may enter upon the premises without notice and do such things and spend sums as may be necessary to abate such hazard, and the reasonable value of things done and the amounts expended in so doing shall be a charge upon the person so in violation. If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he/she may, within ten (10) days after notice of the action by the Director file a written appeal to the City Manager.

The written appeal shall state all pertinent aspects of the matter, and shall include the hearing record if one was requested. Within thirty (30) days after the written appeal is received, the City Manager shall hold a hearing after due notice to the appellant. The City Manager may establish rules and regulations governing the hearing of such appeals. The City Manager shall make a final ruling on the appeal within ten (10) days after close of the hearing. The decision, action, or determination shall remain in effect during such period of review by the City Manager.

If the decision of the City Manager is unsatisfactory to the person appealing, he/she may file a written appeal to the City Council within ten (10) days after receipt of the decision.

The City Council will hear the appeal and act upon it pursuant to the procedures set forth in Title 1.

5-6.21. APPEALS.

Any person who shall be dissatisfied with any action of the Operations and Maintenance Director in the administration of this chapter, may appeal to the Council in accordance with the procedure prescribed by Chapter 4 of Title 1 of this Code.

5-6.27. VIOLATIONS.

(a) Any holder of a NPDES industrial storm water permit who performs the following actions, or who violates the conditions of its permit, or of applicable State and Federal regulations, is subject to notice of the Central Valley Regional Water Quality Control Board of such violation.

(1) Failure of a NPDES stormwater permit holder to comply with the discharge limits to the City's storm drainage facilities.

(2) Failure of an NPDES stormwater permit holder to notify the Operations and Maintenance Director of willful or negligent discharges in violation of their permit.

(3) Refusal of reasonable access to the site of industrial activities subject to an NPDES stormwater permit, for the purpose of inspection or monitoring.

(b) In the event that a permittee does not comply with the provisions of their NPDES industrial stormwater permit, and wastes or pollutants are discharged to the City's storm drainage facilities, that cause or threaten to cause an adverse impact on the water quality of a receiving stream or the groundwater, the permittee shall be liable for any or all of the following:

(1) Any and all monetary penalties, charges, fees, cleanup costs, and other costs that may be imposed on the City by State or Federal regulatory agencies as a result of threatened or actual violation(s), including administrative and legal fees.

(2) Any and all judgments and associated costs that may be awarded to individuals or entities as a result of threatened or actual violation(s).

(3) The total cost of containment, cleanup, treatment or disposal that the Operations and Maintenance Director may deem necessary to abate threatened or actual adverse impact on water quality of a receiving stream or the groundwater, including consulting and administrative fees.

SECTION 5. AMENDMENT OF CODE: Sections 5-10.104, 5-10.105, 5-10.108, 5-10.109, 5-10.112, 5-10.206, 5-10.207, 5-10.208, 5-10.209, 5-10.301, 5-10.303, and 5-10.312 of Article 1 of Chapter 10 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

5-10.104. DEFINITIONS.

The terms as used in this chapter shall have the following meanings:

(a) **Best Management Practice (BMPs)** shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Storm Water Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity provide a detailed discussion of BMPs.

(b) **City** shall mean the City of Modesto.

(c) **Council** shall mean the City Council of the City of Modesto.

(d) **Illicit Discharge** shall mean any discharge to the storm drain system that is not composed entirely of storm water runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit.

(e) **Illicit Connection** shall mean any physical connection to a storm drain system which has not been permitted by the City.

(f) **National Pollutant Discharge Elimination System (NPDES) Permit** shall mean a storm water discharge permit issued by the State Water Resources Control Board in compliance with the Federal Clean Water Act.

(g) **Municipal NPDES Permit** shall mean an area-wide NPDES permit issued to a government agency or agencies for the discharge of storm water from a storm water system.

(h) **Non-Storm Water Discharge** shall mean any discharge to the storm drain system that is not entirely composed of storm water.

(i) **Person** shall mean any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

(j) **Pollutant** shall mean anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include but are not limited to paints, oil and other automotive fluids, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

(k) **Premises** shall mean any building, lot, parcel of land, land or portion of land whether improved or unimproved.

(l) **Storm Drain System** shall mean any facility by which storm water may be conveyed to waters of the United States. The storm drain system includes but is not limited to any roads with drainage systems, streets, curbs, gutters, catch basin, natural and artificial channels, ditches, aqueducts, storm drains, rockwells, inlets, conduit or other drainage structure, and any terminal, treatment or discharge facility.

(m) **Storm Water Runoff** shall mean surface runoff and drainage associated with rain storm events and snow melt.

(n) **Director** shall mean the Operations and Maintenance Director.

(o) **Authorized Enforcement Officer** shall include the Director or his/her designee.

(p) **Uncontaminated pumped groundwater** is impure groundwater or groundwater mixed with a pollutant.

5-10.105. RESPONSIBILITY FOR ADMINISTRATION.

This chapter shall be administered for the City by the Operations and Maintenance Director.

5-10.108. COMPLIANCE BY INDUSTRIAL USERS WITH FEDERAL AND STATE STANDARDS.

(a) All Industrial activities shall comply with the strictest of any applicable Federal or State standards or regulations covering the discharge of storm water or surface water, including but not limited to those adopted pursuant to the Clean Water Act PL 95-217, as amended, and the National Pollutant Discharge Elimination System (NPDES).

(b) Any industrial activity not complying with the standards or regulations as required by subsection (a) hereof may be required by the Operations and Maintenance Director to develop and implement a compliance schedule for any measures or facilities as may be necessary to meet said standards and regulations.

(c) The Operations and Maintenance Director may require the submission of such notices of self-monitoring reports from the site of industrial activities as he/she may consider necessary to assure compliance with said standards and regulations.

(d) Holders of NPDES industrial storm water permits which discharge storm water or surface water to the City's storm drainage facilities shall comply with applicable requirements of the City's NPDES permit for its Municipal Separate Storm Sewer System. In addition, the Operations and Maintenance Director or his/her designee may impose other, and/or stricter requirements in individual cases when the Operations and Maintenance Director deems it beneficial to the general welfare of the City to do so.

(e) Industrial activities required to obtain NPDES permits requiring the discharge of storm water and surface water to the City's storm drainage facilities shall notify the Operations and Maintenance Director that they

are subject to such permit. Notice shall be made in writing at least thirty (30) days before such activity commences. The NPDES permit holders shall notify the Operations and Maintenance Director immediately by phone upon discovery of any discharge in violation of their permit.

(f) The Operations and Maintenance Director or his/her designee shall have access to the site of the industrial activity regulated by a NPDES industrial storm water permit, for purposes of inspection and monitoring, upon notice to the designated representative of the NPDES permit holder.

(g) The Operations and Maintenance Director may establish standards and guidelines implementing BMP's designed to control the rate and volume of storm water runoff from industrial activities as may be appropriate to minimize the discharge and transport of pollutants.

5-10.109. STORM DRAINAGE USER CHARGE.

The City is implementing activities to improve the environmental quality of storm water by decreasing the amount of pollutants that enter the system. Each person owning property within the city limits shall pay a storm drainage user charge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Engineering and Transportation Director. The user charge is based on the size, type of, and use and intensity of use of property and shall go to pay the costs of the City NPDES program, operation and maintenance of the storm drain system, improvements and additions to the storm drain system, and any other costs associated with the storm drain enterprise. Property owners shall remain responsible for the cost of storm water management and quality control on their property. The Council shall have the power to establish, by agreement or resolution, the rate or rates to be charged and the method of collecting the storm drainage user charge for properties outside the boundaries of the city limits for those properties which discharge into the City's storm drain system.

5-10.112 . ADMINISTRATIVE REVIEW.

Any parcel owner who disputes the amount of any storm drainage user charge or who requests a deferred payment schedule therefor must request a revision or modification of such charge in writing from the Engineering and Transportation Director. The Engineering and Transportation Director may notify any owner or occupier and take appropriate action in the event the Engineering and Transportation Director considers the charge to be inadequate or improper.

5-10.206. CONSTRUCTION SITES.

Any person performing construction work in the City shall comply with the provisions of this chapter.

The Operations and Maintenance Director may establish standards and guidelines implementing BMP's designed to control the rate and volume of storm water runoff from construction sites as may be appropriate to minimize the discharge and transport of pollutants. All construction sites shall comply with the State General Construction Activity Permit.

5-10.207. NEW DEVELOPMENT AND REDEVELOPMENT.

To minimize the discharge and transport of pollutants, the City may require, in its discretion, a new development or redevelopment project, greater than five acres, to control the volume and rate of storm water runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The Operations and Maintenance Director may establish standards and guidelines implementing BMP's designed to control the rate and volume of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

Acceptable methods and standards for controlling storm water runoff volumes, rates, and pollutant load may include but are not limited to the following:

(a) **Increase Permeable Areas.** Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use porous materials for or near driveways and walkways; incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.

(b) **Direct Runoff to Permeable Areas.** Direct storm water runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and french drains. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of storm water runoff leaving the property. When designing curbs, berms or other structures, avoid designs which isolate permeable or landscaped areas.

(c) **Maximize Storm Water Storage for Reuse.** Use retention structures, subsurface areas, cisterns, or other structures to store storm water runoff for reuse or slow release.

5-10.208. STORM DRAINAGE RULES AND REGULATIONS.

The following rules and regulations shall apply to all persons using storm drainage facilities. Failure to comply with any provision, requirement, rule, or regulation under this chapter shall be unlawful and punishable as an infraction.

(a) The willful or negligent disposal of petroleum products (oil and grease), pesticides, fertilizers, household or industrial chemicals, industrial process wastewater, domestic sewage, animal waste or other pollutants into storm drainage facilities is prohibited.

(b) Domestic roof drain leaders may not be directly connected to sidewalks and gutters, but must discharge into landscaped areas.

(c) Discharge of water from swimming pools into rockwells is prohibited. Discharge of water from swimming pools into positive storm drainage facilities is allowed only with the written permission of the Operations and Maintenance Director. Such discharge may not cause flooding of the street. Water from pumping out swimming pools may be discharged to the sanitary sewer.

(d) Storm water or surface water which is causing flooding on private property served by an on-site storm drainage system may not be discharged to the City's storm drainage facilities.

5-10.209. COMPLIANCE WITH GENERAL PERMITS.

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any general NPDES permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, or the Regional Water Quality Control Board, shall comply with all requirements of such permit. Proof of compliance with said NPDES General Permits may be required in a form acceptable to the Operations and Maintenance Director prior to issuance of any City grading, building, occupancy, or other permits.

5-10.301. AUTHORITY TO INSPECT.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm water system, or similar factors.

(a) **Authority to Sample and Establish Sampling Devices.** With the consent of the owner or occupant or pursuant to a search warrant, any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.

(b) **Notification of Spills.** All persons in charge of a facility or responsible for emergency response for a facility have a personal responsibility to train facility personnel and maintain notification procedures to assure immediate notification is provided to the City of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the City Storm drain system. As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge, such person shall take all

necessary steps to ensure the discovery and containment and clean up of such release and shall notify the City of the occurrence by telephoning the illicit discharge hotline, (phone number to be established by resolution) and confirming the notification by correspondence to the Operations and Maintenance Director.

(c) **Requirement to Test or Monitor.** Any authorized enforcement officer may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analysis and furnish such reports as the officer may specify. The burden, including costs, of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analysis and/or reports requested. In the event the owner or operator of a facility subject to a monitoring and/or analysis order fails to conduct required monitoring and/or analysis and furnish the required reports in the form required, the authorized enforcement officer may cause such monitoring and/or analysis and the cost, therefore, including the reasonable additional administrative costs incurred by the City shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three (3) months after the completion by an authorized enforcement officer of the required monitoring and/or analysis and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

5-10.303. PENALTIES.

It shall be unlawful for any person to violate any provision of this chapter. Any person violating any provision of this chapter shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

Any person so convicted shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars ($100.00) for a first

violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars ($200.00) for a second violation. The third and any additional violations shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars ($1,000.00) or six (6) months in jail, or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation.

At the option of the Operations and Maintenance Director or an authorized enforcement officer, such officer may, instead of the foregoing criminal procedure, utilize the administrative enforcement powers granted in Section 5-10.309, below, to enforce any of the provisions of this chapter, and to ensure the correction of any violations of this chapter. These shall include the powers to lien granted in that section, and shall include as well the power to levy an administrative (civil) penalty against an offender in such dollar amount as the Council may, from time to time, specify by resolution adopted pursuant to this chapter. Appeal from the imposition of any such fine shall be first to the Operations and Maintenance Director, and, ultimately, to Council.

5-10.312. APPEAL.

Any person, firm, corporation or organization required to perform monitoring, analysis, reporting and/or corrective activities by an authorized enforcement officer who is aggrieved by the decision of the authorized enforcement officer may appeal such decision to the Operations and Maintenance Director within ten (10) days following the effective date of the decision by writing to the Operations and Maintenance Director. Upon receipt of such request, the Operations and Maintenance Director shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing at the earliest practical date. At said hearing, the Operations and Maintenance Director may hear additional evidence, and may reject, affirm or modify the Authority Enforcement officer's decision. Such decision shall be final.

SECTION 6. 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 7. 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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

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AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3129-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3130 -C.S.

AN ORDINANCE AMENDING SECTIONS 7-1.102, 7-1.301, 7-1.304, 7-1.502, 7-1.503, 7-1.604, AND 7-1.701 OF CHAPTER 1 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO STREET IMPROVEMENTS; SECTIONS 7-2.02, 7-2.04, 7-2.05, 7-2.07, 7-2.08, 7-2.09, 7-2.10, 7-2.11, 7-2.13, 7-2.14, 7-2.15, 7-2.16, 7-2.19, 7-2.20, 7-2.21, 7-2.22, 7-2.23, 7-2.24, 7-2.25, 7-2.26, 7-2.27, 7-2.28, AND 7-2.30 OF CHAPTER 2 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO STREET CUTS AND SECTIONS 7-3.103 AND 7-3.202.1 OF CHAPTER 3 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO MODESTO CITY-COUNTY AIRPORT; SECTIONS 7-4.02 AND 7-4.03 OF CHAPTER 4 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO USE OF PARK AND RECREATION AREAS AND FACILITIES; AND SECTIONS 7-5.02, 7-5.03, 7-5.04, 7-5.05, 7-5.06, 7-5.08 AND 7-5.10 OF CHAPTER 5 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO STREET TREES. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 7-1.102, 7-1.301, 7-1.304, 7-1.502, 7-1.503, 7-1.604, and 7-1.701 of Chapter 1 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-1.102. DEFINITIONS.

(a) **Curbline.** "Curbline" is the line established by the curb face of a curb and gutter section. In those areas where curb and gutter do not exist, the Engineering and Transportation Director shall determine the location of the curb and gutter from which the curbline will be established.

(b) **Driveway.** "Driveway" is the area required for vehicular access to a property across the sidewalk-planting strip.

(c) **Encroachment.** An "encroachment" is any permanent or temporary structure or appurtenance thereto, fence, hedge, planter, shrub, sprinkler

system or any other thing which intrudes into, upon, over or under, or invades the sidewalk-planting strip.

(d) **Planting Easement.** "Planting easement" is that portion of land made available as a public easement for the purpose of planting and maintaining City street trees.

(e) **Planting Strip.** "Planting strip" is that portion of the sidewalk-planting strip not required for sidewalk, driveway or curb use.

(f) **Sidewalk.** "Sidewalk" is that portion of the sidewalk-planting strip established for pedestrian use. In those areas where a sidewalk does not exist, the Engineering and Transportation Director shall define the location of the sidewalk area.

(g) **Sidewalk-planting Strip.** As used in this chapter, "sidewalk-planting strip" is that portion of the street between the property line and the curbline.

(h) **Street.** "Street" is a thoroughfare which has been dedicated to or acquired by the public and which affords the principal means of access to abutting property; provided that utility and planting easements, walkways and alleys shall not be considered as streets for the purpose of this chapter.

7-1.301. STANDARDS.

Sidewalks on public rights-of-way shall be constructed or repaired in accordance with current standard drawings and specifications as approved by the Council from time to time by resolution and on file in the offices of the City Clerk and Engineering and Transportation Director.

In addition to said standards, all sidewalk construction or repair shall comply with the following regulations:

(a) All sidewalk construction or repair shall be done under the direction, supervision and to the satisfaction of the Engineering and Transportation Director.

(b) All debris and surplus materials shall be removed promptly upon completion of the work.

(c) The applicant shall maintain the premises in a safe manner, and shall provide adequate barricades and lights at his/her own expense to protect the safety of the public using the adjacent street or sidewalk area, and shall hold the City free and harmless from any and all damages or liability incurred because of his/her operations.

7-1.304. NOTICE OF SIDEWALK DEFECTS.

If a public sidewalk abutting or on an owner's property appears to be in a condition which is dangerous to people using the sidewalk, that property owner shall give prompt written notice of that sidewalk condition to the City of Modesto's Operations and Maintenance Director. If the property owner fails to properly notify the City of such a condition, the property owner shall be liable for damages or injuries caused by the condition of the sidewalk.

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 Engineering and Transportation Director for all new buildings or structures, property development, or any building or structure altered or expanded in excess of fifty (50) percent 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) percent 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) percent of the front footage is undeveloped property.

(3) More than fifty (50) percent 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 10 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 Engineering and Transportation Director, 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.

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 Engineering and Transportation Director 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 Engineering and Transportation Director 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 Finance Director in an amount to be fixed by the Engineering and Transportation Director. 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.

7-1.604. METHOD OF PAYMENT.

All applicants for building permits on properties described in Section 7-1.602 above shall pay the fees set forth in Section 7-1.603 above at the time a building permit is issued.

The square footage of property used to determine the fees shall be the total square footage of property being developed.

In those instances where the total square footage of property owned, leased or controlled by the applicant for a building permit is greater than that being developed, the Community Development Director is authorized to determine the square footage of property to be used in determining the fees. The fees for the remaining square footage of property shall be paid at such time as such remaining square footage of property is developed.

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 and Transportation Director or designee 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 and Transportation Director or designee.

(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 Engineering and Transportation Director or designee and until said mitigation measures have been installed, constructed, or bonded for to the satisfaction of the Engineering and Transportation Director or designee.

(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 Adding 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 and Transportation 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 and Transportation 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 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 owners, their 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 and Transportation 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 in the Office of the County Recorder of Stanislaus County upon its acceptance by the Engineering and Transportation Director. 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 Engineering and Transportation Director accepts for recordation the offer to dedicate.

(e) **Improvement procedure.**

(1) Any person required to make improvements or mitigations by the provisions of this section shall complete them to the satisfaction of the Engineering and Transportation Director or shall, prior to issuance of the building permit, file a bond with the City in such an amount as the Engineering and Transportation Director shall

estimate and determine to be necessary to complete all of the improvements or mitigations 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 and Transportation Director and the completion of the remaining work is delayed due to conditions beyond the owner's control, the Engineering and Transportation 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 and Transportation 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 and Transportation 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 and Transportation 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 and Transportation 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 City Engineer may approve variations and deviations from the above requirements as he/she 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 City Engineer 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 and Transportation 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 and Transportation 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) **City Engineer 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 and Transportation 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 and Transportation Director determines that the provisions of this section are applicable to any building permit application, the Engineering and Transportation Director shall inform the permit applicant of his/her determination of the specific requirements of this section which he/she determines to be applicable and of the availability and procedure for appeal of his/her determination to the Council.

SECTION 2. AMENDMENT OF CODE. Sections 7-2.02, 7-2.04, 7-2.05, 7-2.07, 7-2.08, 7-2.09, 7-2.10, 7-2.11, 7-2.13, 7-2.14, 7-2.15, 7-2.16, 7-2.19, 7-2.20, 7-2.21, 7-2.22, 7-2.23, 7-2.24, 7-2.25, 7-2.26, 7-2.27, 7-2.28, and 7-2.30 of Chapter 2 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-2.02. DEFINITIONS.

For the purposes of this chapter, certain words and phrases are defined and certain provisions are to be construed as herein set out unless it shall be apparent from the context that a different meaning is intended.

(a) "Engineering and Transportation Director" shall mean Engineering and Transportation Director for the City of Modesto, acting either directly or through properly authorized agents; providing such agents are acting within the scope of the particular duties delegated to them.

(b) "Street cut" shall mean the action of or the result of opening, tearing up, excavating, repairing, installing, adding to, removing or otherwise altering any portion of any public roadway, street, alley or thoroughfare for any purpose whatsoever.

(c) "Emergency street cut" shall mean any street cut which must be made to repair a defective or broken underground facility, the condition of which facility constitutes an evident and immediate hazard to life, health or property, and it is impractical to secure a permit before work is commenced.

(d) "Underground facility" shall mean any pipes, conduits, tiles, manholes, valves or pull-boxes, vaults or any other material installed within and below the surface of any public roadway, street, alley, sidewalk-planting strip, thoroughfare or any other public place.

(e) "Major project" shall mean the installation or replacement of any underground facility other than a service.

7-2.04. APPLICATION FOR PERMIT.

Every application for a permit shall be made in writing upon forms furnished by the Engineering and Transportation Director, and applicants shall furnish thereon such information as is required by the Engineering and Transportation Director.

On major projects, if requested to do so by the Engineering and Transportation Director, applicants shall furnish plans and profiles, in duplicate, showing the work to be done, location, limits of work, location of pavements and replacement types, together with such further information as the Engineering and Transportation Director may require.

If the street cut is to be made in a State Highway, applicant shall comply with all lawful regulations of the Department of Transportation, State of California (Caltrans), and procure from such department all necessary permits required therefor by the State of California.

7-2.05. TIME OF ISSUANCE OF PERMIT.

Permits required by this chapter shall be secured at least two (2) working days prior to the time the work under such permit is proposed; except, however, where an emergency street cut is to be performed, applicant shall immediately give prior notice thereof to the Police and Fire Departments of the City; shall secure or make a reasonable effort to secure the consent to such work from the Engineering and Transportation Director as soon as reasonably practicable; and shall make application for a permit for such work on the next working day following.

7-2.07. PERMIT: EXTENSION OF COMPLETION DATE.

Every permit issued pursuant to this chapter shall specify a completion date for the work. The Engineering and Transportation Director may, for good cause, grant a written extension of time to permittee, which grant shall extend the validity of said permit to said extended time.

7-2.08. DENIAL OF PERMIT.

The Engineering and Transportation Director shall have the right to refuse a permit to any person who is in violation of, or who has failed to comply with

the provisions of this chapter in connection with the permit being applied for, or any permit previously issued except as provided otherwise by this chapter.

7-2.09. REVOCATION OF PERMIT.

The Engineering and Transportation Director may, for noncompliance with any of the provisions of this chapter, revoke any permit granted hereby.

7.2-10. NOTICE OF COMMENCEMENT OF WORK.

Permittee shall give notice to the Engineering and Transportation Director of the actual time of commencement of any work at least twenty-four (24) hours in advance. Similar notice shall be given to the Police Department and Fire Department if required on the permit. If the permittee is a utility company, the form and frequency of notifications on work to be performed shall be as agreed upon in writing by the Engineering and Transportation Director and the utility company. When work on any project ceases for any reason for a period of twenty-four (24) hours or more, permittee shall notify the Engineering and Transportation Director and the Police Department and Fire Department, when required, at least twenty-four (24) hours prior to recommencing said work.

7-2.11. GENERAL REQUIREMENTS IN PERFORMANCE OF WORK.

All work shall be performed in a neat and workmanlike manner and so programmed as to cause a minimum of interference with traffic and inconvenience to the public. Said work shall be coordinated whenever possible with other projects in the area to the end that the public convenience is least impaired to the satisfaction of the Engineering and Transportation Director.

7-2.13. TEMPORARY ACCESS IN RIGHTS-OF-WAY.

Temporary roadways, driveways, walks and rights-of-way for vehicles and pedestrians shall be constructed where required.

Temporary walkways shall be not less than four (4) feet in width and shall be designed for uniform live load of one hundred fifty (150) pounds per square foot. Suitable ramps or stairs shall be provided with a handrail not less than three (3) feet high along each side, or with a railing on one side and a fence on the other, as the case may require. Said walkway around said street cut shall be located as close to the area formerly used for pedestrian travel as possible. The permittee shall construct and maintain in good condition such detours, detour bridges and temporary crossings for public use as are deemed necessary for the

proper execution of the work, or when same are ordered by the Engineering and Transportation Director.

7-2.14. TEMPORARY CLOSING OF PUBLIC WAYS.

The Engineering and Transportation Director may grant written permission to close or cause to be closed for limited periods City streets, alleys, driveways or areas not under control of the State of California, Department of Transportation if, in the opinion of the Engineering and Transportation Director, the public interest can best be served thereby.

Permittee shall reimburse to City the cost for inspection in accordance with a Schedule of Fees approved by the Council from time to time by resolutions and on file in the offices of the City Clerk and Engineering and Transportation Director.

7-2.15. PUBLIC SAFETY BARRICADES AND WARNINGS.

Permittee shall provide and maintain, during the performance of the work to ensure public safety, such fences, barricades, warning and directional signals, flares, lights, watchmen and flagmen as are or may be required by law or regulation or as may be deemed necessary by the Engineering and Transportation Director.

7-2.16. PROVISION FOR PUBLIC SAFETY BARRICADES AND WARNINGS BY CITY: A LIABILITY FOR COSTS.

In the event permittee fails to provide for the safety of the public in a manner provided in Section 7-2.15, the Engineering and Transportation Director may provide whatever facilities are necessary and charge permittee a fee for the work involved. The fee shall be in accordance with a schedule of fees approved by the City Council from time to time by resolution and on file in the offices of the City Clerk and the Engineering and Transportation Director.

7-2.19. COMPLETION OF WORK BY CITY: LIABILITY FOR COSTS.

If the work is unduly delayed by the permittee and if the public interests reasonably so demand, the Engineering and Transportation Director shall have the authority, upon written notice to the permittee, to complete the work or any portion thereof or to cause said work to be completed. The actual cost of such work by the City or its contractors, plus an overhead charge as determined by the Finance Director, shall be charged to and paid for by the permittee.

7-2.20. BACKFILL.

Permittee shall backfill all trenches and excavations in streets between curb lines in such a manner as to obtain a relative compaction of the entire backfill of not less than ninety (90) percent as determined by Test Method No. California 216-5 Layer System. If the excavation material will not give the required relative compaction, an imported granular material that will give such relative compaction shall be used. The use of water shall not be permitted if the Engineering and Transportation Director determines that the soil will not readily drain and if the adjacent street may become damaged or if the paving may be unduly delayed thereby.

In trenches or excavations in unpaved parking strips or sidewalk-planting strip areas, backfill shall be compacted to relative compaction which is at least as great as that of the native undisturbed soil in the area.

The Engineering and Transportation Director when he/she deems it necessary shall cause tests of the type specified in this section to be made.

7-2.21. NOTICE OF COMPLETION OF BACKFILL.

Except in the case of a major project, upon completion of the backfill, permittee shall notify the Engineering and Transportation Director of such completion. Utility companies which are authorized by the Engineering and Transportation Director to do their own paving are not required to give such notice.

The Engineering and Transportation Director, upon receipt of such notice and upon inspection and approval of work, shall cause street cuts, not in the category of major projects, to be paved.

7-2.22. STREET PAVING FEES.

On all projects other than major projects, street paving shall be performed by City and shall be paid for by permittee except that the Engineering and Transportation Director may authorize both public and private utilities to do their own street paving.

Said paving fees shall be in accordance with a schedule of fees approved by the Council from time to time by resolution and on file in the offices of the City Clerk and the Engineering and Transportation Director.

Street paving fees shall be paid at the time the permit is issued.

7-2.23. STREET REPAVING: MAJOR PROJECTS.

When major projects are involved, repaving of street cuts shall be done by the permittee in accordance with the Standard Specifications of the City of Modesto and in accordance with the terms indicated by the Engineering and Transportation Director on the permit for such work.

7-2.24. RESTORATION OF IMPROVEMENTS.

Curbs, gutters, sidewalks, sewers, drains, structures, conduits, cables and all other improvements damaged, disturbed, or removed during the progress of the work shall be restored or replaced to as good or better condition than existed prior to work performed by permittee in accordance with Standard Specifications of the City of Modesto and to the satisfaction of the Engineering and Transportation Director.

7-2.25. PRESERVATION OF MONUMENTS.

Any monument of concrete, iron, or other lasting material set for the purpose of locating or preserving the lines and/or elevation of any public street or right of way, property, subdivision, or a precise survey point or reference point shall not be removed or disturbed without first obtaining permission from the Engineering and Transportation Director to do so. Replacement of removed or disturbed monumentation will be at the expense of the permittee.

7-2.26. ALTERNATIVE METHODS AND MATERIALS.

The Engineering and Transportation Director shall determine all questions concerning which alternative methods and materials may be used by permittee, and the decision of the Engineering and Transportation Director concerning the same shall be final.

7-2.27. INSPECTION AND INSPECTION FEES.

All work done by the permittee shall be inspected by the City and the permittee shall pay the City for such inspection. Said inspection fees shall be in accordance with a schedule of fees approved by the Council from time to time by resolution and on file in the offices of the City Clerk and the Engineering and Transportation Director.

Inspection fees shall be paid at the time the permit is issued, except that utility companies may pay on a periodic basis as approved by the Finance Director.

7-2.28. STREET MAINTENANCE: MAJOR PROJECTS.

After completion of the work, the permittee shall exercise reasonable care in inspecting for and immediately repairing and making good any injury or damage to the street resulting from defective work done under the permit. The obligation of permittee to inspect and repair work done under the permit shall continue for a period of one (1) year following completion and approval of said work by the Engineering and Transportation Director, or in the event of repairs thereto, one (1) year from the date of said repairs.

The permittee shall, upon notice from the Engineering and Transportation Director, immediately repair any injury or damage to the street occurring as a result of the work done under the permit.

In the event such repairs are not made by the permittee within forty-eight (48) hours after notice, the Engineering and Transportation Director is hereby authorized to make such repairs and charge all costs, plus overhead and administrative costs, to the permittee. By acceptance of the permit, the permittee agrees to comply with the above.

7-2.30. POSTING OF BOND.

If permittee fails, in the opinion of the Engineering and Transportation Director, to comply with the provisions hereof or the conditions of any permit, the Director may refuse to grant and may withhold issuance of any subsequent permits to permittee until the latter has paid all costs due City for prior permits and has posted with the City a cash bond in the sum of five hundred dollars ($500.00), which bond or any part thereof shall be used as follows:

(a) To pay the actual cost of work completed by the Engineering and Transportation Director in connection with any permit issued, including overhead costs.

(b) To pay the actual cost of work done by the Engineering and Transportation Director to repair or restore any public improvements damaged or destroyed by permittee during the course of any operations performed under any permit, including overhead costs.

(c) To pay the actual cost of all lighted barricades placed on or about the permittee's work, including overhead costs, and the costs of the furnishing by City of any other safety barricades or warnings in connection with any permit issued.

SECTION 3. AMENDMENT OF CODE. Sections 7-3.103 and 7-3.202.1 of Chapter 3 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-3.103. DIVISION OF ENGINEERING AND TRANSPORTATION DEPARTMENT.

The Modesto City-County Airport shall be a division of the Engineering and Transportation Department of the City. The Airport Manager shall carry out his/her duties under the supervision and direction of the Engineering and Transportation Director.

7-3.202.1. PARKING AND OPERATION OF MOTOR VEHICLES.

(a) No person shall operate, drive or park a motor vehicle in the aircraft tiedown areas as designated by the Airport Manager.

(b) The parking regulations promulgated for municipal off-street parking facilities by Article 16 of Chapter 2 of Title 3, Section 3-2.1601 et seq., of this Code are hereby adopted by reference and are made applicable to all off-street parking facilities at the Modesto City-County Airport, except that the term "Director" as used in that article shall refer to Engineering and Transportation Director.

SECTION 4. AMENDMENT OF CODE. Sections 7-4.02 and 7-4.03 of Chapter 4 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-4.02. GENERAL REGULATIONS GOVERNING USE OF PARKS.

(a) Except as otherwise authorized by law, it shall be unlawful and an infraction for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.

(1) To enter or trespass in any area, building or facility which is fenced and locked or enclosed and locked or is posted with a No Trespassing sign.

(2) To ride or bring any horse or other similar animal or to propel a vehicle in or upon any area of a park, except those areas specifically provided and designated for such purposes, unless

prior written permission is obtained from the Operations and Maintenance Director.

(3) To ride a bicycle unless on trails or pathways designated for bicycle use.

(4) To drive or operate any motor vehicle in any park in excess of fifteen (15) miles per hour.

(5) To park any automobile or other vehicle in any park at any place other than designated parking areas. Places where parking is permitted shall be designated by appropriate signs.

(6) To drive or operate any automobile, gasoline-powered go-carts, model airplanes, boats or midget cars in any park except in designated areas or unless prior written permission is obtained from the Operations and Maintenance Director.

(7) To clean, wash, polish or make other than emergency repairs upon any automobile, motorcycle or self-driven vehicle in any park.

(8) To carry, bring into or ignite, fire or otherwise set off any firearms, air guns, slingshots, firecrackers or fireworks in any park except those fireworks which are part of organized and permitted special events for which prior written permission to use fireworks has been obtained from the Operations and Maintenance Director.

(9) To make a fire in any park other than in stoves, pits or braziers provided by the City unless prior written permission is obtained from the Operations and Maintenance Director and a permit is obtained from the Air Pollution Control District for burning in open pits.

(10) To bring into any park any material which will, if spilled or spread, be injurious to the turf or plant growth.

(11) To cut or remove any wood, turf, rock, tree, flower, shrub, sand or gravel from any park unless prior written permission is obtained from the Operations and Maintenance Director.

(12) To throw or dispose of in any park any bottles, tin cans, broken glass, paper, clothes, cast iron, rubbish, soil, tree trimmings, garbage, ashes or other debris of any kind except in approved containers provided by the City.

(13) To remove, damage or destroy any athletic equipment provided by the City, normal wear and tear excepted.

(14) To move or remove from one (1) location to another any part or parts of field equipment.

(15) To move or remove from one (1) location to another any equipment used for park maintenance.

(16) To open or close any valve pertaining to the water mains or sprinkler system or to expose or interfere with any gas pipe, hydrant, stopcock, sewer, catch basin, backflow preventer, or other similar device in any park.

(17) To cut, break or deface in any way buildings, equipment, grounds or other facilities of any park.

(18) To wound, kill or catch any bird or other wild animal in any park.

(19) To indulge in indecent or riotous conduct or language or to otherwise make noises in such a manner as to disturb any picnic, meeting, concert or exhibition in any park.

(20) To operate a public address system without prior written permission of the Operations and Maintenance Director. This prohibition shall not include the use of small portable radios used to receive regularly broadcasted programs, as long as such radios are operated at such a volume as not to disturb other persons present in the park.

(21) To disturb or interfere with any employee of the City of Modesto acting within the scope of his/her employment, or to disturb or interfere with any spectator or participant in any event or activity conducted in any park, or to enter any park for the purpose of committing any such disturbance or interference.

(22) To camp or lodge in or upon any park unless prior written permission is obtained from the Operations and Maintenance Director.

(23) To sell refreshments, foodstuffs or novelties in any park or on any street immediately adjacent thereto without the prior written permission of the Operations and Maintenance Director or the City Council.

(24) To practice, carry on, conduct or solicit for any trade, occupation, business or profession in any park without the prior written permission of the City Council.

(25) To play or engage in any game or contest in any park except in such places as are specially provided or designated for that purpose.

(26) To play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes.

(27) To refuse to open any tennis court being used for singles play to doubles play at the end of the set being played when other persons are waiting, unless prior written permission is obtained from the Operations and Maintenance Director.

(28) To refuse to relinquish any tennis court being used for doubles play at the end of the set being played when other persons are waiting unless prior written permission is obtained from the Operations and Maintenance Director.

(29) To use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Operations and Maintenance Director or the City Council.

(30) To play or engage in the hitting of golf balls in any park, except on driving ranges and golf courses.

(31) To ride bicycles through any children's playground area.

(32) To discard lighted or unlighted cigars or cigarettes in children's playground areas.

(33) To wade or swim in any pool in any park except when supervised.

(34) To use any park facility for which a charge is now or hereafter made without first having paid the fee requested and having received the required permit.

(35) To enter any park facility for which a charge is made without first paying the full legal charge made for such entrance unless such entrance is by the consent or permission of the person or persons in charge.

(36) To use any park facility or equipment which has been reserved or which is indicated by an authorized or official sign to have been reserved without first having received the written permission of the Operations and Maintenance Director.

(37) To remove any authorized or official sign indicating that any park facility or equipment is reserved.

(38) For any male person to resort to any toilet set apart for women, and for any female person to resort to any toilet set apart for men, provided that this prohibition shall not apply to children accompanied by their father, mother or guardian.

(39) It shall be unlawful to climb onto any building or structure in a park not designated for such activity.

(40) To possess any container made of glass in any park or to bring, carry or transport any container made of glass into any park except that the sponsor of an organized event may obtain permission from the Department to possess glass containers.

(41) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above subsections.

(42) It shall be unlawful for any person to consume alcoholic beverages within fifteen (15) feet of an abutting edge of any public parking lot that directly abuts a City park, unless approved in advance in writing by the Operations and Maintenance Director.

(b) Except as otherwise authorized by law, it shall be unlawful and a misdemeanor for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.

(1) No person shall remain in any park between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(2) The prohibitions contained in subsection (b)(1) of this section will not apply to:

(i) Special use facilities, as may be posted by the Department extending use hours;

(ii) Any person attending a meeting, entertainment event, recreation activity, dance or similar activity in such park, provided such activity is sponsored or co-sponsored by the Department or permit therefor, has been issued by the Department;

(iii) Any person exiting such park immediately after the conclusion of any activity set forth in subsection (b)(2)(ii) of this section;

(iv) Any peace officer or employee of the City while engaged in the performance of his/her duties.

(c) The City of Modesto hereby designates all of its public parks as drug-free zones pursuant to and within the meaning of Health & Safety Code Section 11380.5.

7-4.03. PARKING FOR DISABLED PERSONS.

(a) The Engineering and Transportation Director and the Operations and Maintenance Director are hereby authorized to reserve and designate parking for disabled persons and disabled veterans at all parks and recreation facilities owned or operated by the City.

(b) No persons shall stop, stand or park in any space designated for parking for disabled persons unless their vehicle displays a disabled person's license plate or placard, or a disabled veteran's license plate or placard, as provided by the Vehicle Code of the State of California.

SECTION 5. AMENDMENT OF CODE. Sections 7-5.02, 7-5.03, 7-5.04, 7-5.05, 7-5.06, 7-5.08 and 7-5.10 of Chapter 5 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-5.02. STREET TREE PLAN.

The Operations and Maintenance Department, in cooperation with the Community Development Department, shall prepare or have prepared a Street Tree Plan. Such plan, when approved by the City Manager, shall be submitted to the Planning Commission, which shall review said plan and submit its recommendations thereon to the Council. After making any revisions thereto which it may deem advisable, the Council shall adopt such plan by resolution. The Operations and Maintenance Director shall, from time to time, recommend any revisions thereto. Amendments to the plan shall be made in the same manner as the original adoption. Said plan shall include the types, varieties, and locations of street trees to be planted. Said plan shall include type of trees to be planted in commercial, industrial and neighborhood zones. The types of trees shall be divided into general varieties which may be modified at the discretion of the Operations and Maintenance Director.

7-5.03. RESPONSIBILITIES, DUTIES AND AUTHORITY OF THE DIRECTOR.

The Operations and Maintenance Director, under the general supervision of the City Manager, shall have the authority and responsibility to do the following:

(a) Carry out the provisions of this chapter.

(b) Remove or replace any tree located within a planting right-of-way or easement, in accordance with the provisions of this chapter.

(c) Enter in or upon any part of a right-of-way or easement or adjacent property as is reasonably necessary for the purpose of planting and maintaining street trees.

7-5.04. PLANTING AND MAINTENANCE.

(a) Except as otherwise provided in this section, within the limits of funds provided in the City budget, the City will supply, replace, and plant approximately one (1) tree per lot, excepting corner lots, where two (2)

or three (3) trees will be planted, and maintain street trees in all rights-of-way and planting easements within the City.

(b) Fees shall be charged to provide the cost of furnishing, locating, planting and fertilizing street trees as provided in Section 4-4.803.1 of Article 8 of Chapter 4 of Title 4 of this Code.

(c) The City, by mutual agreement, may provide and plant street trees in subdivisions outside of the City at a fee to be established by resolution of the Council, which fee shall not be less than that charged within the City.

(d) No maintenance of street trees will be provided by the City in areas not within the City except by special agreement nor on privately owned property except in rights-of-way or public planting easements.

(e) The property owner or occupant, as the case may be, shall be responsible for watering street trees located in rights-of-way or easements abutting said property.

(f) This section shall not prevent any person, firm or public utility from installing and maintaining any overhead wires or underground pipes or conduits lawfully on, over or under public streets or public rights-of-way, subject to the provisions and requirements of Chapter 4 of Title 4 of this Code. The Operations and Maintenance Director, when reviewing plans for planting, maintenance or removal of street trees, shall consider the effect upon existing overhead wires or underground pipes or conduits and shall avoid unnecessary disturbance to or relocation of said facilities.

7-5.05. REMOVAL AND MAINTENANCE.

(a) The Operations and Maintenance Director shall be responsible for inspection, maintenance, removal and replacement of street trees planted within rights-of-way or easements. The Operations and Maintenance Director may cause street trees or other plant material planted in a right-of-way or easement to be removed by the City if they are deemed by the Operations and Maintenance Director to be unhealthy, hazardous, undesirable or causing excessive damage to existing public improvements, or street trees.

(b) The Operations and Maintenance Director shall have the authority to require property owners to take such action as is necessary to control

insects, scales, parasites, fungus, and other injurious pests or plant material that would cause serious injury to street trees and other plant material within the City. The City shall notify the property owner in writing, describing the conditions and stating the control necessary to correct the condition, and establishing a reasonable time within which the corrective steps shall be taken.

(c) The Operations and Maintenance Director shall have the authority to require property owners to remove or prune any privately planted tree, shrub, vine, or other plant material if it is determined by the Operations and Maintenance Director to be seriously interfering with the growth and health of any street tree.

(d) In the event a property owner desires to remove a tree from the right-of-way or easement abutting his/her property, he/she or his/her authorized agent shall make application to the Department. The Operations and Maintenance Director shall determine whether or not such tree is required to be retained in order to preserve the intent and purpose of the Street Tree Plan. In making his/her determination, the Operations and Maintenance Director shall consider the inconvenience or hardship which retention of the tree would cause the property owner, and consider also the condition, age, desirability of variety and location of the tree. If the Operations and Maintenance Director finds that the tree may be removed without violating the intent and spirit of the Street Tree Plan, he/she may authorize the property owner to remove such tree at his/her own expense and liability. If a permit is granted for removal of a street tree, all removal work shall be completed within sixty (60) days from the date of issuance of the permit, and shall be under the general supervision of, and in accordance with, rules established by the Operations and Maintenance Director. All tree stumps shall be removed to a depth specified by the Operations and Maintenance Director. All removal permits shall be void after the expiration of sixty (60) days from the date of issuance, unless extended by the Operations and Maintenance Director.

7-5.06. PROTECTION.

(a) No person shall remove, trim, prune, spray, or cut any above- or below-ground portions of any street tree in a right-of-way or easement without first obtaining permission from the Operations and Maintenance Director.

(b) No person shall interfere or cause any person to interfere with any work being done under the provisions of this chapter by any employee of the City, or by any person or firm doing work for the City or under a permit granted by the City.

(c) No person shall interfere or cause anyone to interfere with or damage any overhead wires or underground pipes or conduits while removing, trimming, pruning, spraying, or cutting any street trees in a right-of-way or easement. The owner of such facilities shall be notified when such work may interfere with or cause damage to the facilities. The cost of repair of the damage to overhead wires, underground pipes or conduits shall be the responsibility of the person, firm or corporation doing or causing the work to be done. The City of Modesto and its officers and employees shall be exempt from the provisions of this subsection.

(d) It shall be unlawful for any person to injure or destroy by any means any tree planted or maintained by the City in rights-of-way or easements, including, but not limited to, the following:

(1) Constructing a concrete sidewalk or driveway or otherwise filling up the ground around any street tree so as to shut off air or water from its roots.

(2) Piling building materials, equipment, or other substance around any tree.

(3) Pouring any deleterious material on any tree or on the ground near any tree.

(4) Posting any sign, poster, notice, or other object on any tree, tree stake or guard, or fastening any guy wire, cable, rope, nails, screws, or other device to any tree, tree stake or guard.

(5) Causing or encouraging any fire or burning near or around any tree.

(6) Using any mechanical weeding device against a tree.

(7) Constructing retaining walls, fences, or other similar improvements which prohibit the planting or maintaining of street trees or otherwise affect their growth.

(8) Operating construction equipment in such a manner to cause it to contact the tree.

(9) Disrupt the anchorage of the tree or change the grade around the tree.

(e) No person shall plant a tree or other plant material in a right-of-way or easement other than lawn or other similar planting materials, unless approved by the Operations and Maintenance Director.

7-5.08. COOPERATION WITH OTHER DEPARTMENTS AND AGENCIES.

(a) The Engineering and Transportation Department shall notify the Operations and Maintenance Department of any applications for new curb, gutter, sidewalk or driveway installation, or other improvement which might require the removal of or cause injury to any street tree, or interfere with the fulfillment of the Street Tree Plan.

(b) Any public utility maintaining any overhead wires or underground pipes or conduits shall obtain permission from the Operations and Maintenance Director before performing any maintenance to said wires, pipes, or conduits, which would cause injury to street trees. Said public utility shall in no way injure, deface, prune, or scar any street tree until their plans and procedures have been approved by the Operations and Maintenance Director.

(c) The Operations and Maintenance Director shall be permitted to inspect any and all maintenance or operational work performed by public utilities which might affect street trees. During the performance of said work, if in the opinion of the Operations and Maintenance Director, it would cause excessive or unnecessary injury to any street tree, the Operations and Maintenance Director shall have the authority to stop said maintenance and operational work and arrange with said public utility another method of maintenance or operational work satisfactory to the City.

(d) The provisions of subsections (b) and (c) of this section shall not apply to emergency public utility maintenance work which is performed during nonworking hours for City personnel.

7-5.10. APPEALS.

Any person excepting to any denial, suspension or revocation by the Operations and Maintenance Director of a permit applied for or held by him/her pursuant to the provisions of this chapter, or excepting to any other administrative action taken by the Operations and Maintenance Director in administering the provisions of this chapter may appeal to the Council. Such an appeal shall be taken in accordance with the procedure prescribed by Chapter 4 of Title 1 of this Code.

SECTION 6. 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 7. 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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3130-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3131 -C.S.

AN ORDINANCE AMENDING SECTION 9-2.14 OF CHAPTER 2 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO PLUMBING CODE; SECTION 9-3.102 OF ARTICLE 1 OF CHAPTER 3 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO ELECTRICAL CODE; SECTION 9-5.02 OF CHAPTER 5 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO NUMBERING PROPERTIES; SECTION 9-8.11 OF CHAPTER 8 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO DANGEROUS BUILDING CODE; AND SECTIONS 9-10.03, 9-10.04, AND 9-10.06 OF CHAPTER 10 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO MODESTO LANDMARK PRESERVATION. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Section 9-2.14 Chapter 2 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

9-2.14. RAINWATER PIPING.

That Section 414 be added to said Plumbing Code to read as follows:

Section 414.1.

No overflow from a cistern, tank, expansion tank, drip pan or other device shall be directly connected to any soil, waste or vent pipe, house drain or house sewer.

Section 414.2.

Rainwater from roofs, parking areas, landscaped areas or other approved areas exposed to rainwater may be drained into the public positive storm water drainage system, but shall not drain into any sewer intended for sanitary sewage. A permit shall be procured in all cases to connect rainwater drainage to a positive storm water drainage system. The Engineering and Transportation Director is authorized to limit the rate of flow of storm water into the public storm water drainage system.

Rainwater from roofs, parking areas, landscaped areas or other approved areas may drain into the public street gutter; provided, that such gutter is paved and runs to a catch basin connected to the public positive storm drain system. The Engineering and Transportation Director is authorized to limit the rate at which this storm water flows into the public storm drain.

In areas of the City not served by a public, positive storm water drainage system, rainwater from roofs, parking areas, landscaped areas and other approved areas shall be retained on the premises and disposed of on the premises. On-premises disposal systems may consist of rock wells, retention basins, or other approved methods that allow the storm drainage to be absorbed into the soil.

Section 414.3.

No rainwater from roofs or other rainwater drainages of premises shall discharge upon a public sidewalk. When it is desired to conduct rainwater from a building or premises to a public street gutter, the outside underground piping shall be cast-iron soil pipe. Water leaders connecting to such underground drainage piping, which are on the outside of a building wall that abuts on a public thoroughfare shall be constructed of cast-iron pipe for a distance of five (5) feet vertically above grade.

Section 414.4.

No sheet metal water leader shall be installed on the inside of a building, inner court or vent shaft. No sheet metal leader shall be directly connected to any drainage system which connects to a public sewer.

Section 414.5.

When an existing sheet metal water leader pipe within the walls of a building becomes defective, such water leader shall be replaced with one which conforms to this Code.

Section 414.6.

All underground roof and area rainwater drainage piping within the walls of a building shall be cast-iron pipe and fittings and all such piping above ground shall be cast-iron pipe and fittings or galvanized wrought-iron or steel pipe with drainage fittings or approved standards.

Section 414.7.

Except the feeding of rainwater leader traps as herein required, no water leader or other rainwater piping shall be used as a soil, waste or vent pipe nor shall any soil, waste or vent pipe be used as a rainwater leader.

Section 414.8.

Rainwater leaders connecting to the storm water drainage system shall be effectively trapped if such water leader opening is within twelve (12) inches of a side or rear property line which does not abut on a public street or alley, or if such rainwater leader opening is within twelve (12) feet of any door or window or other source of ventilation or fresh air supply to any building. All water leaders may be served by one (1) master trap or each leader may be trapped separately. All water leader traps shall have their seals maintained by an automatic priming device, designed and installed for that purpose. When a rainwater drainage system is served by one (1) trap, such trap shall be provided with a fresh air inlet, not less than four (4) inches in diameter, which shall lead to the outer air and be provided with an approved cowl or grating so installed as to prevent the entrance of soil, stones or other objectionable materials.

Section 414.9.

All roof boxes connected to concealed rainwater leaders (if made of light metal) shall be made by means of a lead stub and caulking ferrule which shall be firmly caulked with lead and oakum into said rainwater leader and the other end of lead stub to be firmly soldered to roof box. Cast-iron roof drains may be screwed or caulked to their respective rainwater leaders.

Section 414.10.

Rainwater from paved or unpaved areas shall not drain into the sanitary sewer system but may drain to the storm water drainage system. All such rainwater shall drain to a sump constructed of concrete with bottom and walls not less than four (4) inches in thickness. All sumps shall be provided with a trap formed by turning down the outlet pipe with a forty-five (45) degree bend so as to maintain a water seal of not less than twelve (12) inches. No part of such seal shall protrude inside the sump. All sumps shall be not less than eighteen (18) inches wide and eighteen (18) inches long and two (2) feet deep and be provided with suitable grates that may be removed for cleaning purposes.

SECTION 2. AMENDMENT OF CODE. Section 9-3.102 of Article 1 of Chapter 3 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

9-3.102. ENFORCEMENT.

That Article 90.4 of said Electrical Code be amended to read as follows:

Article 90.4.

(a) **General.** The Chief Building Official is hereby authorized and directed to enforce, all the provisions of this Code. For such purpose he/she shall have the powers of a law enforcement officer. The Chief Building Official may waive specific requirements in this Code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(b) **Deputies.** In accordance with the procedure and with the approval of the chief appointing authority of the City, the Chief Building Official may appoint such number of officers, inspectors and assistants, and other employees as shall be authorized from time to time. He/she may deputize such employees as may be necessary to carry out the functions of theChief Building Official.

(c) **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Chief Building Official or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in Section 102 of the Building Code, the Chief Building Official or his/her authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Chief Building Official by this Code; provided that if such building or premises be occupied, he/she shall first present proper credentials and request entry, and if such building or premises be unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Chief Building Official or his/her authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Chief Building Official or his/her authorized representative shall have first obtained a proper inspection warrant or other remedy

provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the Chief Building Official or his/her authorized representative for the purpose of inspection and examination pursuant to this Code. Any person violating this subsection shall be guilty of a misdemeanor.

(d) **Stop Orders.** Whenever any work is being done contrary to the provisions of this Code, the Chief Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done; and any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

(e) **Authority To Condemn Equipment.** Whenever the Chief Building Official learns or ascertains that any equipment, as defined in this Code, has become hazardous to life, health or property, he/she shall order, in writing, that such equipment be restored to a condition of safety or be dismantled and removed from its present location. The written notice shall fix a time limit for compliance with such order. No person shall use or maintain the defective equipment after receiving such notice.

(f) **Interpretation.** The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions.

Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code. Such interpretations may be appealed to the Board of Building Appeals.

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

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

The Chief Building Official is hereby authorized to determine the intent and meaning of any provisions of this Code.

SECTION 3. AMENDMENT OF CODE. Section 9-5.02 of Chaper 5 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

9-5.02. MAINTAINING THE SYSTEM.

The Community Development Director shall be responsible for maintaining the numbering system and making additions thereto. The Chief Building Official shall be responsible for allocating new numbers from information furnished him by the Community Development Director. In the case of number changes, the City Clerk shall send official notice to each property owner and occupant involved, specifying the old and new number and the date upon which the new number will become effective. In the performance of these responsibilities, the Community Development Director, the Chief Building Official and the City Clerk shall be guided by the provisions of this chapter and the street numbering policy adopted pursuant thereto from time to time by the City Council.

SECTION 4. AMENDMENT OF CODE. Section 9-8.11 of Chapter 8 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

9-8.11. BOARD OF BUILDING APPEALS MAY REQUEST REPORTS.

That Section 603 of said Dangerous Buildings Code be amended to read as follows:

Section 603.

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

SECTION 5. AMENDMENT OF CODE: Sections 9-10.03, 9-10.04, and 9-10.06 of Chapter 10 of Title 9 of the Modesto Municipal Code are hereby amended to read as follows:

9-10.03. MODESTO LANDMARK PRESERVATION COMMISSION ESTABLISHED.

(a) This chapter 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 (5) or seven (7) 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 (1) member should be an architect, or if an architect should not be available, an experienced person of the building trades.

(2) At least one (1) 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 (1) member should be a person with a background in finance, accounting, appraising or related fields.

(4) At least one (1) 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 (1) member should also be a member of the Modesto Culture Commission and would serve on both commissions Alternatively, a person recommended by the Culture Commission may be appointed by the City Council to serve only on the Landmark Preservation Commission.

(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 chapter, 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 Community Development Director. The City Chief Building Official or Community Development Director 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 chapter.

(f) To accomplish the intent and purpose of this chapter, 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 chapter.

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 Community Development Director with current lists and maps showing Modesto Landmark Preservation Sites and Districts for their use in referring applications to the Commission.

9-10.06. REVIEW OF PERMITS.

(a) The Chief Building Official or the 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 identifies the hearing body and 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 Community Development Director shall be 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 Community Development Director shall be 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 forty-five (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 forty-five (45) day period may be extended by fifteen (15) days in cases where professional study or recommendation is required and the forty-five (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 chapter.

(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 (2) copies of a Notice of Appeal and statement of reasons setting forth the grounds for the appeal. The City Clerk shall transmit one (1) 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.

SECTION 6. 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 7. 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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3131-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3132 -C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.2005, 10-2.2009, 10-2.2309 AND 10-2.2314 OF ARTICLE 23 OF CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS -- GENERAL PROVISIONS. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 10-2.2005, 10-2.2009, 10-2.2309 and 10-2.2314 of Article 23 of Chapter 2 of Title 10 of the Modesto Municipal Code are hereby amended to read as follows:

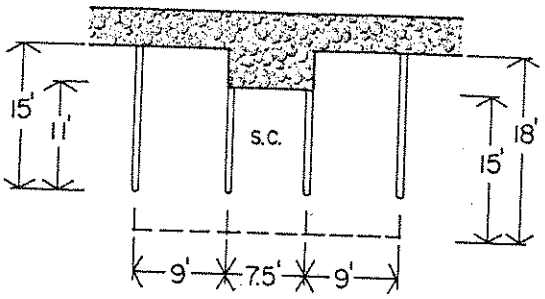
10-2.2005. IMPROVEMENT STANDARDS.

The following improvement standards are applicable to all parking areas except temporary downtown parking lots.

(a) Surface of parking area. Parking areas shall be paved with a minimum of two (2) inches of asphalt concrete surfacing and be graded and designed as to dispose of all surface water in accordance with requirements of the Engineering and Transportation Director.

(b) Striping of parking area. All parking areas of five (5) or more spaces shall be marked by either striping or buttons to delineate spaces.

The spaces shall be double-striped as shown in the diagram. Painted line width shall be four (4) inches. If buttons are used they shall be three and one-half (3.5) to four (4) inches in diameter, spaced no more than three (3) feet on center. The lines shall be laid parallel to, and one (1) foot within each stall, fifteen (15) feet in length for a full-sized space and eleven (11) feet in length for a small car space, not including the semicircular cap.



(c) Lighting. All parking areas of five (5) of more spaces shall have an average of one-half (0.5) footcandle illumination per square foot of parking area for better visibility and security during darkness. The illumination shall be uniformly distributed over the parking area. Wiring for illumination shall be underground unless existing overhead lines can serve the need without any additional overhead lines. Lights provided to illuminate a parking area shall be arranged so as to reflect the light away from any area upon which a dwelling is located.

10-2.2009. TEMPORARY PARKING LOTS DOWNTOWN.

(a) Modified Standards. If an off-street parking area meets the qualifications set forth below, the following modifications in standards may be made, subject to approval by the Planning Commission:

(1) The minimum width of each parking space shall be eight (8) feet, four (4) inches.

(2) The turnaround or end driveway width shall be a minimum of thirteen (13) feet.

(3) The surface may be a sand-asphalt pavement.

(4) Storm drainage to be approved by the Engineering and Transportation Director may allow up to one-half of the parking area to drain across the adjacent sidewalks with the balance permitted to drain to an adjacent alley.

(5) No landscaping is required.

(b) Qualifications. To qualify as a temporary parking lot downtown, all of the following conditions shall be met:

(1) The property shall be entirely within the Downtown P-D Zone area.

(2) None of the spaces shall be required by this Code, including but not limited to joint use parking by covenant and common parking.

(3) The maximum term shall be five (5) years from date of issuance of a building permit for the temporary parking lot.

(c) Plot Plan. The applicant shall provide a complete plot plan to assist the evaluation of the proposed lot. The plot plan shall include but not be limited to:

(1) The location of all proposed buildings, facilities and open space.

(2) The location of on-site vehicular and pedestrian circulation.

(3) The location of all off-street parking.

(4) The location of all land to be dedicated to or reserved for public use.

(5) The location and extent of street improvements as determined in consultation with the Engineering and Transportation Director.

(6) All dimensions pertinent to any requirement of the Municipal Code.

(d) Time Extension. A maximum five (5) years' additional use of a temporary parking lot may be granted for good and sufficient reasons by the Commission after four (4) years of use.

10-2.2309. LANDSCAPE PLANS AND MAINTENANCE.

Whenever landscaping or a landscape plan is required by this Code or as a condition of a zone, variance, use permit, plot plan or similar action, landscape and irrigation system design and plan specifications as determined by the Community Services and Neighborhood Connections Director shall apply.

Landscaping and irrigation systems shall be installed and maintained in accordance with the approved plans.

10-2.2314. VISION OBSTRUCTIONS.

(a) In zones requiring a front yard, there shall be a clear vision triangle on all corner lots. The triangle is an area bounded by the front and side street property lines and a line connecting them twenty-five (25) feet from their intersection. Within the triangle, the area between three (3) and eight (8) feet in height measured from the top of the curb adjacent to the front yard shall be clear. Trees may penetrate the clear area as long as there are no branches lower than eight (8) feet and the trunk does not constitute a hazard to vehicular or pedestrian traffic as determined by the Engineering and Transportation Director. If no curb exists, the City Engineer shall establish curb grade.

(b) In addition to obstructions in (a) above, the Engineering and Transportation Director may require the removal of landscaping or structures on any lot which in his/her opinion constitute a hazard to vehicular or pedestrian traffic.

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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3132-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3133 -C.S.

AN ORDINANCE AMENDING SECTIONS 11-1.01, 11-1.04, 11-1.05, 11-1.06, 11-1.08, 11-1.14, 11-1.15, AND 11-1.16 OF CHAPTER 1 OF TITLE 11 OF THE MODESTO MUNICIPAL CODE RELATING TO WATER RATES AND REGULATIONS; SECTIONS 11-5.05, 11-5.07, AND 11-5.11 OF CHAPTER 5 OF TITLE 11 OF THE MODESTO MUNICIPAL CODE RELATING TO REGULATIONS AND PROCEDURES FOR THE REMOVAL OF OVERHEAD UTILITY FACILITIES AND THE INSTALLATION OF UNDERGROUND FACILITIES IN UNDERGROUND UTILITY DISTRICTS; AND SECTIONS 11-6.05, 11-6.06, 11-6.08, 11-6.10, 11-6.11, AND 11-6.13 OF CHAPTER 6 OF TITLE 11 RELATING TO COLLECTIONS OF PUBLIC UTILITIES CHARGES. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Sections 11-1.01, 11-1.04, 11-1.05, 11-1.06, 11-1.08, 11-1.14, 11-1.15, and 11-1.16 of Chapter 1 of Title 11 of the Modesto Municipal Code are hereby amended to read as follows:

11-1.01. MANAGEMENT AND SYSTEM.

The management, control and care of the municipal water system of the City shall be vested in the Engineering and Transportation Director and the Operations and Maintenance Director under the general direction of the City Manager.

11-1.04. WATER SERVICE INSTALLATION CHARGES.

Water service installation charges shall be paid by consumers and shall be in accordance with a schedule approved by the Council from time to time by resolution.

The Engineering and Transportation Director is hereby authorized to waive the water service installation charges and require water services to be installed in conjunction with the subdivision of land by developers of subdivisions.

(a) **Water System Fee.** When a property connects to the City water system, consumers shall pay a proportionate share towards the construction and maintenance of the City water system. Payment shall be in accordance with a schedule approved by the Council from time to time by resolution.

(b) **Payment of Water System Fee.** In the case of new subdivisions or parcel maps, this charge shall be paid at the time of filing the final subdivision or parcel map. If no parcel or subdivision map is required for the development of the property, then the fee shall be collected upon the issuance of the building permit.

11-1.05. WATER MAIN CONNECTION CHARGES.

In addition to the water service installation charges imposed by Section 11-1.04 of this chapter, and in case of metered services, the meter costs imposed by Section 11-1.06 of this chapter, water main connection charges shall be paid in accordance with this section.

(a) **Territory Within the City.** For water service in all areas within the City, the water main connection charge to existing mains shall be in accordance with a schedule approved by the Council from time to time by resolution.

(b) **Territory Outside the City.** For water services in territory outside the City limits, the water main connection charge to existing mains shall be in accordance with a schedule approved by the Council from time to time by resolution. The City Manager shall have the authority to grant any request for water service to property outside the City limits, upon recommendation of the Engineering and Transportation Director. In considering applications for furnishing water service to property located outside the City limits, the City Manager may impose such reasonable conditions to the granting of such privilege as the City Manager deems to be in the best interest of the City. City Manager shall establish the conditions and City Council shall approve said conditions from time to time by resolution. Any agreements for the provision of such water service shall be approved as to form by the City Attorney.

(c) **Main Extensions.** Where water main extensions are required before water service can be provided outside the City, the City may require an agreement with the person desiring water service which shall provide the basis upon which water mains will be constructed and financed. Such an agreement, among other things, may include the requirement of

annexation of any territory so served to the City at the earliest opportunity.

(d) **Allocation of Costs.** Notwithstanding the provisions of subsections (a) and (b) above, the Engineering and Transportation Director is hereby authorized to approve and process applications for water service to portions of parcels of land in accordance with the rates specified in the above subsections subject to all of the following terms and conditions:

(1) That the property involved can reasonably be served by the municipal water system.

(2) The total area of such parcels of land to be served shall be not less than twenty thousand (20,000) square feet, and the portion of the parcel to be served shall not be less than six thousand (6,000) square feet in area.

(3) A fee shall be paid to the City and shall accompany the application for the purpose of covering the costs of inspection of the premises to make the determination specified in subsections (1) and (2) above, and said fee shall be in accordance with a schedule approved by the Council from time to time by resolution.

(4) Connection fees shall be payable based on the size of the portion of the parcel to be served and shall be paid in accordance with the applicable provisions of the Municipal Code.

(5) Water service fees shall be payable in accordance with the Municipal Code provisions relating to water service generally.

(6) The portion of the area to be served shall be recorded by means of a sketch map on the water service card filed in the Engineering and Transportation Department.

(7) In addition to the remedies for violations of the provisions of this Code, as an additional and alternate remedy, the Engineering and Transportation Director shall have the authority to immediately discontinue water service without requirement of notification in the event that the Director shall determine that water supplied to serve the area under the permit is used on other premises.

(e) **Water Mains Installed by Developers.** Notwithstanding the charges set forth in subsections (a) and (b) above, the Engineering and Transportation Director is hereby authorized to waive the square footage portion of the water main connection charge and require water mains to be installed in conjunction with the subdivision of land by the developers of subdivisions as follows:

(1) All water mains shall be sized in accordance with current City of Modesto Standard Specifications.

(2) All six-inch and eight-inch diameter mains and appurtenances thereto, such as, but not necessarily limited to, fire hydrants, blowoffs, valves and valve boxes shall be furnished and installed by the developer.

(3) All ten-inch and larger water mains and all water pumping stations shall be furnished and installed by the City.

(4) The cost of installation of all fire hydrants, whether connected to water mains installed by the developer or by the City, shall be the responsibility of the developer. Where fire hydrants are installed by the City, the developer shall pay to the City a fee for such installation, the amount of which shall be established by the City Council from time to time by resolution.

(f) **Water Connection Charges to Subdivisions.** Normally all water mains smaller than ten (10) inches in inside diameter, and appurtenances thereto, will be installed by the developers of subdivisions as set forth in subsection (3) above. From time to time, however, in its best interest, the City may elect to install all water mains, and appurtenances thereto, in a particular subdivision.

In the event the City so elects to install all water mains, and appurtenances thereto, water service shall be provided only if the developer of said subdivision agrees that if the water main connection charges set forth in subsections (a), (b) and (c) above have not been paid for eighty (80) percent of all lots within said subdivision within three (3) years and ninety (90) days from the date of recordation of the final map, or within three (3) years of the completion of installation of the waterlines by the City, whichever is the longer period of time, the developer or his/her assignees shall forthwith pay to City water main connection charges for all lots for which said fees have not been paid. Notwithstanding the provisions of this subsection, the City may enter into

special agreements with developers of industrial subdivisions which shall provide the basis upon which water mains shall be constructed and financed.

11-1.06. METERED SERVICES.

(a) All hotels, lodging houses, new single-family dwellings issued a building permit on or after October 1, 1991, multiple-family dwellings, campgrounds, office buildings, eating houses, commercial establishments, industrial plants, theaters, hospitals, laundries, dance halls, warehouses, bus stations, milk plants, manufacturing establishments, service stations, wash racks, cooling systems and any or all other places offering services to the public or commodities for sale, as well as owners of gardens using water for irrigation of flowers and vegetables to be used commercially, must be equipped with meters and shall be charged for water on the metered rate as specified in Section 11-1.07 of this chapter.

(b) Where clusters of single-family dwellings are located on a single parcel of property, service may be provided by a metered connection for each individual unit or a single metered connection serving all units under one (1) ownership.

(c) All buildings of any kind whatsoever, whether industrial, commercial or residential, heretofore or hereafter equipped with water using heat pumps or refrigeration units shall be equipped with meters and shall be charged for water on the metered rate as specified in Section 11-1.07 of this chapter.

(d) Each swimming pool and bathing pool heretofore or hereafter constructed shall be metered except those located on residential property and equipped with a filtering system meeting the standards approved by the Community Development Director; provided, further, that every swimming pool and bathing pool heretofore or hereafter constructed which is used commercially or by a closed membership association or corporation shall be metered. The connection fee and water rates for pools required to be metered shall be as provided for other metered connections.

(e) For all metered services, the City will furnish, install and maintain all meters, with the consumer to pay the cost of the meter and installation. The cost of meters and installation shall be in accordance with a schedule approved by the Council from time to time by resolution and on file in the offices of the City Clerk, Engineering and Transportation

Director and Finance Director. In the case of existing meters under the ownership of the consumer, the City will assume responsibility for maintenance and replacement of the meters upon receipt of transfer of title from the owner. Said title shall be in a form satisfactory to the Engineering and Transportation Director.

(f) Except as provided in Section 11-1.06(c) and 11-1.14(a) single-family dwellings issued a building permit prior to October 1, 1991, shall not be required to have metered services.

11-1.08. USE OF FIRE HYDRANTS REGULATED.

When it is necessary to use water temporarily in connection with any type of construction or other operation at a place where the water supply is inadequate for such purposes, application may be made to the Finance Department for a permit to use water from a fire hydrant. No person shall use water from, or connect any apparatus to, a fire hydrant without first obtaining a permit.

Each permit shall specify the terms and conditions of use and the fire hydrant or hydrants authorized to be used. No person shall attach to the operating stem or cap of a fire hydrant any wrench or tool that is not approved by the Operations and Maintenance Department for use on fire hydrants. In addition to any other remedy available to the City, any wrench, connecting apparatus, valve, hose, or other item attached to a fire hydrant in violation of this section shall be subject to removal and confiscation by the City.

11-1.14. RULES AND REGULATIONS.

In addition to all other provisions and requirements of this chapter, the Council may, from time to time by resolution, establish additional rules and regulations concerning the operation of the municipal water system, the use of water, and water conservation. These provisions shall apply to all persons using water in the City regardless of whether any person using water shall have a contract for water service with the City. Failure to comply with any provision, requirement, rule, or regulation under this Chapter shall be unlawful and may be punishable as an infraction.

(a) Should the Operations and Maintenance Director, or his/her designee, determine that any water user has committed acts which violate the regulations of the Drought Contingency Plan, as provided by resolution, the water user and property owner shall be notified in the following manner:

(1) Shall be served with a Notice of Violation either personally, by mail, or by posting such notice at the person's business or place of residence. Such notice shall:

(aa) Identify the date, time, and circumstances of violation.

(ab) Notify that further violations may result in penalty fees being assessed.

(2) Should a water user violate the regulations of the Drought Contingency Plan after being served with a Notice of Violation, that water user and property owner shall be served with a Notice of Intention to Impose a Penalty. Said notice shall:

(aa) Identify the date, time, and circumstances of violation.

(ab) State the amount of penalty to be imposed.

(ac) Advise the water user or property owner of his or her appeal rights as provided herein.

The Notice of Intention to Impose a Penalty shall be served in the same manner as the Notice of Violation.

(3) After a Notice of Intention to Impose a Penalty is served, a penalty shall be assessed to the utility account of the water user in an amount as set by Council resolution from time to time. Penalties will be assessed for violations occurring within a one-year time period and will be progressive in nature. The penalty may be collected in the same manner as any unpaid water service charges.

(4) A water user or property owner shall have the right to appeal either the Notice of Violation or the imposition of the penalty assessed to his/her utility account. The water user or property owner must request an appeal hearing in writing within fifteen (15) days from the date of service of the Notice of Violation; or within fifteen (15) days of the service of the Notice of Intention to Impose a Penalty. The request for hearing shall be addressed to the Operations and Maintenance Director and shall be deemed served only when received by the City. Failure to properly serve the request for hearing within the fifteen-day period shall be

deemed a waiver of the right to appeal the matter, and the penalty will be assessed against the customer's account.

(5) The appeal hearing shall be held before the Operations and Maintenance Director, or his/her designee, who shall make a factual finding on the existence of a violation in this matter. The water user or property owner shall be allowed to present such witnesses and evidence as he or she may desire and may be represented by an attorney or other representative of his or her choosing. The hearing officer shall give written notice by mail to the water user of the date and time of the appeal hearing. Said hearing shall not be held sooner than ten (10) days from receipt of the request for hearing and not longer than thirty (30) days. The decision of the hearing officer shall be final. If a violation is found the penalty shall be assessed to the customer's account.

(6) The City Council hereby designates the Water Division personnel as the persons authorized to investigate violations and to serve any notices required by the provisions of this subsection.

(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 Operations and Maintenance Director 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 Operations and Maintenance Director 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 water tightness 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/her 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) 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 Operations and Maintenance Director.

(f) Access to service connections and water meters must be provided at all times.

(g) 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.

(h) 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.

(i) 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 Operations and Maintenance Director determines that an independent fire sprinkler system or private fire hydrant system is being used for other than fire prevention and suppression purposes, he/she may install a check valve and bypass assembly. The cost of such installation plus ten (10) percent shall be paid by the consumer.

(j) 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.

11-1.15. INTERPRETATION.

The Engineering and Transportation Director and the Operations and Maintenance Director are hereby empowered to make interpretations of this chapter whenever a question may arise as to the necessity for, type of manner or method in which materials, meters or backflow control devices shall be installed. Said interpretation shall be in writing, and a copy thereof shall be filed in the office of the Director.

11-1.16. RECORDS.

The Engineering and Transportation Director and the Operations and Maintenance Director shall keep complete records of all permits issued and other official work performed under the provisions of this chapter.

SECTION 2. AMENDMENT OF CODE. Sections 11-5.05, 11-5.07, and 11-5.11 of Chapter 5 of Title 11 of the Modesto Municipal Code are hereby amended to read as follows:

11-5.05. EXCEPTION, EMERGENCY OR UNUSUAL CIRCUMSTANCES.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten (10) days, without authority of the Engineering and Transportation Director in order to provide emergency services. The Engineering and Transportation Director may grant special permission, on such terms as the Engineering and Transportation Director may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures.

11-5.07. OTHER EXCEPTIONS.

This chapter and any resolution adopted pursuant to Section 11-5.03 hereof shall, unless otherwise provided in such resolution, not apply to the following types of facilities.

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Engineering and Transportation Director.

(b) Poles or electroliers used exclusively for street lighting

(c) Overhead wires (exclusive of supporting structures) crossing any portion of a District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited.

(d) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street.

(e) Antenna, associated equipment and supporting structures, used by a utility for furnishing communication services. "Communication services" does not include community antenna television systems.

(f) Equipment appurtenant to underground facilities, such as pedestal mounted terminal boxes and concealed ducts.

11-5.11. RESPONSIBILITY OF PROPERTY OWNERS.

(a) Every person owning, operating, leasing, occupying or renting a building or structure within a District shall perform construction and provide that portion of the service connection on he/her property between the facilities referred to in Section 11-5.08 hereof and the termination facility on or within said building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with said utility or utilities or with the Commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 11-5.03 hereof, the Engineering and Transportation Director shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten (10) days after receipt of such notice.

(b) The notice to provide the required underground facilities may be given either by personal services or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to

General Delivery, City of Modesto. If notice is given by mail such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the Engineering and Transportation Director shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight (8) inches by ten (10) inches in size, to be posted in a conspicuous place on said premises.

(c) The notice given by the Engineering and Transportation Director to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the Engineering and Transportation Director will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

(d) If upon the expiration of the thirty (30) day period, the said required underground facilities have not been provided, the Engineering and Transportation Director shall forthwith proceed to do the work; provided, however if such premises are unoccupied and no electric or communications services are being furnished thereto, the Engineering and Transportation Director shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the Engineering and Transportation Director , he/she shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which said time shall not be less than ten (10) days thereafter.

(e) The Engineering and Transportation Director shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear

protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

(f) Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

(g) If any assessment is not paid within five (5) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the Engineering and Transportation Director and the Engineering and Transportation Director is directed to turn over to the Assessor and Tax Collector a notice of lien on each of said properties on which the assessment has not been paid, and said Assessor and Tax Collector shall add the amount of said assessment to the next regular bill for taxes levied against the premises upon which said assessment was not paid. Said assessment shall be due and payable at the same time as said property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent (6) per annum.

SECTION 3. AMENDMENT OF CODE. Sections 11-6.05, 11-6.06, 11-6.08, 11-6.10, 11-6.11, and 11-6.13 of Chapter 6 of Title 11 of the Modesto Municipal Code are hereby amended to read as follows:

11-6.05. CHARGES FOR METERED WATER SERVICE.

Charges for water delivered through a meter shall be paid to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Engineering and Transportation Director. Charges for metered service will be due and payable upon presentation of the bill, and no advance or partial payments of such charges will be accepted by the City without consent of the Finance Director.

11-6.06. CHARGES FOR UNMETERED WATER SERVICE.

Charges for water delivered from an unmetered service shall be paid to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Engineering and Transportation Director. Charges for unmetered service will be due and payable upon presentation of the bill, and no partial payments of

such charges will be accepted by the City without consent of the Finance Director.

11-6.08. WATER CHARGES FOR USE OF FIRE HYDRANTS.

Water used from a fire hydrant shall be metered when practicable, as determined by the Engineering and Transportation Director, with the meter to be provided by the City. Unmetered water shall be charged at the metered rate, based upon City estimates of the quantity of water use, and such estimates shall be conclusive. The charges shall be in accordance with a schedule approved by the Council from time to time by resolution.

11-6.10. SEWER SERVICE CHARGES.

Each person owning property within the sewer district shall pay a sewer service charge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Engineering and Transportation Director. In the case of common areas for multi-dwelling complexes, such as laundromats, offices, recreation rooms and pool areas each unit shall be charged as a dwelling unit. Charges for sewer service to properties shall commence upon completion or occupancy of a building, whichever date shall occur first.

On premises served with City water, the charge for sewer service shall be added to the charge for water service and payment of the total amount must be made in accordance with this chapter.

On premises not served with City water, the billing of services shall be made insofar as practicable in accordance with provisions of this chapter relating to charges for flat rate water service; or if not practicable, they shall be as determined by the Finance Director.

11-6.11. STORM DRAINAGE SEWER SURCHARGE.

The City of Modesto is implementing activities to improve the environmental quality of storm water by decreasing the amount of organic material, dirt, toxins and pesticides that enter the system. Each person owning property within the City limits shall pay a storm drainage sewer surcharge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Engineering and Transportation Director. The surcharge is based on the size and intensity of use of property and shall go to pay the costs of improving the storm water generated

by the property. The surcharge shall be added to the charge for sewer service and payment of the total amount shall be made in accordance with this chapter.

The Council shall have the power to establish, by agreement or resolution, the rate or rates to be charged and the method of collecting the surface water runoff sewer surcharge for properties outside the City limits for those properties which discharge into the City's storm drain system.

11-6.13. CHARGES FOR GARBAGE SERVICE.

(a) Maximum charges to classes of customers, for example, residential, commercial and industrial customers, for garbage service may be established by Council from time to time by resolution and placed on file in the office of the City Clerk and Engineering and Transportation Director.

(b) Below maximum charges for garbage service shall be as determined by the collector for each customer class and shall not be subject to City review and mediation.

(c) The Council may impose a separate solid waste recycling program charge. If such a charge is imposed, it shall be added to the charge for garbage service collected by collector and transmitted to the City. The method of accounting for the amount of such recycling program charges collected by the collector and the time and manner of transmitting them to the City shall be as determined by the Finance Director.

For residential premises receiving water/sewer bills, charges for garbage service may appear on the same bill.

For nonresidential and residential premises not connected to the municipal water/sewer systems, the collector shall bill and collect all garbage service charges, including any recycling charge. Recycling charge shall be accounted for and transmitted to the City as determined by the Finance Director.

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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3133-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Print

ORDINANCE NO. 3134 -C.S.

AN ORDINANCE AMENDING SECTION 12-4.102 OF ARTICLE 1 OF CHAPTER 4 OF TITLE 12 OF THE MODESTO MUNICIPAL CODE RELATING TO REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES. (REORGANIZATION OF DEPARTMENTS)

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

SECTION 1. AMENDMENT OF CODE. Section 12-4.102 of Article 1 of Chapter 4 of Title 12 of the Modesto Municipal Code is hereby amended to read as follows:

12-4.102. OTHER ORGANIZATIONS.

(a) **Uses Authorized.** The use of Mancini Bowl may be authorized by the Community Services and Neighborhood Connections Director for special events or special meetings other than regular meetings by other organizations. All such requests for use of the Bowl for these purposes shall be submitted in writing to the Community Services and Neighborhood Connections Director and shall be approved or denied by the Community Services and Neighborhood Connections Director based on the availability of the Bowl for the use requested and the determination of the Community Services and Neighborhood Connections Director that the use requested is consistent with park purposes and the existing land uses in the surrounding area. In the event the Community Services and Neighborhood Connections Director denies such a request, the applicant may appeal such denial to the City Council. In the event the Council approves the request, the applicant shall thereafter obtain a permit for the approved use from the Community Services and Neighborhood Connections Department, which shall be issued by the Department in accordance with the action of the Council.

(b) **Fees and Charges.** The rental fee to be charged for authorized use of Mancini Bowl, pursuant to this section, shall be as established from time to time by resolution adopted by 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 20th day of April, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3134-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 special meeting of the Council of the City of Modesto held on the 27th day of April, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: May 27, 1999

Clerk

ORDINANCE NO. 3135-C.S.

Print

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA NO. 10 OF THE VILLAGE ONE SPECIFIC PLAN, RELATING TO PROPERTY LOCATED ON THE EAST SIDE OF FINE AVENUE NORTH OF KODIAK DRIVE. (DARWIN COLBY)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that precise plans be adopted prior to any development in the Village One area, and

WHEREAS, the Village One Specific Plan is divided into 35 precise plan areas, and a precise plan is required prior to development in each area, and

WHEREAS, an application has been filed by Darwin Colby for a Precise Plan for Area No. 10, property located on the east side of Fine Avenue north of Kodiak Drive, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on April 5, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 99-31, recommended to the City Council approval of a Precise Plan for Area No. 10 of the Village One Specific Plan, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on May 4, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, the Council declares that said Precise Plan for Area No. 10 of the Village One Specific Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 10 is consistent with the Village One Specific Plan.

2. The proposed Precise Plan for Area No. 10 is consistent with the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 10 of the Village One Specific Plan as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, a copy of which is on file in the City Clerk's Office.

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 4th day of May, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3135-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 18th day of May, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999

Clerk

Print

ORDINANCE NO. 3136 -C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE EAST SIDE OF FINE AVENUE NORTH OF KODIAK DRIVE. (PRECISE PLAN FOR AREA NO. 10-DARWIN COLBY)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, Section 10-2.1904 provides that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned, consistent with the basic land use categories of the Village One Specific Plan, to the principal underlying zones set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, an application has been filed by Darwin Colby for a Precise Plan for Area No. 10, property located on the east side of Fine Avenue north of Kodiak Drive, and

WHEREAS, the application package also seeks rezoning from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on April 5, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after a public hearing held on April 5, 1999, 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. 99-31, adopted April 5, 1999, the Planning Commission recommended that the application of Darwin Colby to rezone Village One property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, for property located on the east side of Fine Avenue north of Kodiak Drive be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 4, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. After a public hearing held on May 4, 1999, in the 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 rezoning conforms to the Village One Specific Plan.

2. The proposed rezoning is necessary as an integral step toward development under the Village One Specific Plan.

SECTION 2. ZONING CHANGE. Section 12-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from a Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay Zone, SP-O:

SP-H to SP-O, PPA 10

All that certain real property situate in a portion of the southeast quarter of Section 12, 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 the southeast corner of said Section 12; thence south 89° 47' 40" West along the south line of said Section 12 a distance of 155.63 feet to the centerline of future Claus Road Expressway and the TRUE POINT OF BEGINNING of this description; thence northerly along said centerline of future Claus Road Expressway the following three courses: (1) North 3° 25' 50" West 19.21 feet, (2) Northerly 1,107.76 feet along a tangent curve, concave to the west, having a radius of 4,989.02 feet and a central angle of 12° 43' 19" to a point of reverse curve and (3) Northerly 561.53 feet along said reverse curve, concave to the east, having a radius of 4,998.02 feet and a central angle of 6° 26' 14" to a point on a non-tangent line, being the north line of the south half of the south half of the Northeast Quarter of the Southeast Quarter of said Section 12; thence South 89° 56' 18" West along said north line of the south half of the south half of the Northeast Quarter of the Southeast Quarter of Section 12 a distance of 850.04 feet to the Northwest corner of said south half of the south half of the Northeast Quarter of the Southeast Quarter of Section 12; thence South 0° 05' 13" East along the West line of the east half of the Southeast Quarter of said Section 12 a distance of 1,655.43 feet to the Southwest corner of said Southeast Quarter of the Southeast Quarter of Section 12; thence North 89° 57' 40" East along said South line of Section 12 a distance of 1,162.30 feet to the point of beginning.

Containing: 39.13 acres.

SECTION 3. ZONING MAP. Section 12-3-9 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 4th day of May, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG,
Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3136-C.S.

FINAL ADOPTION CLAUSE

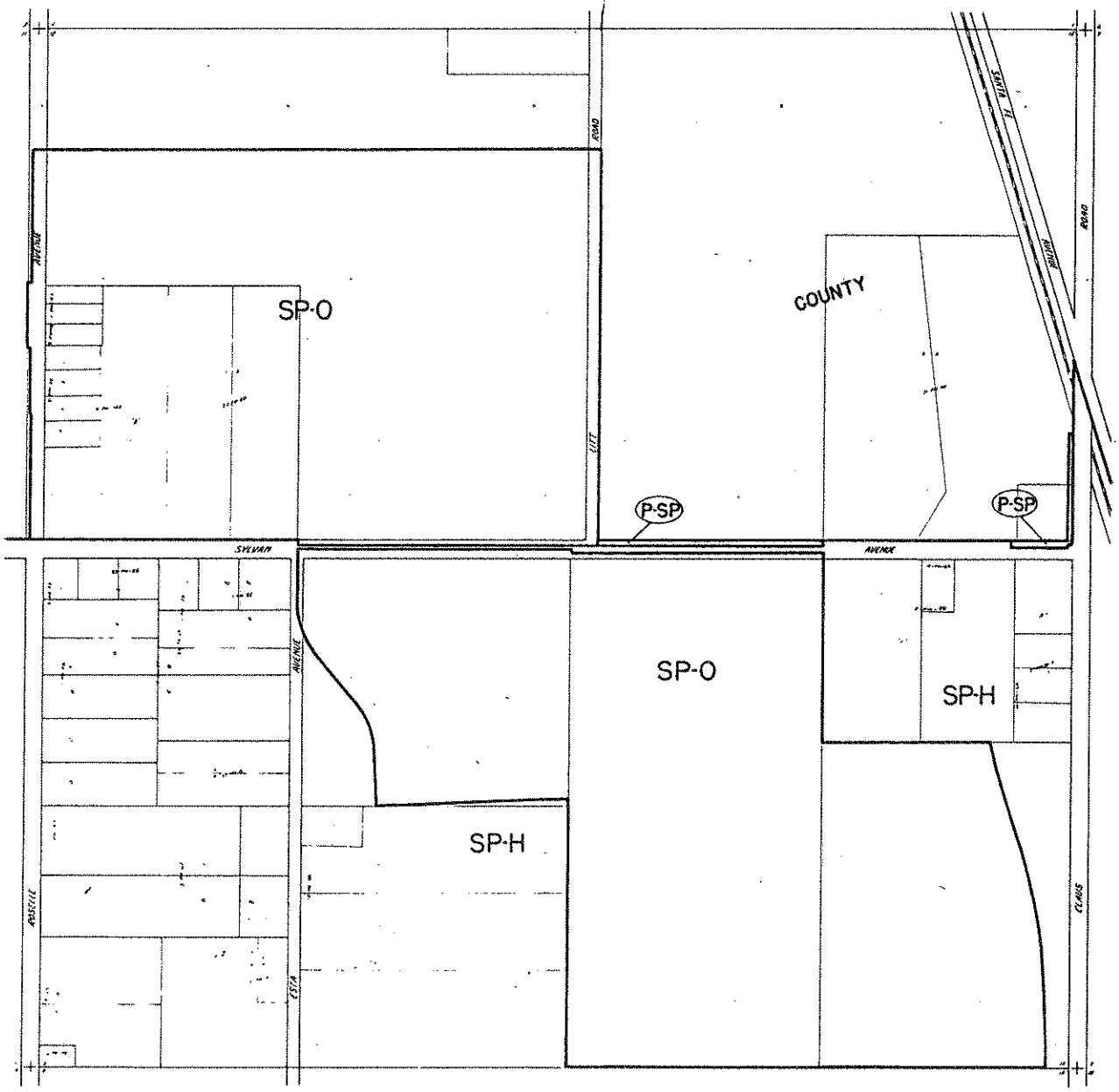
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of May, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999


SP-O
COUNTY
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SYLVAN
AVENUE
AVENUE
ROAD
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ROAD

Print

ORDINANCE NO. 3137-C.S.

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO SEWAGE COLLECTION AND DISPOSAL.

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

SECTION 1. AMENDMENT OF CODE. Chapter 6 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 6 - SEWAGE COLLECTION AND DISPOSAL

ARTICLE 1. TITLE, PURPOSE, AND GENERAL PROVISIONS.

5-6.101. TITLE.

This ordinance shall be known and may be cited as the City of Modesto Sewage Collection And Disposal Ordinance.

5-6.102. PURPOSE AND INTENT.

The purpose of this chapter is to set forth uniform requirements for direct and indirect discharges of pollutants into the wastewater collection and treatment system for the City of Modesto which will enable the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403).

The intent of this chapter is:

(a) To prevent the introduction of pollutants into the City sewage system which potentially could interfere with the operation of the collection system, treatment processes or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the City sewage system which will pass through said system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the sewage system;

(c) To protect municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment as well as protecting the general public;

(d) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(e) To ensure the quality of the wastewater treatment plant sludge is maintained at a level which allows its marketability;

(f) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal sewage system;

(g) To preserve the hydraulic capacity of the municipal sewage system; and

(h) To require users of the sewage system to comply with Federal and State law.

5-6.103. DEFINITIONS.

Unless the context specifically indicates otherwise, the following terms and phrases shall be defined herein. Words and phrases used in this chapter and not otherwise defined shall be interpreted as defined in the Code of Federal Regulation, Standard Methods for the Analysis of Wastewater, or as established by State regulatory agencies.

(a) The following terms shall have these meaning(s) in this chapter:

Act. The Federal Water Pollution Control Act, also known as the Clean Water Act.

Administrative order. An enforcement document which directs industrial users to implement corrective or remedial measures.

Administrator. The person appointed by the Director to manage the affairs of the City of Modesto, POTW Pretreatment Program.

Aliquot. A portion of a sample. Often an equally divided portion of a sample.

Apartment. A building or portion thereof containing three (3) or more dwelling units.

Approval Authority. The State of California Water Resources Control Board, except for certain EPA oversight functions.

Authorized representative of industrial user. May be: 1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation; 2) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively. A duly authorized representative is responsible for the overall operation of the facilities from which the direct or indirect discharge originates.

Baseline Monitoring Report (BMR). A required report for all industrial users subject to a categorical pretreatment standard. A BMR provides information that documents an industrial user's compliance status with all applicable Pretreatment Standards. If an industrial user is not in compliance with the BMR, a compliance schedule will be submitted with the BMR describing actions to achieve compliance.

Batch Process. A treatment process in which a tank or vessel is filled with wastewater (or solution), the wastewater (or solution) is treated to meet discharge standards and is then released into the sanitary system. A batch process is intermittent not continuous.

Best Available Technology (BAT). A level of technology that is based on the very best (state-of-the-art) control and treatment measures that have been developed or are capable of being developed for a particular industrial category.

Best Practical Technology (BPT). A level of technology represented by the average of the best existing wastewater treatment performance levels within an industrial category.

Biochemical Oxygen Demand. (BOD) A test that measures the organic strength of wastewater. The test represents the quantity of oxygen required by sewage for biochemical oxidation in five (5) days at twenty (20) degrees Celsius in ppm.

Biodegradable. Organic matter that can be broken down by bacteria to more stable forms which will not create a nuisance or give off offensive odors.

Blowdown. The removal of accumulated solids in boilers to prevent plugging of boiler tubes and steam lines. In cooling towers, blowdown is used to reduce the amount of dissolved solids in the recirculated cooling water.

Building sewers. A privately owned pipeline conveying wastewater from the premises of a user to a sewer main.

Bypass. The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

Categorical industrial user. Are all industrial users subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

Categorical Industry. An industry which possesses industrial processes, defined in the Code of Federal Regulations as Categorical Processes.

Categorical limits. Industrial wastewater discharge pollutant effluent limits developed by the EPA that are applied to the effluent from any industry, in any category, anywhere in the United States, that discharge to a Publicly Owned Treatment Works (POTW). These are pollutant effluent limits based on the technology available to treat the wastestreams from the processes of the specific industrial category and normally are measured at the point of discharge from the regulated process. The pollutant limits are listed in the Code of Federal Regulations.

Categorical standards. Industrial waste discharge standards developed by EPA that are applied to the effluent from any industry, in any category, anywhere in the United States, that discharges to a POTW. These are standards based on the technology available to treat the wastestreams from the processes of the specific industrial category and normally are measured at the point of discharge from the regulated process. The standards are listed in the Code of Federal Regulations.

Cease and desist order. An order by the Director requiring immediate termination of an activity or situation which threatens to create or does create a significant safety hazard non-compliance with the provisions of this chapter, or non-compliance with State and/or Federal law. The order shall be enforceable in court.

Chemical Oxygen Demand (COD). A test that measures the inorganic and organic strength of wastewater. The test measures the amount of oxygen consumed from a chemical oxidant, in milligrams per liter (mg/l), under conditions outlined under the latest edition of Standard Methods for the Analysis of Wastewater.

City. The City of Modesto in the State of California.

Collection system. The combined pipes, conduits, manholes, ditches, rockwells, and other structures, usually underground, whose purpose is to convey wastewater or storm water.

Commercial user. Any user whose premises are used to provide a product or service for retail or wholesale. Commercial shall include, but shall not be limited to, the following: Motel; hotel; boarding and rooming house; health care facility.

Compatible pollutants. Those pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and ammonia that are normally removed by the existing POTW treatment processes.

Compliance. The act of meeting specified conditions or requirements.

Compliance directive. An enforcement document which directs an industrial user to implement corrective or remedial measures.

Compliance schedule. An enforcement document which directs a user to create or imposes upon a user, a time schedule for meeting any provision of the sewer ordinance.

Consistent removal. The act of removing pollutants from wastewater in a manner which prevents the level of pollutants from exceeding any treatment standard at any time.

Control authority. The division of the City of Modesto, Operations and Maintenance Department, which administers the POTW Pretreatment Program.

Cooling wastewater. The water discharged from any use to which the only pollutant added is heat or uses such as air conditioning, cooling or refrigeration.

Correction notice. A notice to a user or users orally or in writing, to correct its non-compliance with the sewer ordinance.

Corrosion. The gradual deterioration or destruction of a substance or a material by chemical action. Corrosive materials deteriorate the collection system.

Deleterious. Refers to something that can be or is hurtful, harmful, or injurious to health or the environment.

Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the State of California. Direct discharges are regulated under the NPDES program.

Director. The Operations and Maintenance Director of the City or such other persons as may be designated by the Operations and Maintenance Director to perform the services or make the determinations permitted or required in this chapter to be made by the Operations and Maintenance Director of the City.

Discharge permit. Formal authorization by the Modesto Control Authority, stipulating the conditions under which wastewater effluent may be released into the sewage system.

Discharger. Any person that discharges or causes a direct or indirect discharge to a public sewer.

Dissolved solids. Solids that are completely dissolved in water and are not removable by laboratory filtration.

Domestic wastewater/sanitary sewage. The liquid and solid waterborne wastes derived from the ordinary living processes of humans of such character as to permit satisfactory disposal, without special pretreatment, into the public sewer or into a private wastewater disposal system.

Dry industry. Any user who does not discharge non-domestic wastewater and is a member of a category of users which the Director has determined to have a potential for impact upon the POTW.

Duplex. A building containing two (2) dwelling units.

Dwelling group. Two (2) or more buildings on any one (1) lot, containing three (3) or more dwelling units.

Dwelling unit A suite of one (1) or more rooms which is occupied by or intended to be occupied by one (1) family.

Enforcement. A series of procedures and/or actions used to ensure compliance with legislation or associated rules, ordinances, or limitations.

Environmental Protection Agency (EPA). The Federal agency charged by law with carrying out and obtaining compliance with the Clean Water Act of 1977 and other Federal environmental laws and promulgating, interpreting and enforcing regulations implementing such statutes.

Flammable liquid. A liquid which by itself, or any component of it present in greater than one (1) percent concentration, has a flashpoint below one hundred (100) degrees Fahrenheit (thirty-eight (38) degrees Centigrade).

Flashpoint. The minimum temperature at which a liquid gives off vapor in sufficient concentration to ignite when exposed to any source of ignition.

Grab sample. A single sample of water collected at a particular time and place which represents the composition of the water only at that time and place.

Grease. Fats, oils, greases, or other ether-soluble matter, which shall include each of the following two (2) types:

(1) Dispersed grease. Grease which is not floatable; and

(2) Floatable grease. Grease which floats on the surface of quiescent sewage water or other liquid or which floats upon dilution of the liquid with water.

Hazardous material management plan. A document prepared by an industry which contains copies of Material Safety Data Sheets (MSDS) as well as additional information regarding the storage, handling and disposal of all chemicals used on site by the industry.

Hazardous waste. Any waste that is potentially damaging to environmental health and/or the collection system because of toxicity, ignitability, corrosivity, chemical reactivity or other reasons.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

House sewer line. The line connecting a user's property to the sewage system.

Indirect discharge. The discharge or the introduction of non-domestic pollutants from any regulated sources to the POTW, which may include certain holding tank wastes. These discharges are subject to EPA pretreatment regulations.

Industrial user. Any person who discharges or causes a discharge of industrial wastewater directly or indirectly to the City sewage system which requires a permit under the provisions of this chapter. This specifically includes any categorical users connected to the City sewage system whether or not they discharge process wastewater.

Industrial wastewater/industrial waste. All water-carried wastes and wastewater of the community, excluding domestic wastewater, and including all wastewater from any commercial or industrial production, manufacturing, processing, agricultural, or other operation. These may also include wastes of human origin similar to domestic wastewater.

Industrial wastewater discharge. Liquid and/or solids contained within a liquid, other than sanitary sewage, and discharged into the sewage system by an industrial user.

Inspector. A person authorized by the Director to inspect any development discharging or anticipating discharge to the wastewater collection system and/or the POTW.

Interceptor. A device or trap to reduce the amount of grease, sand, or oil entering the sewage system.

Interference. A discharge that alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, including either the use or disposal of sludge; and

(2) Is a cause of a violation of any requirement of the City NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any applicable regulation.

Local limits. Pollutant discharge limits set by the local POTW based on the treatment plant's efficiency in treating specific pollutants.

Lot. A parcel of land consisting of one (1) or more contiguous lots of record in one (1) ownership.

Major industry. Any industrial user whose effluent discharge exceeds 4.0 million gallons per month (MG/mo), or whose biochemical oxygen demand (BOD) is greater than or equal to twenty thousand (20,000) pounds per month, or total suspended solids (TSS) is greater than or equal to ten thousand (10,000) pounds per month.

Mass emission rate. The weight of material discharged to the sewage system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

Material Safety Data Sheets (MSDS). A document normally developed by a chemical manufacturer or formulator, which provides pertinent information about a hazardous substance or mixture. The MSDS is required to be available to employees and inspectors when a hazardous substance is used or found in the workplace.

Milestone. A time interval given in a compliance schedule specifying the date which an assigned task is to be completed leading to the completion of the objective(s) in the compliance schedule.

Minor industry. Any industry with an average effluent discharge which exceeds twenty-five thousand (25,000) gallons per day (GPD), or has a reasonable potential, in the opinion of the City, to adversely affect the POTW.

Mobile home park. Any area or tract of land where two (2) or more spaces are rented or leased or held for rent or lease to accommodate mobile homes.

Mobile home space. Each space in a mobile home park designed to be used for parking a mobile home on a temporary, semipermanent or permanent basis.

Mobile home subdivision. Any area or tract of land improved to subdivision standards with mobile home lots.

National Pollutant Discharge Elimination System permit (NPDES permit). A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342), governing direct discharges to the waters of the State.

National pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users. This term includes categorical limits established pursuant to Title 40 CFR Section 403.5, or under the authority of this chapter.

New source. An industrial user or source constructed after the date of publication of proposed regulation in the Federal Register as defined in 40 CFR 403.3(k) as revised October 17, 1988.

Nonbiodegradeable. Any substances that cannot readily be broken down by bacteria to simpler forms.

Noncompatible pollutants. Those pollutants that are not removed by the POTW treatment system. These pollutants may be toxic waste and may cause pass-through or interference with the treatment system.

Non-contact cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Nonintegrated facility. Industrial wastewater sources at a single facility that generate wastewater from different categorical pretreatment processes, but do not combine the wastestreams prior to pretreatment or discharge to the sanitary sewer.

Nonsignificant industry. An industry that produces and discharges less than twenty-five thousand (25,000) gallons of wastewater per day and is not classified as a significant or categorical industry.

Notice of violation. A notice issued by the Director or Inspector to the industrial user, hand delivered or mailed, informing the industrial user that a violation has occurred.

Nuisance. Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or sewer

collection system or POTW or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Order to show cause hearing. A meeting with representatives of a user and the Director or his/her designee to discuss reasons for non-compliance and corrective actions. At this time, the user may be issued an administrative order and/or fine(s).

Pass through. A discharge from an industrial source that passes through the POTW to the waters of the State in concentrations which, alone or in conjunction with other discharges, cause an NPDES permit violation.

Permit. The authorization by the City to the POTW facilities to discharge under specified rules and conditions.

Permittee. A person who has received a permit to discharge wastewater pollutants into the City sewage system subject to the requirements and conditions established by the City.

Person. An individual, partnership, copartnership, firm, company, corporation, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

pH. Mathematically, pH is the logarithm (base 10) of the reciprocal of the hydrogen ion activity in a substance. The pH range is from zero (0) to fourteen (14) where zero (0) is the most acidic and fourteen (14) the most basic, and seven (7) is neutral.

Pollutant. Any substance which causes an impairment (reduction) of water quality to a degree that may have an adverse effect on any beneficial use of the water.

> Pollutants include: any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into waters and onto the ground, or deposited where subsurface waters may become contaminated by leaching.

Pollution. The man-made or man-induced impairment (reduction) of chemical, physical, biological, and radiological integrity of water.

Pollution prevention permit. The authorization by the control authority to wet industries or dry industries to discharge under specified rules and conditions.

Premises. Any lot, piece or parcel of land, and building or other structure or any part of any building or structure used or useful for human habitation or gathering or carrying on any business, industry, or occupation.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutant to a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means except as prohibited by 40 CFR, Section 403.6(d).

Pretreatment facility. Any works or device for treatment, control, or flow limitation of sewage or industrial waste, prior to discharge into a public sewer.

Pretreatment requirements. Requirements for users, established by the City, State, or other regulatory agency for the insurance of compliance to pretreatment standards. Requirements may include, but are not limited to, the installation and maintenance of treatment equipment, metering facilities, and/or monitoring facilities.

Pretreatment standards. The maximum levels of pollutants allowed to be discharged under local, State, or Federal guidelines when implementing the best available technology to treat the process wastewater of the users.

Process wastewater. Any wastewater contaminated by human activities including, but not limited to, that originating from manufacturing, agriculture, processing, rinsing, washing or producing.

Public Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include

pipes, sewers, or other conveyances not connected to the facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater from persons outside the City, who are, by contract or agreement users of the City treatment plant.

Receiving waters. Waters which are defined under 40 CFR 122 (NPDES System) as "Waters of the United States".

Residential user. Any user whose premises contain a dwelling unit(s) intended for permanent occupancy. Residential shall include, but shall not be limited to, the following: single-family residential; multi-family residential; condominiums/townhouses; mobile homes; senior residential housing.

Restaurant. A place where food is processed and served to the public.

Sanitary sewer. A pipe or conduit (sewer) intended to carry domestic wastewater from homes, businesses, and industries to the treatment works. Storm water runoff or unpolluted water should be collected and transported in a separate system of pipes or conduits (storm sewer) to natural watercourses.

Sewage. Industrial waste or sanitary sewage, or both.

Sewage system. The facility designated and used for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

Sewer bond redemption charge. A charge established to compensate the City for having provided collection and treatment facilities before being able to collect revenue from the benefitted properties.

Sewer District. The Modesto Municipal Sewer District No. 1 established by the City Council by Resolution No. 66-543 effective August 16, 1966, encompassing the City of Modesto and portions of contiguous unincorporated areas, the legal description and boundaries of which have been recorded in the office of the Recorder of the County of Stanislaus, including areas heretofore or hereafter annexed thereto.

Sewer lateral/sewer main. A pipeline which collects sewage from one (1) or more individual users and transports it to subtrunk and trunk sewers.

Sewer main service area. An area that is one hundred sixty (160) acres or less which is served by the extension of sewer mains. The sewer mains are connected to either a subtrunk sewer or a trunk sewer.

Sewer service. The services and facilities for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

Sewer service charge. A charge established to pay the cost of operation, maintenance, and debt service of the sewage system.

Shall is mandatory; **may** is permissive.

Show cause order. An order for an industrial user to appear before the Director or the Director's designee to explain any noncompliance and why specified enforcement actions should not be taken.

Significant Industrial User (SIU) includes:

(1) All categorical users, and;

(2) Any noncategorical users that

(i) Discharge twenty-five (25,000) gallons or more per day of process wastewater (excluding domestic wastewater); or

(ii) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic (BOD, SS) capacity of the POTW; or

(iii) Has a reasonable potential, in the opinion of the City, to adversely affect the POTW.

Significant Noncompliance (SNC) includes:

(1) Chronic violations where sixty-six (66) percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period.

(2) Violations where thirty-three (33) percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the Technical Review Criteria (TRC) in a six (6) month period.

Sewer main service area. An area that is one hundred sixty (160) acres or less which is served by the extension of sewer mains. The sewer mains are connected to either a subtrunk sewer or a trunk sewer.

Sewer service. The services and facilities for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

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(2) Violations where thirty-three (33) percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the Technical Review Criteria (TRC) in a six (6) month period.

(3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (BMR, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.

(4) Any discharge that has caused imminent endangerment of human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Any other violation(s) of an effluent limit (average or daily maximum) that the City believes has caused, alone or in combination with other discharges, interference with POTW(e.g. slug loads) or pass-through, or endangerment of health of the POTW personnel or the public.

(6) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by delay of ninety (90) days or more after any compliance schedule date.

(7) Any other violations or violations that the Director considers to be significant.

Significant violation. A violation which remains uncorrected for forty-five (45) days after notification of noncompliance; is part of a pattern of noncompliance over a twelve (12) month period; involves a failure to accurately report noncompliance; or resulted in the POTW exercising its emergency authority under Section 403.8 (f)(1)(vi)(B).

Slug load/slug discharge. Any discharge of water, sewage, or industrial waste which in concentration of any given constitute or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more then five (5) times the average twenty-four (24) hour concentration or flow rate during normal operation.

Spill containment. A government agency approved protection system installed by the permittee to prohibit the discharge of non-compatible pollutants to the sewer.

Standard industrial classification. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office

of the President, Office of Management and Budget, 1987, as amended and supplemented.

Standard methods. Procedures described in the current edition of *Standard Methods for the Examination of Water and Wastewater*, as published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

State. The State of California.

Storm water. Water resulting from any form of natural precipitation.

Subtrunk sewer. A pipeline designed to transport sewage from the subtrunk sewer service area to the trunk sewer.

Subtrunk sewer extension charge. A charge established to equalize the costs of connecting the in-tract facilities and/or oversize facilities of a particular subdivision or trunk sewers so that developments close to the chosen trunk sewer alignments do not receive unfair advantage over those located further away.

Subtrunk sewer service area. An area that is one hundred sixty (160) acres or larger that is not adjacent to a trunk sewer that is served by a subtrunk sewer.

Technical Review Criteria (TRC). An EPA term that defines the magnitude of a limits violation. The TRC is calculated by multiplying the daily average maximum limit by the applicable TRC value (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH.)

Total Suspended Solids (TSS). Any insoluble material contained as a component of wastewater and capable of separation from the liquid portion of the wastewater by the appropriate filtering procedures and expressed in terms of milligrams per liter.

Total Toxic Organics (TTO). The sum of the concentrations of the toxic organic compounds, listed in the Code of Federal Regulations, present in the industrial users process wastewater discharge.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of the Act Section 307(a) or other acts.

Trunk sewer. A pipeline which transports sewage from sewer main service areas and subtrunk sewer service areas to the water quality control plant.

User. Any person responsible for payment of sewer service charges for premises or any person who discharges, causes or allows the discharge of wastewater directly or indirectly to the sewage system. This includes residential, commercial, and industrial users as defined herein. This term specifically includes any categorical users connected to the City sewerage system whether or not they discharge process wastewater.

Waste manifest. The receipt which is retained by the generator of hazardous wastes as required by the State and/or the United States Government pursuant to RCRA, or the California Hazardous Materials Act, or that receipt which is retained by the generator for recyclable wastes or liquid non-hazardous wastes as required by the POTW.

Waste hauler. Any person carrying on or engaging in vehicular transport of wastewater as part of, or incidental to, any business for the purpose of discharging said wastewater into the POTWs system.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the City's facilities.

Wastewater discharge permit. A control mechanism issued to an industrial user, or any person discharging to the sewage system that the Director determines needs a permit, to regulate its discharge of toxic, organic, or hydraulic loading to the wastewater collection, conveyance, and treatment system.

Water quality control plant. The plant owned by the City and designed for the treatment and disposal of sewage, including a remote oxidation ponding site.

Water quality requirements. Requirements for City's treatment plant effluent, or for receiving waters, established by law, or by State or Federal regulatory agencies, for the protection of receiving water quality.

Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems,

drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Wet industry. Any user which is not a Significant Industrial User (SIU) and has a non-domestic wastewater discharge.

5-6.104. AUTHORITY.

The City is regulated by several agencies of the United States Government and the State of California, pursuant to the provisions of Federal and State Law. Under 40 CFR 403.8(f)(1) and the Porter-Cologne Water Quality Control Act Chapter 5.5, the City is granted the authority to regulate and/or prohibit, by the adoption of an ordinance, and by issuance of discharge permits, the discharge of any waste, directly or indirectly, to the City sewer facilities. Said authority includes the right to establish limits, conditions, and prohibitions; to establish flow rates or prohibit flows discharged to the City's sewer facilities; to require the development of compliance schedules for the installation of equipment systems and materials by all users; and to take all actions necessary to enforce its authority, whether within or outside the City's boundaries, including those users that are tributary to the City or within areas for which the City has contracted to provide sewerage services.

The City has the authority pursuant to California Health and Safety Codes 5471 and 5474 to prescribe, revise, and collect all fees and charges for services and facilities furnished by the City either within or without its territorial limits.

5-6.105. RESPONSIBILITY FOR ADMINISTRATION.

This chapter shall be administered for the City by the Director or his/her designee.

5-6.106. DELEGATION OF AUTHORITY.

Whenever any power is granted to or a duty imposed upon the Director, the power may be exercised or the duty may be performed by a person authorized by the Director.

5-6.107. USER CLASSIFICATION.

The Director will classify all users in accordance with the principal activity conducted upon the premises. The purpose of classification is to facilitate

regulation of discharge to public sewers on the basis of each user's waste quality, quantity, and flow; to provide an effective means of industrial waste source control; and to establish a system of sewer use charges based upon flow and waste strength which will ensure equitable recovery of district capital and operating costs.

5-6.108. TENANT RESPONSIBILITY.

Any person who shall occupy any premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this chapter in the same manner as the owner.

5-6.109. CONFIDENTIAL INFORMATION.

All user information and data on file with the City shall be available to the public and governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position. The demonstration of the need for confidentiality made by the permittee must meet the burden necessary for withholding such information from the general public under applicable State and Federal Law. Any such claim must be made at the time of submittal of the information by marking the submittal "Confidential Business Information" on each page containing such information. Information which is demonstrated to be confidential shall not be transmitted to anyone other than a governmental agency without prior notification to the user. Information concerning utility usage data may be deemed confidential, at the discretion of the Director, unless the user has violated the City's utility usage policy.

ARTICLE 2. REGULATIONS

5-6.201. PROHIBITED DISCHARGES.

(a) No person shall discharge a quantity or quality of wastewater directly or indirectly to sewer facilities owned by or tributary to the City's sewage system which causes, or is capable of causing, either alone or by interaction with other substances:

(1) A fire or explosion;

(2) Obstruction to the flow in the sewage system resulting in interference or damage to the sewerage facilities;

(3) Danger to life or safety of any person;

(4) Impairment of the effective maintenance or operation of the sewerage system;

(5) The release of toxic or malodorous gas-producing substances; including any material identified as hazardous according to 40 CFR Part 261 except as may be specifically authorized by the Director.

(6) Interference with the wastewater treatment process;

(7) The City's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation, reuse, or disposal;

(8) Discoloration, pass through, or any other condition which affects the quality of the City's treatment works effluent in such a manner that receiving water quality requirements established by regulatory agencies cannot be met;

(9) Conditions which violate any statute, rule, regulation, or ordinance of any public agency or regulatory agency having jurisdiction over the discharge of wastewater through the sanitary sewage system;

(10) Contamination of the collection system, soil, or groundwater by osmosis, chemical action, leakage, or any other means of conveyance from the sewage system.

(b) No person shall discharge wastewater or any substance delivered by vehicular transport, rail car, or dedicated pipeline directly or indirectly to the City's sewerage facilities that is defined as a hazardous waste by the control authority.

(c) No person shall transport waste from one location or facility to another for the purpose of treating or discharging it directly or indirectly to a publicly owned sewer without written permission from the City.

(d) No user shall increase the contribution of flow, pollutants, or change the nature of pollutants where such contribution or change does not meet applicable standards and requirements or where such contribution or change would cause the City to violate its NPDES permit.

5-6.202. PROHIBITION ON DILUTION.

No user shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this chapter and the user's permit or to establish an artificially high flow rate for permit mass emission rates.

5-6.203. PROHIBITION ON SURFACE RUNOFF AND GROUNDWATER.

(a) Groundwater, surface runoff, or subsurface drainage shall not be discharged directly or indirectly to the City's sewerage facilities except as provided herein. Pursuant to the City's groundwater discharge policy, the City may approve the discharge of such water only when no alternate method of disposal is reasonably available and the discharge is necessary to mitigate an environmental risk or health hazard. All other groundwater policy discharge criteria must be met prior to any groundwater discharge to the City's sewage system.

(b) The discharge of such waters shall require a groundwater discharge permit from the City.

(c) If a permit is granted for the discharge of such water into a public sewer, the user shall pay the applicable charges established and shall meet such other conditions as required by the City.

5-6.204. LIMITATIONS ON UNPOLLUTED WATER.

(a) Unpolluted water, such as single pass cooling water, shall not be discharged directly or indirectly to the City's sewerage facilities except as provided herein. The City may approve the discharge of such water only when no alternative method of disposal or reuse is reasonably available and the discharge is necessary to mitigate an environmental risk or health hazard.

(b) If the discharge of such water into a public sewer is approved, the user shall pay any applicable charges established and shall meet such other conditions as required by the City.

5-6.205. LIMITATIONS ON RADIOACTIVE WASTES.

No person shall discharge, or cause to be discharged, any radioactive waste or isotopes into a public sewer except:

(a) When the person is authorized to use radioactive materials by the State Department of Health or other government agency empowered to regulate the use of radioactive materials; and

(b) When the waste is discharged in strict conformity with current California Radiation Control Regulations (California Code of Regulations, Title 17) for safe disposal; and

(c) When the person is in compliance with all rules and regulations of all other applicable regulatory agencies; and with specific written approval by the superintendent of the POTW.

5-6.206. LIMITATIONS ON THE USE OF GRINDERS.

Waste from industrial or commercial grinders shall not be directly or indirectly discharged into a public sewer, except wastes generated in packing or preparing food or food products. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the public sewer.

5-6.207. LIMITATIONS ON POINT OF DISCHARGE.

No person, except local sewering agencies involved in maintenance functions of sanitary sewer facilities, shall discharge any wastewater directly into a manhole or other opening in a sewer other than through an approved building sewer, unless approved by the City upon written application by the user and payment of any applicable fees and charges established herein.

5-6.208. LIMITATIONS ON WASTE HAULER DISCHARGES.

A waste hauler/user proposing to discharge septic tank, cesspool wastes or other biodegradable or compatible material into the City's facilities must have a waste hauler discharge permit as required by Section 5-6.401. Such wastewater shall be discharged only at a location specified by the City.

No waste hauler/user shall discharge constituents in excess of those specified in the respective permit based on the adopted local limits.

No waste hauler shall discharge to the City sewage system any material defined as hazardous waste by 40 CFR 261 of the Federal Resource Conservation and Recovery Act.

5-6.209. LIMITATIONS ON WASTEWATER STRENGTH AND CHARACTERISTICS.

(a) No person shall discharge wastewater in excess of the permitted mass emission rates or limits as determined in accordance with this chapter.

(b) No person shall discharge wastewater:

(1) Having a temperature higher than one hundred forty (140) degrees Fahrenheit, (sixty (60) degrees Centigrade), or which causes the temperature at the treatment plant to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Centigrade).

(2) Having a pH less then 5.0 or greater than 12.0.

(3) Containing those pesticides and other toxic pollutants in toxic amounts, determined by the administrator of the Environmental Protection Agency in accordance with the Federal Act, such other Federal or State acts as may be applicable, and as further designated from time to time by the Director; including the following substances or materials containing these substances: aldrin, dieldrin, benzidine, cadmium, cyanide, DDD, DDE, DDT, endrin, mercury, polychlorinated biphenyls (PCB's), toxaphene.

(4) Having waters or wastes containing inorganic oils, including but not limited to motor oils, transmission oils, hydraulic fluids, gear oil, and machining oils.

(5) Any wastewater that causes a hazard to human life or creates a public nuisance.

(6) Containing flow or other materials, including, but not limited to, ammonia, chemical oxygen demand, total organic carbon, priority pollutants (as established by EPA), suspended solids, oil and grease of animals or vegetable origin, total dissolved solids, and phenolic compounds released in a discharge at a flow rate and/or concentration which will cause problems, pass through, or interference with the sewerage facilities.

(7) Producing a gaseous mixture that is ten (10) percent or greater of the lower explosion limit (LEL). Prohibited materials include,

but are not limited to, gasoline, kerosine, naphtha, benzene, toluene, xylene, ethers, ketones, and alcohols.

(8) Containing material which will readily settle or cause an obstruction to the flow in the sewer resulting in interference to the same such as, but not limited to, sand, mud, glass, metal filings, diatomaceous earth, asphalt, dead animals, wood, bones, hair, and fleshes.

(9) Any wastewater causing the treatment plant effluent to show a lethal concentration of fifty percent as determined by a toxicity test of ninety-six (96) hours or less, using a percentage of the discharge and aquatic test species chosen by the Director.

(10) In violation of any applicable Federal categorical pretreatment standards, State standards or other local regulations covering wastewater disposal.

When the Director determines that a user(s) is discharging to the POTW any of the above enumerated substances in any amount which will interfere with the operation of the POTW, the Director shall: 1) Advise the user(s) of the impact of the discharge on the POTW; and 2) Take such actions as deemed necessary to correct the interference with the POTW.

5-6.210. SPECIFIC POLLUTANT LIMITATIONS (LOCAL LIMITS).

No person shall discharge wastewater to the City sewerage system which (1) exhibits any characteristic which is specifically prohibited by an action of the City Council, or (2) contains constituents in excess of any specific constituent level limitations as may be set by the City Council pursuant to 40 CFR 403.5 (b), (c), and (d). Specific pollutant limitations regarding waste characteristics and constituent limits may be adopted by resolution. The City may also incorporate Maximum Allowable Industrial Loadings (MAIL) on a user-specific basis into wastewater discharge permits where necessary.

Any violation of a specific pollutant limitation as may be set forth in a City resolution shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violation of this chapter.

5-6.211. FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal standard, if more stringent than limitation imposed under this resolution for sources in that subcategory, shall pre-empt the limitations imposed under this chapter. The Director shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

5-6.212. STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this chapter.

5-6.213. MASS EMISSION RATE DETERMINATION.

(a) Mass emission rates for non-compatible and/or compatible pollutants that are present or anticipated in the user's wastewater discharge may be set for each user and made an applicable part of each user's permit. These rates shall be based on local discharge limits, or Federal categorical pretreatment standards, and the user's average daily wastewater discharge for the past three years, the most recent representative data, or other data acceptable to the City. All mass emission rates must receive final approval by the Director.

(b) To verify the user's operating data, the City may require a user to submit an inventory of all wastewater streams and/or records indicating production rates.

(c) The City may revise limits or mass emission rates previously established in the discharger's permit at any time, based on: current or anticipated operating data of the discharger or the City; the City's ability to meet NPDES limits; or changes in the requirements of regulatory agencies.

(d) The excess use of water to establish an artificially high flow rate for mass emission rate determination is prohibited.

5-6.214. PROHIBITION ON INFECTIOUS WASTE.

The City shall have the authority to require that any discharge of an infectious waste to the sewer be rendered non-infectious prior to discharge if the infectious

waste is deemed to pose a threat to the public health and safety, or will result in any violation of applicable waste discharge requirements.

5-6.215. LIMITATIONS ON DISPOSAL OF SPENT INDUSTRIAL SOLUTIONS AND SLUDGES.

(a) Spent solutions, sludges, and materials of quantity or quality in violation of, or prohibited by this chapter, or any permit issued under this chapter must be disposed of in a legal manner at a legally acceptable point of disposal as defined by the City or appropriate regulatory agency. All waste manifests shall be retained for a minimum of three (3) years, and shall be made available to the agency upon request.

(b) No person shall batch dump, except as allowed by permit.

5-6.216. GRAVITY SEPARATION INTERCEPTOR.

Any person that operates or maintains a facility for the servicing or repair of roadway machinery, industrial transportation equipment, motor vehicles, public or private transportation vehicles, or any other facility, with floor drains, or any other drains which may allow unacceptable waste discharge shall install and maintain a gravity separation interceptor as required by the Director. Domestic wastewater shall not be allowed to pass through the interceptor. The interceptor shall have a minimum operational fluid capacity of not less than one hundred gallons and shall be designed to retain any material which will float and/or will settle. The interceptor shall be watertight, structurally sound, durable and shall have a minimum of two (2) chambers.

5-6.217. INTERCEPTOR REQUIREMENTS.

All users required to install a gravity separation interceptor shall comply with the following conditions:

(a) All interceptor owners shall provide immediate access to the interceptor chambers at all times for the purpose of inspection, sampling, cleaning and maintenance. The user shall provide a separate ring and cover for each separate interceptor chamber. At no time shall any material, debris, obstacles or other obstructions be placed which will prevent immediate access to the interceptor.

(b) Any interceptor legally and properly installed before the effective date of this chapter shall be acceptable as an alternative to the interceptor requirements of this chapter. The interceptor shall be effective in

removing materials that float and settle and shall be immediately accessible for inspection, sampling, cleaning, and maintenance.

(c) All drains and openings connected to an approved gravity separation interceptor shall be equipped with screens or devices which will exclude from the wastewater discharge all materials and particles with a cubic dimension greater then three-eights (3/8) inch.

(d) If the Director finds, either by engineering knowledge or by observation, that an interceptor is incapable of adequately retaining material that floats or settles in the wastewater flow, is structurally inadequate, or is undersized for the facility, the Director shall reject such interceptor and declare that the interceptor does not meet the requirements of this section. The user shall thereupon be required to install, at the user's expense, an interceptor which is acceptable to the Director.

5-6.218. STANDARD INTERCEPTOR DESIGNS.

The Director shall maintain a file, available to the public, of suitable designs of gravity separation interceptors. This file shall be for informational purposes only and shall not provide or imply any endorsements of any kind. Installation of an interceptor of a design shown in this file, or of any design meeting the size requirements set forth in this chapter shall not subject the City to any liability for the adequacy of the interceptor under actual conditions of use. The user and property owner shall not be relieved of the responsibility for keeping materials that float or settle out of City's collection system.

5-6.219. INTERCEPTOR MAINTENANCE.

(a) Any person who owns or operates a gravity separation interceptor shall properly maintain the interceptor at all times. The interceptor shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the interceptor. An interceptor is not considered to be properly maintained, if for any reason the interceptor is not in good working condition or if the operational fluid capacity has been reduced by more than twenty-five (25) percent by the accumulation of floating materials, sediment, oils or greases.

(b) The use of chemicals, microbiological agents or other materials for the emulsification, suspension or dissolution of oil and grease is prohibited.

(c) When an interceptor is cleaned, the removed sediment, liquid and floating material shall be legally disposed of in a manner other than to the City's collection system, POTW or storm drain. Manifests for the cleaning of the interceptor shall be kept at the same facility as the interceptor and shall be available at all times for inspection.

(d) If the interceptor is not maintained adequately under the conditions of use, the interceptor shall be resized and the user shall install one which is effective in accomplishing its intended purpose.

(e) The owner and lessee, sublessee, proprietor, operator, or superintendent of any facility, required to install an interceptor, are individually and severally liable for any failure to properly maintaining such interceptor.

5-6.220. RESTAURANTS.

(a) Any person who owns, operates, or maintains a restaurant shall complete a City wastewater discharge survey form. The form shall be submitted to the Director for review of grease interceptor requirements.

(b) The size of grease interceptors shall be determined as described in the Uniform Plumbing Code, as adopted by the City.

(c) All restaurant wastewater and waste from floor drains, floor sinks, sinks, waste container wash racks, dishwashers, and garbage grinders, or like equipment shall be directed through a minimum seven hundred fifty gallon gravity separation interceptor. All domestic wastewaters from restrooms, showers, drinking fountains, and condensate (i.e., ice melt, air conditioning) shall be kept separate from the restaurant wastewater until the restaurant wastewater has passed though all necessary pretreatment equipment, devices or monitoring stations.

5-6.221. PROHIBITED RESTAURANT SURFACE DISCHARGES.

No person who owns, operates or maintains a restaurant shall at any time discharge any wastewater to the storm drain, service dock areas, or ground. Wastewater generated by restaurants must be disposed of through a sanitary sewer, an approved gravity separation interceptor, or sample station connected to a sanitary sewer or hauled off-site and disposed at a legal disposal site.

5-6.222. CONDITIONAL WAIVERS.

Conditional waivers for the grease interceptor requirement may be granted by the Director for those restaurants determined by the Director not to have adverse effects on the City's collection system or POTW. Conditional waivers may be revoked for the following reasons:

(a) Changes in menu;

(b) Falsification of information submitted in the City's wastewater discharge survey form;

(c) Changes in operating hours;

(d) Changes in equipment used;

(e) Changes in the nature of the wastewater discharged as determined by random and scheduled wastewater sampling and analyses.

5-6.223. ADDITIONAL LIMITATIONS ON DISCHARGES.

Whenever deemed necessary, the Director may require a user to restrict its discharge during peak flow or loading periods, designate that certain wastewater be discharged only into specific sewers, relocate or consolidate points of discharge, separate domestic sewage wastestreams from industrial wastestreams, and such other requirements or limitations as may be necessary to protect the sewerage system and determine the user's compliance with the requirements of this chapter.

The Director may require the user to install and maintain, on the user's property and at the user's expense, a suitable storage and flow control facility to ensure equalization of flow.

Any user with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

5-6.224. RIGHT OF REVISION.

The City reserves the right to establish by resolution more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this chapter.

ARTICLE 3. SEWERAGE CONSTRUCTION AND SEWER USE

5-6.301. CONNECTION TO SEWAGE SYSTEM REQUIRED.

Every building or structure in the Sewer District in which plumbing fixtures are installed shall be connected to the sewerage system where a sewer lateral is available within the time period provided for in Section 5-6.302. This requirement shall apply to any building or structure existing on July 1, 1967, as well as any building or structure thereafter constructed.

A sewer lateral is available for the purpose of this section when such a sewer lateral is located within one hundred (100) feet from the property line of any lot which can be served by such sewer lateral. A sewer lateral is available to new development when such a sewer lateral is located within one hundred (100) feet of the property line of any lot connecting to the sewage system.

5-6.302. CONNECTION TO SEWAGE SYSTEM: WHEN REQUIRED.

Every building or structure connected to a septic tank at the time a sewer lateral becomes available as defined in Section 5-6.301 shall be connected to the sewage system within five (5) years after the sewer lateral becomes available.

5-6.303. CONNECTION TO SEWAGE SYSTEM: UPON ANNEXATION: WHEN REQUIRED.

(a) Buildings or structures connected to septic tanks in territory not located within the Sewer District on July 1, 1967, but which territory is subsequently annexed to the Sewer District, shall be connected to a sewer lateral within five (5) years from the effective date of annexation, where a sewer lateral is available or within five (5) years after a sewer lateral becomes available, whichever occurs later.

(b) Nothing contained in this section shall be construed to invalidate or in any way make subject to refund any sewer service charges which were paid on property which was required to be connected to the sewage system under the provision of this section as it existed prior to April 1, 1980.

5-6.304. EXCEPTION TO MANDATORY SEWER CONNECTION.

If the Council determines that extraordinary hardship will result from strict compliance with the provisions of Sections 5-6.301, 5-6.302, 5-6.303., the Council, by resolution, may vary the conditions so that substantial justice may

be done and the public interest secured, provided that such variation does not have the effect of nullifying the intent and purpose of this chapter.

5-6.305. REPAIR OF PRIVATE SEWAGE DISPOSAL SYSTEM.

No building permit shall be issued for the installation, alteration or repair of any private sewage disposal system or part thereof, on any lot for which a connection with a sewer lateral is available as defined in this chapter.

5-6.306. IMPROPER USE OF CONNECTED SEWERS.

The City hereby reserves the right to inspect any existing lateral or collecting sewers that discharges wastewater directly or indirectly to trunk sewers. If it is found that such lateral or collecting sewers are improperly maintained, thereby causing discharge of septic wastewater, excessive groundwater, debris or any other objectionable substance to the City sewers, the Director will give notice of the unsatisfactory condition to the offending discharger and shall direct that the condition be corrected.

5-6.307. CHARGE FOR EXCESSIVE SEWER MAINTENANCE.

No person shall discharge or cause to be discharged to a trunk sewer, either directly or indirectly, any waste that creates a stoppage, plugging, breakage, or reduction in sewer capacity or any other damage to sewers or sewerage facilities of the City. Any excessive sewer or sewerage maintenance expenses including administrative costs attributed thereto will be charged to the offending discharger by the City.

Any refusal to pay such charges for excessive maintenance expenses duly authorized by the City shall constitute a violation of this chapter.

5-6.308. INDUSTRIAL WASTE LINE CONNECTION.

Each industrial user shall have not more than one (1) industrial waste line connection to the City's sewage system, unless specifically approved by the Director.

ARTICLE 4. DISCHARGE PERMITS.

5-6.401. PERMITS.

(a) To provide the maximum public benefit from the use of City facilities, written authorization to use said facilities is required. This written

authorization shall be in the form of a discharge permit. Users required, or who may be required, by the Director to obtain a Wastewater Discharge Permit shall complete and file with the City a Wastewater Discharge Permit Application on a form provided by the City. Proposed new users shall apply at least sixty (60) days prior to the connection to the collection system of a contributing agency and/or connection to or contributing to the City's facilities. No vested right shall be given by issuance of any permit(s) provided for in this chapter.

(b) The discharge permit is dependent upon the type of discharger, volume, and characteristics of the discharge. The types of discharge permits are:

(1) Categorical Permit,

(2) Industrial User Permit,

(i) Major Industry

(ii) Minor Industry

(3) Pollution Prevention Permit,

(i) Wet Industry

(ii) Dry Industry

(4) Groundwater Discharge Permit,

(5) Wastehauler Discharge Permit.

(c) In support of the application, the user shall submit, in units and terms appropriate for evaluation, all information as may be deemed by the Director as necessary to evaluate the Wastewater Discharge Permit Application. This information includes, but is not limited to: identifying information; environmental control permits held; Standard Industrial Classification codes for industry as a whole or any categorical process; flow rates; wastewater constituents and characteristics; time and duration of discharge; peak discharge amounts; locations of all discharge points; pretreatment facilities; sampling and monitoring equipment and points; description of activities; facilities, and plant processes including raw materials, processes and types of materials which are or could be produced, by type; number of employees and hours of operation; time and duration of discharge; wastewater characteristics; site diagrams;

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flow schematics; and a statement reviewed by an authorized representative of the user and certified by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary.

(d) The permittee must abide by all terms, provisions, rules and regulations contained in the permit and/or this chapter.

(e) Permit fees and any other associated fees may be collected by the City in an amount adopted from time to time by City Council resolution.

5-6.402. CHANGED CONDITIONS.

No industrial user shall discharge new or increased pollutants, or make changes in the nature of its pollutants without applying for and receiving a modification to its Waste Water Discharge Permit.

5-6.403. CAPACITY CHARGE.

Whenever the annual gallonage of flow from a major industrial user for a calendar year falls below eighty (80) percent of the capacity allocation shown on a permit issued in accordance with Section 5-6.401, the major industrial user shall pay for the calendar year a minimum sewer service charge, based on eighty (80) percent of the capacity allocation shown on the permit, to pay for unused capacity allocated to the industrial user.

5-6.404. IMPOSITION OF MORE STRINGENT REQUIREMENTS.

In the event the City determines that it is necessary, in order to comply with the objectives of this chapter, to impose more stringent limitations or requirements on discharges to the wastewater disposal system than are set forth in an existing Wastewater Discharge Permit, the City shall have the authority to require modifications of an existing Wastewater Discharge Permit to incorporate such limitations or requirements.

5-6.405. DURATION OF PERMITS.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modifications and change by the City during the life of the permit as limitations or requirements as identified in this chapter are modified and changed. The user shall be informed of any proposed changes in his/her permit at least thirty

(30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

5-6.406. TRANSFER OF A PERMIT.

Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned, transferred or sold at anytime for any purpose.

ARTICLE 5. FACILITIES REQUIREMENTS.

5-6.501. PRETREATMENT FACILITIES.

(a) All users shall provide wastewater acceptable to the City, under the limitations established herein before discharging to any public sewer. Any facilities required to pretreat or transport wastewater shall be operated and maintained by a qualified operator and in proper operating condition at the user's expense.

(b) All users may also be required, by the City to submit waste analysis plans, contingency plans, and comply with other necessary requirements to ensure proper operation of the pretreatment facilities, compliance with permit limits, and compliance with this chapter.

(c) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this chapter, the Wastewater Discharge Permit, or the Categorical Pretreatment Standards all as currently enacted or as later amended or modified. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

5-6.502. SPILL CONTAINMENT FACILITIES.

All users shall provide spill containment for protection against discharge of prohibited materials or other wastes regulated by this chapter. Such protection shall be designed to secure the discharge and to prevent it from entering into the system in accordance with reasonable engineering standards. Such facilities shall be provided and maintained at the user's expense.

5-6.503. SPILL PREVENTION PLANS.

Industrial users shall provide protection from accidental discharge of materials which may interfere with the municipal sewage system by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the City before implementation of the plan.

(a) Industrial users that store hazardous substances shall not contribute to the municipal sewage system after the effective date of this chapter unless a spill prevention plan has been approved by the City. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

5-6.504. MONITORING/METERING FACILITIES.

(a) The City may require any user discharging sewage or industrial waste in quantities in excess of twenty-five thousand (25,000) gallons per day or whose flows, in the opinion of the director, may substantially impact the POTW, to construct and maintain in proper operating condition at the user's sole expense, flow monitoring, constituent monitoring and/or sampling facilities of the type the Director deems appropriate for the user's facilities.

(b) Any sample taken from a sample box or other representative sampling location is considered to be representative of the discharge to the public sewer.

(c) Monitoring or metering facilities may be required to include a security closure that can be locked with a City provided lock during sampling or upon termination of service.

(d) Location of the monitoring or metering facilities shall be subject to approval by the City.

(e) Location of the monitoring or metering facilities shall provide clear and uninterrupted access to the City.

(f) The Director may utilize metering of the user's water supply instead of or in addition to metering the wastewater discharge.

5-6.505. SEPARATION OF DOMESTIC AND INDUSTRIAL WASTEWATERS.

All domestic wastewaters from rest rooms, showers, drinking fountains, etc., shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through any required pretreatment system or device and the industrial wastewater monitoring facility or station.

5-6.506. DRAWING SUBMITTAL REQUIREMENTS.

(a) Detailed plans shall be submitted to the City for review of existing or proposed construction of pretreatment facilities, spill containment facilities, monitoring facilities, metering facilities, and operating procedures. City approval shall be received prior to commencement of construction. The review of the plans and procedures shall in no way relieve the user of the responsibility of modifying the facilities or procedures in the future, as necessary, to meet the requirements of this chapter or any requirements of other regulatory agencies.

(b) All drawings shall include:

(1) North arrow;

(2) Scale size;

(3) User name and address;

(4) Drawing name and drawing number;

(5) Date drawn or revised;

(6) Name of draftsman and name of person approving drawing.

(c) The City may require drawings to scale depicting the manufacturing process (waste generating sources), spill containment, pretreatment facilities, and/or monitoring/metering facilities.

(d) The City may require a schematic drawing of the pretreatment facilities.

(e) The City may require the drawings be prepared by a California Registered Chemical, Mechanical, or Civil Engineer.

5-6.507. WASTE MINIMIZATION REQUIREMENTS.

The Director may require the user to provide waste minimization plans to conserve water, investigate product substitution, provide inventory control, implement employee education, and take other steps as necessary to minimize waste produced.

ARTICLE 6. MONITORING, REPORTING, NOTIFICATION, AND INSPECTION REQUIREMENTS.

5-6.601. MONITORING FOR COMPLIANCE WITH PERMIT CONDITIONS OR REPORTING REQUIREMENTS.

(a) The City may require reports for self-monitoring of wastewater constituents and characteristics of the discharger needed for determining compliance with any limitation, or requirement as specified in the user's permit, Federal regulations, or this chapter. These reports include:

(1) Baseline Monitoring Reports (BMR),

(2) Compliance Schedule Progress Reports,

(3) Ninety (90) Day Compliance Reports,

(4) Periodic Reports on continued compliance,

(5) Other reports as required by the City.

Monitoring reports of the analyses of wastewater constituents and characteristics shall be in a manner and form approved by the City and shall be submitted upon request of the Director. When applicable, the self-monitoring requirement and frequency of reporting shall be set forth in the user's permit. The analyses of waste water constituents and characteristics and the preparation of the monitoring report shall be done at the sole expense of the user. Failure by the user to perform any required monitoring and/or submit monitoring reports required by the City shall be a violation of this chapter, may result in a determination that the permittee is in significant non-compliance, and be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and characteristics for any limitation and requirement specified in the user's permit or in this chapter. The user shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of reports.

(b) Each industrial user is required to notify the City, in writing, at least ninety (90) days before, any planned changes to the industrial user's operations or systems which may result in the nature, quality or volume of its wastewater to exceed that industrial user's classification parameters or permit limits.

5-6.602. REPORTS FROM NONCATEGORICAL USERS.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide appropriate reports to the City as the Director may require.

5-6.603. INSPECTION AND SAMPLING CONDITIONS.

(a) The City may inspect and sample the wastewater generating and disposal facilities of any user to ascertain whether the intent of this chapter is being satisfied and the user is complying with all requirements.

(b) The City shall have the right to set up on the user's property or any other locations as determined by the City, such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force, the user shall make necessary arrangements so that personnel from the City will be permitted to enter without delay for the purpose of performing their specific responsibilities.

(c) In order for the City to determine the wastewater characteristics of the discharger for purposes of determining compliance with permit requirements, the user is required to make available for inspection and copying by the City all notices, self-monitoring reports, waste manifests, and records including, but not limited to, those required in 40 CFR Chapter I, subchapter N, without restriction but subject to the confidentiality provision set forth in Section 5-6.109 herein. All records are to be kept a minimum of three (3) years.

(d) All samples shall be taken, preserved, and analyzed in accordance with the procedures presented in the Code of Federal Regulations, Title 40, Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants) or the most recent accepted edition of Standard Methods for the Analysis of Wastewater. Unless approved otherwise by the City, all analyses shall be performed by a laboratory(ies) certified by the State to perform analysis for the specific pollutant in wastewater.

5-6.604. NOTIFICATION OF SPILLS OR SLUG LOADING.

(a) In the event the discharger is unable to comply with any of the permit conditions due to a breakdown of equipment, accidents caused by human error or act of God, or the discharge will exceed the provision of this chapter, the discharger shall notify the City by immediately telephoning as soon as the discharger has knowledge of the incident.

(b) The discharger shall confirm this notification in writing as soon as possible, but no later than five (5) working days from the telephone notification. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to correct the problem, and what steps are being taken to prevent the problem from recurring.

(c) Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the user of any fees or other liability which may be imposed by this chapter or other applicable law.

5-6.605. NOTIFICATION OF BYPASS.

(a) Bypass of industrial wastewater to the sewer is prohibited. The City may take enforcement action against the user, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of treated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The permittee submitted notices as required by this Section 5-6.604.

(b) If a permittee knows in advance of the need for a bypass, it shall submit prior notice to the City, if possible at least ten (10) days before the date of the bypass.

(c) The City may approve an anticipated bypass after considering its adverse effects, if the City determines that it will meet the conditions listed in this section.

(d) A permittee shall submit oral notice of an unanticipated bypass, to the City, immediately after the user has knowledge of the bypass. A written report shall also be provided within five (5) working days of the time the permitee becomes aware of the bypass. The report shall contain a description of the bypass, its cause, the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. Failure to submit oral notice or written report may be grounds for permit revocation.

(e) Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the user of any fees or other liability which may be imposed by this chapter or other applicable law.

ARTICLE 7. ENFORCEMENT.

5-6.701. ENFORCEMENT RESPONSIBILITIES.

The City Manager shall ensure enforcement of this chapter by coordinating the actions of the Finance Director, the Operations and Maintenance Director, and any other City departments concerned with implementing and enforcing the City's Enforcement Response Plan. The Operations and Maintenance Director is hereby charged with the enforcement of all of the provisions of this chapter.

5-6.702. NOTICE OF VIOLATION.

The Director or his/her designee may issue a written notice to any user in non-compliance, by hand delivering or mailing, notice of the violation to the user indicating, possible enforcement actions, and/or actions to be performed by user to comply with provisions of this chapter.

5-6.703. NON-COMPLIANCE WITH PERMIT CONDITIONS AND APPLICABLE FEES.

(a) If routine sampling of the effluent of a permittee reveals non-compliance by the permittee with the mass emission rates or other conditions and limitations specified in the permittee's discharge permit, or with any provision of this chapter, then the permittee may be required to pay fees to the City as specified from time to time by resolution.

The purpose of the non-compliance fees is to compensate the City for additional costs of sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the non-compliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to this chapter.

(b) The non-compliance fees specified shall commence on the date the sampling establishes non-compliance, and shall continue to accumulate for each day continuing non-compliance is verified by sampling.

5-6.704. ADMINISTRATIVE CIVIL PENALTIES.

The City may issue an administrative penalty to any person who violates any requirement adopted or ordered by the City pursuant to this chapter. The administrative complaint shall allege, with particularity , the act or failure to act which constitute the violation, the section of Modesto Municipal Code violated, the civil penalty, and shall be served by personal delivery or certified mail on the person subject to the discharge requirements. In addition, the administrative complaint shall inform the person served of the appeal process. The person served may waive the right to appeal, in which case the City shall not conduct a hearing. Penalties imposed by the local agency pursuant to this chapter shall be assessed in accordance with Government Code Section 54740.5.

When civil penalties imposed pursuant to this chapter have remained delinquent for a period of sixty (60) days from the date assessed, a lien may be placed against the real property from which the discharge originated and which resulted in the imposition of the civil penalty.

The City may, at its option, elect to petition the Superior Court to confirm any order establishing civil penalties and enter judgement in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

5-6.705. ORDER TO SHOW CAUSE HEARING.

If a user fails to correct causes of non-compliance, or if the level of the violation is substantial, a meeting may be arranged, with representatives of the user and the Director or his/her designee to discuss the reasons for non-compliance and/or possible corrective actions.

5-6.706. COMPLIANCE SCHEDULE.

(a) When the City finds any user to be in or threatening violation of any provision of this chapter; the City may require that user to submit for approval, with such modifications as the City deems necessary, a detailed time schedule of specific corrective actions to be taken to comply with this chapter. The user shall abide by and implement the adopted schedule.

(b) The schedule shall contain milestones in the form of dates for the commencement and completion of major events leading to compliance. The user shall submit a progress report to the City no later than fourteen (14) days following the completion of each milestone set forth in the schedule. All compliance schedule progress reports must be signed by an authorized representative of the user.

(c) Compliance schedules may also contain such other and additional requirements as might be reasonable necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the Director may continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.

5-6.707. CEASE AND DESIST ORDER.

The Director may issue a cease and desist order to any user who shows significant noncompliance or creates situations in which a discharge may pose a threat to the safety of the operation of the publicly owned treatment works or the collection system. The order shall require immediate correction of the situation or may impose additional requirements. The order shall be enforceable in court.

5-6.708. TERMINATION OF SERVICE.

The City, by order of the Director, may physically terminate sewage service to any property as a term of any order of suspension or revocation of a permit. All costs for physical termination shall be paid by the permittee as well as all costs for reinstating service.

5-6.709. EMERGENCY SUSPENSION.

The City may, by order of the Director, suspend sewage service or waste hauler discharge service when such suspension is necessary, in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment of the health, safety, and welfare of persons, or to the environment, or may cause interference with the City's sewerage facilities, or may cause the City to violate any State or Federal Law or Regulation. An emergency suspension order is final and not appealable.

5-6.710. INJUNCTION.

Notwithstanding any other provision of this chapter, and in addition to and as an alternative to any other procedure prescribed herein, whenever a discharger of wastewater is in violation of or may potentially violate the provisions of this chapter, the discharger's permit conditions, or any Federal Pretreatment Standard or Requirement for dischargers, or fails to submit required reports or refuses to allow the City entry to inspect the premises, the City may petition the Superior Court for the issuance of an injunction to restrain the continued violation or to prevent violations by the discharger and to seek such other or additional remedies and civil penalties as may be authorized by law.

5-6.711. REVOCATION OF PERMIT.

Any user who performs the following actions, or who violates any condition of its permit, or who violates any applicable state and federal regulations, may have its permit revoked:

(a) Knowingly provides a false statement, representation, record, report, or other document to the City;

(b) Refuses to provide records, reports, plans, or other documents required by the City to determine permit terms, conditions, or limitations, discharge compliance, or compliance with this chapter;

(c) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method;

(d) Fails to report significant changes in operations or wastewater constituents and characteristics;

(e) Fails to comply with the terms and conditions of a City cease and desist order or compliance schedule;

(f) Refuses reasonable access to the users premises for the purpose of inspection and monitoring;

(g) Does not make timely payment of all amounts owed to the City for user charges, non-compliance fees, or any other fees;

(h) Discharges a batch dump to the City's sewerage system;

(i) Discharges effluent that causes pass through or interference with the City's collection, treatment, or disposal system;

(j) Fails to submit an oral notice and/or a written report of a spill or bypass occurrence;

(k) Violates any condition or limitation of its discharge permit or any provision of this chapter.

5-6.712. CIVIL PENALTIES.

Any user who has violated or continues to violate this chapter, any order or permit hereunder, or any other pretreatment requirement shall be liable to the Director for a maximum civil penalty of twenty-five thousand dollars ($25,000) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(a) The Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(b) In determining the amount of civil liability, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of damage caused by the violation, the magnitude and

duration, any economic benefit gained through the industrial user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(c) Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recoverable under this section for any violation for which liability is recovered under Section 5-6.704.

5-6.713. CRIMINAL PROSECUTION.

(a) Any user who willfully violates or recklessly disregards any provision of this chapter, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) per violation per day or imprisonment for not more than one (1) year or both.

(b) Any user who knowingly makes any false statements, representations, or certifications in any application, record, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000) per violation per day or imprisonment for not more than one (1) year or both.

(c) In the event of a second conviction, the user shall be punished by a fine not to exceed three thousand dollars ($3,000) per violation per day or imprisonment for not more than three (3) years or both.

5-6.714. LIABILITY.

In the event that a user does not comply with the conditions and wastes are discharged to the POTW or collection system that causes, or threaten to cause, the water quality control plant's waste treatment facilities to malfunction or otherwise result in a violation of waste discharge requirements or limitations imposed by state or federal regulatory agencies (40 CFR 403.8), the user shall be liable for any and/or all of the following:

(a) To pay any and all monetary penalties, charges, fees, and other costs that may be imposed on the City by state or federal regulatory agencies as a result of threatened or actual violation(s) or malfunction(s), including administrative and legal fees.

(b) To pay any and all judgements and associated costs that may be awarded to individuals or entities as a result of threatened or actual violation(s) or malfunction(s).

(c) To pay the total cost of any interim waste treatment measures that the Director may deem necessary to abate threatened or actual violation(s) or malfunction(s), including consulting and administrative fees.

(d) To pay the total cost of providing waste treatment facilities needed to remedy threatened or actual violation(s) or malfunction(s).

(e) To pay the total cost of any damage to the collection system or POTW which results from the users non-compliance with this chapter.

5-6.715. LIST OF SIGNIFICANT VIOLATORS.

The Director shall annually publish in a newspaper of general circulation in the Modesto area, a list of the industrial users who significantly violated applicable pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the industrial user(s) during the same twelve (12) month period. A significant violation is defined in the enforcement response plan adopted by the City.

ARTICLE 8. COSTS AND FUNDING

5-6.801. SEWER BOND REDEMPTION CHARGES.

Each person owning property within the Sewer District shall pay a charge to the City for connection to the sewage system in accordance with the following rates:

(a) **Residential.** A bond redemption charge shall be paid to the City for connection to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution.

(b) **Commercial and Industrial.** A bond redemption charge shall be paid to the City for connection to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution. Churches shall pay a commercial bond redemption charge.

(c) **Unconnected Standby Sewer Service Charges.** Properties which paid unconnected standby sewer charges prior to July 1, 1969, shall be exempt from sewer bond redemption charges.

A fee shall be paid to the City for the purpose of covering the cost of inspection of the premises to make determinations on the acreage to be covered by the bond redemption charge. Said fee shall be in accordance with a schedule approved by the Council from time to time by resolution. For those properties connected to the sewage system whose zoning designation and/or use is changed from Residential to Commercial and Industrial or from Commercial and Industrial to Residential, a bond redemption charge equal to the difference, if any, between the current rate for the existing use and the current rate for the proposed use shall be paid to the City. If the current rate for the proposed use is less than the current rate for the existing use, the user shall not be entitled to a refund.

5-6.802. PAYMENT OF SEWER BOND REDEMPTION CHARGES.

(a) The sewer bond redemption charge set forth in Section 5-6.801(a) shall be paid for connection to the sewage system at the time a building permit is issued for a building or structure. In those cases where a building exists, the sewer bond redemption charge shall be collected at the time a plumbing permit is issued to connect said building or structure to the sewage system. The Council may, by resolutions adopted from time to time, establish conditions under which the sewer bond redemption charges set forth in Section 5-6.801(a) may be spread over a period of time and paid in installments.

(b) The sewer bond redemption charge set forth in Section 5-6.801(b) shall be paid for connection to the sewage system at the time connection is made or development occurs.

5-6.803. SUBTRUNK SEWER EXTENSION CHARGES.

(a) **Residential and Commercial Areas.** Each person owning property within the Sewer District shall pay a subtrunk sewer extension charge to the City at the time of connecting to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution.

(b) **Industrial Areas.** For industrial areas, the extension of subtrunk sewers will be on an individual basis for areas served since size of these subtrunk sewers is dependent upon specific need.

A fee shall be paid to the City for the purpose of covering the cost of inspection of the premises to make determinations on the acreage to be covered by the subtrunk extension charge. Said fee shall be in accordance with a scheduled approved by the Council from time to time by resolution.

5-6.804. PAYMENT OF SUBTRUNK SEWER EXTENSION CHARGES.

Subtrunk sewer extension charges shall be paid at the time sewer service is made available to any subdivision, tract, area or lot in the Sewer District. In the case of new subdivisions or parcel maps, this charge shall be paid at the time of filing the final subdivision or parcel map. The Council may, by resolutions or agreements adopted or entered into from time to time, establish conditions under which the subtrunk sewer extension charges set forth in Section 5-6.803 may be spread over a period of time.

5-6.805. CONSTRUCTION OF NEW SEWER LATERALS.

Any person within the Sewer District may connect his/her property to the City sewage system by construction of a new sewer main under one of the following methods and constructing building lateral connecting the property to a sewer main:

(a) **By Improvement District Proceedings.** Sewer mains may be financed by the formation of assessment districts and sale of improvement bonds in accordance with existing state laws governing the formation of such districts and the sale of such bonds.

(b) **By Private Contract: Undeveloped Land.** The owner of any undeveloped subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer mains to serve such subdivision, tract, area or lot in accordance with plans and specifications prepared by a registered engineer and approved by the City, at his/her own expense, and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it in the inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolutions and on file in the offices of the City Clerk and Operations and Maintenance Director.

(c) **By Private Contract: Developed Land.** The owner of any developed subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer mains to serve such subdivisions, tract, area or lot in accordance with plans and

specifications prepared by a registered engineer and approved by the City, or in accordance with plans and specifications prepared by the City Engineer and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it for any preparation of plans and specifications and for inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolution and on file with the City Clerk and Operations and Maintenance Director.

5-6.806. PARTICIPATION IN COST OF CONSTRUCTING SUBTRUNK SEWERS.

(a) Whenever the City requires a design and construction of a sewer subtrunk beyond that which is required to serve a subdivision, improvement district, or area by itself, the City may provide the portion of the increased cost of constructing the sewer subtrunk directly resulting from such increased design. Said cost shall be determined by the Director in accordance with existing City policy governing reimbursement from Capital Facilities Fees, or any other source, as set forth in a resolution of the City Council.

(b) Expenditures of funds by the City in accordance with the provisions of this section shall be on the basis that said expenditures will be recovered by the City from subtrunk sewer extension charges set forth in Section 5-6.803.

5-6.807. PARTICIPATION IN COST OF EXISTING SEWERS.

No property shall be permitted to connect to the City sewage system without participating in the cost of the sewer mains which serve the area where the property is located.

Any property connecting to the City sewage system that has not already participated in the cost of a sewer main and which is to be served by an existing sewer shall either make reimbursement, through the City, of the property's proportionate share of private funds expended on the existing sewer main in accordance with any agreements on file with the Director or shall pay to the City a fee which shall be in accordance with a schedule approved by the Council from time to time by resolution, whichever is the greater sum.

The acreage used to determine the sewer main fee shall be the total area developed or being developed which is owned, leased or controlled by the user.

In those instances where the total acreage owned, leased or controlled by the user is greater than that developed, the Director is authorized to determine the acreage to be used in determining the sewer main fee. The remaining acreage shall pay a sewer main fee at such time as it is developed.

Notwithstanding anything to the contrary contained in this chapter, the Council shall have the power to determine, by agreement, the total acreage developed or being developed which is owned, leased or controlled by a user meeting both the criteria set forth below:

(a) The user will establish a new industry or expand an existing industry within the Modesto Municipal Sewer District that results in more than two hundred twenty-five (225) new, permanent, on-site, full-time employees;

(b) The user will construct a new industrial building or building addition with total floor space in excess of one hundred seventy-five thousand (175,000) square feet with total project costs in excess of twenty million dollars ($20,000,000).

If the property is developed beyond that development approved by the Council the developer shall pay a sewer main fee on the additional acreage developed. If the user fails to meet either of the criteria after development, the agreement shall be void and a sewer main fee shall be paid based on the total acreage developed or being developed had the above criteria not been applied.

5-6.808. LIEN.

Each sewer service charge, fee, and/or fine levied by or pursuant to this chapter on any premises within the Sewer District is hereby made a lien upon such premises, and any steps authorized by law may be taken by the City to enforce payment of such lien.

5-6.809. JUDICIAL REVIEW.

Unless the user given a notice of violation or order makes a timely responsive statement or a request for hearing, the notice or order is a final order. If a timely request for a hearing is made, the order constituting the hearing decision shall be a final order. Any person adversely affected by a final order may appeal the order to the appropriate court in the County of Stanislaus.

SECTION 6. 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 7. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3137-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 18th day of May, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999

Clerk

Print

ORDINANCE NO. 3138-C.S.

AN ORDINANCE AMENDING CHAPTER 10 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE RELATING TO STORM WATER MANAGEMENT AND DISCHARGE CONTROLS.

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

SECTION 1. AMENDMENT OF CODE. Chapter 10 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 10. STORM WATER MANAGEMENT AND DISCHARGE CONTROLS

ARTICLE 1. TITLE, PURPOSE AND GENERAL PROVISIONS.

5-10.101. TITLE.

This chapter shall be known as the City of Modesto Storm Water Management and Discharge Controls Ordinance and may be so cited.

5-10.102. INTENT AND PURPOSE.

(a) The intent of this chapter is to protect and enhance the water quality of the City's watercourses, water bodies, and wetlands pursuant to, and consistent with, the Federal Water Pollution Control Act (Clean Water Act, 33 USC Section 1251 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and National Pollutant Discharge Elimination System (NPDES) Permit No. CA0083526, as such permit is amended and/or renewed.

(b) The purpose of this chapter is to ensure, protect, and promote the health, safety, general welfare, and protection of property for City of Modesto citizens by:

(1) Regulating non-storm water discharges to the City storm drain system.

(2) Controlling the discharge to City storm drain systems from spills, dumping, or disposal of materials other than storm water.

(3) Reducing pollutants in storm water discharges from the City storm drain system to the maximum extent practicable.

(4) Minimizing damage to surrounding properties and public rights-of-way, the degradation of the water quality of watercourses, and the disruption of natural or City authorized drainage flows caused by the activities of clearing and grubbing, grading, filling, and excavating of land, and sediment and pollutant runoff from other construction related activities, and to comply with the provisions of the City's National Pollutant Discharge Elimination System (NPDES) Permit Number, CA0083526, as such permit is amended and/or renewed by the California Regional Water Quality Control Board (Regional Board).

5-10.103. DEFINITIONS.

The following words and phrases when used in this chapter shall be defined herein. Words and phrases used in this chapter and not otherwise defined shall be interpreted as defined in the regulations of the U.S. Environmental Protection Agency to implement the provisions of the Federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act in the State Water Code.

(a) **Applicant** means any person who submits an application for a permit pursuant to this chapter.

(b) **Authorized enforcement officer** shall include the Director or his/her designee.

(c) **Best Management Practice (BMPs)** means schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to water of the United States or groundwater. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Storm Water Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity Best Management Practice provide a detailed discussion of BMPs.

(d) **Certificate of Exemption (COE)** means written notification from the City certifying that, in the opinion of the Director, a discharger has developed and implemented an effective storm water pollution prevention plan eliminating non-storm water discharge, and is exempt from sampling requirements.

(e) **CFR** means Code of Federal Regulations.

(f) **City** means the City of Modesto.

(g) **City specifications** means the City Improvement Standards, City Standard Construction Specifications and other standards included in applicable City ordinances, regulations and manuals, as amended from time to time.

(h) **Civil engineer** means a professional engineer in the branch of civil engineering holding a valid certificate of registration issued by the State of California.

(i) **Clearing and grubbing** means moving or removing by manual or mechanical means trees, vegetation, and/or the top four (4) inches or greater of soil. Clearing and grubbing does not include lawn mowing or tree trimming.

(j) **Compaction** means the act of compacting or consolidating soil and rock material to specified density, and the resulting compacted state of the material.

(k) **Construction site** means any land area on which the activity of clearing and grubbing, grading, excavating, filling or construction activity is occurring.

(l) **Council** means the City Council of the City of Modesto.

(m) **Director** means the Operations and Maintenance Director or his/her designee.

(n) **Discharge** means any release, spill, leak, pumping, flow, escape, dumping, or disposal of any gas, liquid, semi-solid, or solid substance.

(o) **Engineering geology** means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

(p) **Erosion** means the transport of the ground surface or soil as a result of the movement of the wind or water.

(q) **Erosion control measures** means seeding, mulching, vegetative buffer strips, sod, plastic covering, burlap covering, watering, and other measures which control the movement of the ground surface or soil.

(r) **Grade** is the elevation of the ground surface as measured from a known vertical control.

(s) **Grading** includes the act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling, or shaping of land surfaces and slopes, and other operations, performed by or controlled by human activity involving physical movement of rock or soil.

(t) **Hazardous substances** means those materials listed in Title 40 of the Code of Federal Regulations (40 CFR) Part 117 and/or 40 CFR Part 302 and/or Division 20 of the California Health and Safety Code.

(u) **Illicit discharge** means any discharge to the storm drain system that is not composed entirely of storm water runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit.

(v) **Illicit connection** means any physical connection to a storm drain system which has not been permitted by the City.

(w) **Municipal NPDES permit** means a NPDES permit issued to a government agency or agencies for the discharge of storm water from a storm drain system to a water of the United States.

(x) **National Pollutant Discharge Elimination System (NPDES) permit** shall mean a discharge permit issued by the State Water Resources Control Board, in compliance with Section 402(p) of the federal Clean Water Act, Regional Water Quality Control Board or the U.S. Environmental Protection Agency.

(y) **Non-commercial vehicle washing** means the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.

(z) **Non-storm water discharge** means any discharge to the storm drain system that is not entirely composed of storm water.

(aa) **Notice of intent** is the formal notification to the State Water Resources Control Board by the applicant that either a construction or industrial

activity will occur in compliance with the conditions of the general permit and thereby commits the applicant to prepare and implement a storm water pollution prevention plan.

(ab) **NPDES construction permit** means a general permit issued by the State Water Resources Control Board to owners/developers or operators, whichever has day to day operational control over construction activities, for construction sites that cause a land disturbance of five (5) acres or more, or less if part of a common plan development, to control sediment and other pollutants from entering the storm water conveyance system.

(ac) **NPDES industrial permit** means a general permit issued by the State Water Resource Control Board, Regional Water Quality Control Board, or U.S. Environmental Protection Agency to owners or operators of specific categories of industrial facilities excluding construction activities identified in the Federal regulations to discharge storm water directly or indirectly to waters of the United States.

(ad) **Permittee** means the applicant in whose name a valid permit is issued pursuant to this chapter and the applicant's agents, employees and designated representative(s).

(ae) **Person** means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

(af) **Pollutant** means those pollutants defined in Section 502(6) of the Federal Clean Water Act (33 U.S.C. Section 1362(6), or incorporated into California Water Code Section 13373. Examples of pollutants include, but are not limited to anything which causes the deterioration of water quality such that it impairs subsequent and or competing uses of the water. Pollutants may include paints, oil and other petroleum hydrocarbons, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, metals (such as cadmium, lead, zinc, copper, silver, nickel, chromium), non-metals (such as phosphorus and arsenic), hazardous wastes, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal wastes, materials that result from the process of constructing a building or structure, noxious or offensive matter of any kind. Pollutant means hazardous materials, hazardous wastes, and any material that the enforcement agency has a reasonable basis for believing would be harmful to the environment if it were released into the municipal storm

water system. Pollutant also means any contaminant which can degrade the quality of the receiving waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

(ag) **Premises** means any building, lot, parcel of land, land or portion of land whether improved or unimproved.

(ah) **Runoff** is surface runoff and drainage related to storm events, snow melt, street wash waters related to street cleaning or maintenance and other non-storm waters introduced into the storm drain system.

(ai) **Sediment** means soil or earth material deposited by water.

(aj) **Sediment control measures** means dikes, sediment detention traps, sediment detention basins, filters, fences barriers, swales, berms, drains, check dams, and other measures which control sediment.

(ak) **Site** means a parcel or parcels of real property owned by one (1) or more than one person on which activity regulated by this chapter is occurring or is proposed to occur.

(al) **Slope** is an inclined ground surface the inclination of which is expressed as a percent.

(am) **Storm drain system** means a conveyance or system of conveyances owned or operated by the City designed or used to convey storm water to waters of the United States. Storm drain systems include, but are not limited to, rockwells, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains.

(an) **Storm water** means water that originates from atmospheric moisture (rainfall, hail, snow or snow melt) and that falls onto land, water or other surfaces.

(ao) **Storm Water Pollution Prevention Plan** (SWPPP) is a report required by the State Water Resources Control Board, Regional Water Quality Control Board, U.S. Environmental Protection Agency, or the City which sets forth the site map, identifies the activities that have the potential to pollute storm water which may enter the City storm drain system, describes the proposed BMPs to be implemented by the discharger, and contains a description of any other requirement the State Water Resources Control Board, Regional Water Quality Control Board,

U.S. Environmental Protection Agency, or the City requires the discharger to list in the facilities SWPPP.

(ap) **Storm water runoff** means surface runoff and drainage associated with rain storm events and snow melts.

(aq) **Structure** means anything constructed or erected which requires location on the ground or attached to something having location on the ground.

(ar) **Uncontaminated pumped groundwater** is pure groundwater or groundwater not mixed with a pollutant.

(as) **Watercourse** means a river, stream, creek, basin, lake, pond, waterway, or channel, natural or manmade, having a defined bed and banks. Whenever a watercourse consists of an ordinary channel, and in addition thereto, an overflow channel, the watercourse shall be deemed to include all property lying between the banks of the overflow channel.

(at) **Waters of the United States or waters of the U.S.** means:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate 'wetlands;"

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, 'wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) From which fish or shell fish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes of industries in interstate commerce.

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

(5) Tributaries of waters identified in paragraphs (1) through (4) of this definition:

(6) The territorial sea; and

(7) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(au) **Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs and marshes.

5-10.104. CONTINUING VIOLATION.

Every day any violation of this chapter continues, it shall constitute a separate offense.

5-10.105. RESPONSIBILITY FOR ADMINISTRATION.

This chapter shall be administered for the City by the Director or his/her designee.

5-10.106. CONSTRUCTION AND APPLICATION.

This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NPDES permits and any amendments, revisions or reissuance thereof.

5-10.107. CONFLICTS WITH OTHER LAWS.

In the event of any conflict between this chapter and any Federal or State law, regulation, or permit, that requirement which establishes the higher standard shall govern. To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order, or permit.

5-10.108. ABATEMENT OF HAZARDOUS MATERIALS.

Nothing in this chapter is intended to diminish or to preempt the authority of the Fire Department to investigate, cleanup or to abate the effects of any hazardous materials under State law or applicable sections of this Code, and any such actions of the Fire Department shall be in addition to and not in place of measures set forth in this chapter.

5-10.109. ULTIMATE RESPONSIBILITY OF DISCHARGER.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the water of the United States caused by said person. This chapter shall not create liability on the part of the City or any agents or employee thereof, for any damages, claims, or liabilities that result from any discharger's reliance on this chapter or any administrative decision, lawfully made hereunder.

5-10.110. LIABILITY.

In the event that any person does not comply with the provisions of this chapter and wastes or pollutants are discharged to the City's storm drain system, that causes or threatens to cause an adverse impact on the water quality or a receiving stream or the groundwater, that person shall be liable for any or all of the following:

(a) Any and all monetary penalties, charges, fees, cleanup costs, and other costs that may be imposed on the City by State or Federal regulatory agencies as a result of threatened or actual violation(s), including administrative and legal fees;

(b) Any and all judgments and associated costs that may be awarded to individuals or entities as a result of threatened or actual violation(s);

(c) The total costs of containment, cleanup, treatment or disposal that the Director may deem necessary to abate threatened or actual adverse impact on water quality of a receiving stream or the ground water, including consulting and administrative fees.

ARTICLE 2. REMEDIES

5-10.201. CIVIL VIOLATIONS.

In addition to any other remedies provided in this chapter, any violation of the provisions of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek any or all of the following remedies:

(a) Injunctive relief;

(b) Assessment against the violator for the costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs incurred in preparing and prosecuting the legal action as a result of violations of this chapter;

(c) Recovery for costs incurred in removing, correcting, terminating, or preventing adverse effects resulting or likely to result from the violation;

(d) Compensatory damages for loss or destruction to water quality, wildlife, fish, and aquatic life; and/or

(e) Such other relief as the court may authorize.

Assessments under this subjection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter.

5-10.202. CIVIL PENALTIES.

Any person who violates any provision of this chapter, who discharges or causes pollution, or who violates any cease and desist order, state or national law or regulation, or any other order of the Director shall be civilly liable to the City in a sum not to exceed twenty-five thousand dollars ($25,000) per violation per day. In addition, the City may require the user to pay any excess costs to the system for supplementary treatment systems, facilities, or operations needed as a result of allowing the entry of such discharges into the storm water system.

The City may petition the Stanislaus County Superior Court to impose, assess, and collect any sums levied pursuant to this chapter and Sections 54725, 54739, and 54740, et seq. of the California Government Code. In determining the amount to be recovered, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of the harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.

Notwithstanding any other provision of law, all civil penalties imposed by the court pursuant to this paragraph shall be distributed to the City. Remedies imposed pursuant to this section are in addition to and do not supersede or limit any and all other administrative, civil, or criminal remedies available at law.

5-10.203. CRIMINAL VIOLATIONS.

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

Upon a first conviction, by a fine of not exceeding two hundred and fifty dollars ($250.00) and for a second conviction or any subsequent conviction within a period of one (1) year, by a fine not exceeding five hundred dollars ($500.00).

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

5-10.204. CONCEALMENT AND ABETTING.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter is unlawful and shall constitute a misdemeanor.

5-10.205. ADMINISTRATIVE REMEDIES.

Title I, Chapter 6, of this Code established the Administrative Enforcement of Remedies for violation of this Code and applicable State codes. The general remedies include administrative abatement, summary abatement, civil penalties, administrative citation, recordation of notices of violation, notices and orders, and mediation. The City may pursue any of these administrative remedies for violations of this chapter.

5-10.206. ACTS POTENTIALLY RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT AND/OR PORTER-COLOGNE ACT.

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the Federal Clean Water Act and/or Porter-Cologne Act and may be subject to sanctions of those acts including civil and criminal penalties. In that event, any person who may be required to defend, indemnify, and hold the City harmless pursuant to Section 5-10.201 above shall also be required to do so in connection with any claim, enforcement action, or other legal action taken against the City arising out of the discharge or violation. Any enforcement action authorized under this chapter should also include notice to the violator of such potential liability. This section shall be retroactive to the fullest extent permitted by law.

5-10.207. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, is declared and deemed a nuisance.

5-10.208. REMEDIES NOT EXCLUSIVE.

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided herein shall be cumulative and not exclusive.

5-10.209. JUDICIAL REVIEW.

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this chapter.

ARTICLE 3. DISCHARGE REGULATIONS AND REQUIREMENTS

5-10.301. PROHIBITED ACTIVITIES.

(a) **Discharge of Pollutants (Illicit Discharge).** A non-storm water discharge to the City storm drain system is prohibited. All discharges of material other than storm water must be in compliance with a NPDES permit issued for the discharge.

(b) **Discharge in Violation of Permit.** Any discharge that would result in or contribute to a violation of the City's existing or future municipal NPDES permit and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, as well as the parcel owner on whose property the discharge occurs, who shall be strictly liable for its consequences, and such persons and/or owners shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

(c) **Illicit Connections.** It is a violation of this chapter to establish, use, maintain, or continue illicit connections to the City storm drain system, and to commence or continue any illicit discharge to the City storm drain system. This prohibition against illicit connections is retroactive and applies to unpermitted connections made in the past, regardless of

whether permissible under the law or practices applicable or prevailing at the time of the connection.

(d) **Roof Run-off.** Domestic roof drain leaders may not be directly connected to sidewalks and gutters. Any practical method must be administered to discharge roof run-off into landscaped areas.

(e) **Private Drains.** Storm water or surface water which is causing flooding on private property served by an on-site storm drainage system may not be discharged to the City's storm drainage facilities.

(f) **Swimming Pool Water.** Discharge of water, even if it's dechlorinated, from a swimming pool into a rockwell is prohibited. Discharge of water, even if dechlorinated, from a swimming pool into positive storm drainage facilities is allowed only with the written permission of the Director. Such discharge may not cause flooding of the street. Water from pumping out a swimming pool may be discharged to the sanitary sewer.

5-10.302. EXCEPTIONS TO DISCHARGE PROHIBITION.

The following discharges are exempt from the prohibition set forth in Section 5-10.201 above:

(a) Any discharge or connection regulated under a NPDES permit issued to the discharger provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations.

(b) Discharges from the following activities which do not cause or contribute to the violation of any standard:

(1) Water line flushing and other discharges from potable water sources,

(2) Landscape irrigation and lawn watering,

(3) Rising ground waters or springs,

(4) Passive foundation and footing drains,

(5) Water from crawl space pumps and basement pumps,

(6) Air conditioning condensate,

(7) Non-commercial vehicle washing,

(8) Natural flows from riparian habitats and wetlands,

(9) Flows from fire suppression activities, including fire hydrant flows,

(10) Diverted stream flows,

(11) Uncontaminated ground water.

(c) Any discharge which an authorized enforcement officer, the local health officer, or the Regional Water Quality Control Board determines in writing is necessary for the protection of the public health and safety, and the environment.

(d) Any discharge caused by flooding or other natural disaster which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the authorized enforcement officer.

5-10.303. REDUCTION OF POLLUTANTS IN STORM WATER.

Any person engaged in activities which will or may result in pollutants entering the City storm drain system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores, etc. The following minimal requirements shall apply:

(a) **Littering.** No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited or placed, any refuse, rubbish, garbage or other discarded or abandoned objects, articles or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, or other drainage structure, business place, or upon any public or private lot of land, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the City in front of which there is a paved sidewalk shall maintain the sidewalk free of dirt or litter to the maximum extent practicable. Sweeping from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or

roadway, but shall be disposed of in receptacles maintained as required for the disposal of solid wastes.

(b) **Bodies of Water.** No person shall throw or deposit litter in any fountain, pool, lake, stream, river or any other body of water in a park or elsewhere within the City's jurisdiction.

(c) **Standards for Parking Lots, Paved Areas, and Related Storm Water Systems.** Persons, owning, operating, or maintaining a paved parking lot the paved areas of a gas station, a paved private street, alley or road, and related storm water conveyance systems shall clean those structures as frequently and thoroughly as practical in a manner that does not result in the discharge of pollutants to the City's storm drain system.

(d) **Outdoor Storage Areas.** In outdoor areas, no person shall improperly store grease, oil or other hazardous substances. In outdoor areas, no person shall improperly store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances. To prevent discharge of hazardous substances from the property, the City may require the installation of a spill containment system.

5-10.304. CONSTRUCTION ACTIVITIES, NEW DEVELOPMENT AND REDEVELOPMENT, AND BEST MANAGEMENT PRACTICES.

(a) **Compliance with NPDES Permits and Notification of Intent.** Any industrial discharger, discharger associated with construction activity, or other discharger subject to a storm water NPDES permit issued by the United States Environmental Protection Agency, the State Water Resource Control Board, or the Regional Water Quality Control Board, shall provide a Notice of Intent, to the appropriate permitting agency and comply with all requirements of such NPDES permit.

(b) **Storm Water Pollution Prevention Plan.** The authorized enforcement officer may require any business or construction site, which may directly or indirectly discharge into the City storm drain system, that is engaged in activities which may result in pollutant discharges, to develop and implement a Storm Water Pollution Prevention Plan, which must include an employee training program and any other BMPs, programs, or process descriptions which the authorized enforcement officer deems necessary to prevent a non-storm water discharge. Business activities which may require a Storm Water Pollution Prevention Plan include, but are not limited to construction maintenance, storage, manufacturing,

assembly, equipment operations, vehicle loading or fueling, or cleanup procedures which are carried out partially or wholly out of doors.

(c) **Best Management Practices for Construction Activities.** All construction contractors performing work in the City shall conform to the Erosion and Sediment Control Standard of this ordinance, City Standard Specifications for Erosion and Sediment Control, and any other standard adopted by the City. The City may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

In addition to any adopted BMPs or other requirements for construction projects adopted by the City, the following requirements shall apply to all projects undergoing construction in the City. The requirements set forth below shall apply at the time of demolition of an existing structure or commencement of construction and until the project receives final occupancy/clearance from the City.

(1) Sediment, construction waste and other pollutants from construction sites and parking areas, including runoff from equipment at construction sites, shall be retained on the site to the maximum extent practicable.

(2) Any sediment or other materials that are not retained on the site shall be removed the same day as the projects are completed. Where determined necessary by the Director, a temporary sediment barrier shall be installed.

(3) On an emergency basis only, plastic covering may be utilized to prevent erosion of an otherwise unprotected area, along with runoff devices to intercept and safely convey the runoff.

(4) Excavated soil shall be located on the site in a manner that minimizes the amount of sediments running into the street or adjoining properties. Soil piles shall be covered until the soil is either used or removed.

(5) No washing of construction or other industrial vehicles shall be allowed on a construction site or property adjacent to a construction site.

(6) Drainage controls shall be utilized as needed, depending on the extent of the proposed grading and topography of the site, including but not limited to the following: detention ponds, sediment ponds, infiltration pits, dikes, filter berms, ditches, down drains, chutes, or flumes.

(d) **Best Management Practices for New Development and Redevelopment.** To minimize the discharge and transport of pollutants, the City may require, in its discretion, new development or redevelopment projects to implement designs which minimize storm water runoff.

Acceptable methods and standards for controlling storm water runoff volumes, rates, and pollutant load may include but are not limited to the following:

(1) **Increase Permeable Areas.** Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use porous materials for or near driveways and walkways; incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.

(2) **Direct Runoff to Permeable Areas.** Direct storm water runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and french drains. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of storm water runoff leaving the property. When designing curbs, berms or other structures, avoid designs which isolate permeable or landscaped areas.

(3) **Maximize Storm Water Storage for Reuse.** Use retention structures, subsurface areas, cisterns, or other structures to store storm water runoff for reuse or slow release.

(e) **Vegetation Clearing Limits for Construction.** The City may set forth reasonable limits on the clearing of vegetation from construction sites, including, but not limited to, regulating the length of time during which soil may be bare, and, in certain sensitive cases, prohibiting bare soil.

(f) **Compliance with Best Management Practices.** Every person undertaking any activity or use of a premises which may cause or

contribute to storm water pollution or contamination, illegal discharges, or non-storm water discharges shall comply with Best Management Practices guidelines or pollution control requirements as may be reasonably established by the authorized enforcement officer or this chapter.

(g) **Industrial Discharges.**

(1) **Coordination with Hazardous Materials Release Response Plans and Inventory.** Any business requiring a Hazardous Materials Release Response and Inventory Plan under Chapter 6.95 (commencing with Section 25500 of Division 20 of the California Health and Safety Code), shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharges and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(2) **Coordination with Hazardous Waste Generator Contingency Plan.** Any business requiring a Hazardous Waste Generator Contingency Plan and Emergency Procedures pursuant to California Code of Regulations, Title 22, Sec. 66265.51 to Sec. 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharges and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent possible.

(3) **National Categorical Storm Water Effluent Limitations.** All users listed in 40 CFR subchapter N, shall comply with the effluent limitations guidelines as set forth therein. However, where the Director has adopted effluent limitation standards more stringent than those contained in the National Categorical Water Effluent Limitations, the specific prohibitions or limits on pollutants or pollutant parameters as developed by the Director shall be deemed the applicable pretreatment standards. When local limitations more stringent than those contained in the act have been adopted, the Director shall notify all affected users of the applicable reporting requirements.

ARTICLE 4. GRADING AND EROSION CONTROL

5-10.401. PERMITS REQUIRED.

(a) Except as provided by Sections 5-10.402 or 5-10.403, it is unlawful for any person to (1) grade, fill, excavate, store or dispose of three hundred fifty (350) cubic yards or more of soil or earthly material or (2) clear and grub one (1) acre or greater of land within the City. A separate permit is required for work on each site unless sites are contiguous, have the same ownership, and are included in the approved plan. Any determination by the Director as to whether a permit is required may be appealed pursuant to the provisions of Title 1, Chapter 6, Sections 501 et seq. of this Code.

(b) The remedies for any violation of this article are set forth in Article 2 of this chapter.

5-10.402 PERMITS NOT REQUIRED.

(a) A Grading and Erosion Control Permit shall not be required to (1) grade, fill, excavate, store or dispose of less than three hundred fifty (350) cubic yards of soil or earthly material or (2) clear and grub less than one (1) acre of land within the unincorporated area of the City or (3) for the grading, filling, excavating, storing, disposing, or clearing and grubbing for:

(i) Swimming pools, basements, or footings of structures if authorized by a valid building permit;

(ii) Underground utilities;

(iii) Mining or quarry operations, if a use permit has been granted by the City;

(iv) Refuse disposal sites permitted by the Federal, State, and local governmental agencies;

(v) The production of planted agricultural crops;

(b) Notwithstanding the provisions of subsection (a) hereof exempting specified activities from the otherwise applicable permit requirements, the activities described in subsection (a) shall be subject to the standards and requirements of this chapter. Any building permit issued in

connection with the activities described in subsection (a) or in connection with any building permit issued for a single family residence on an individual lot may be conditioned on compliance with the standards and requirements of this chapter. Any inspections required pursuant to this chapter or any other chapter of Title 9 of this Code shall include a determination of compliance with the purpose of this chapter.

5-10.403. EXEMPTIONS.

A Grading and Erosion Control Permit shall not be required for, and the provisions of this chapter shall not apply to, grading, filling, excavating, storing, disposing, or clearing and grubbing for situations where, in the determination of the Director, there is a clear and imminent danger to life or property, or threat of loss of services for which there is an overriding public concern. The Director may, at the time of granting such exemption, impose conditions in accordance with Section 5-10.405. Such exemption must be requested from the Director and approved in writing prior to the commencement of any activity regulated by this chapter.

5-10.404. IMPROVEMENT PLANS.

Where an improvement plan is being processed in conjunction with either an approved tentative, parcel, or final map; or a development plan is being processed in accordance with the provisions of Title 10 of this Code, such plan shall also be considered as a request to undertake those activities regulated by this chapter. Such plans shall be reviewed and approved, conditionally approved or denied in accordance with the standards and requirements set forth in this chapter and other applicable City specifications. For an approved tentative, parcel, or final map, or development plan; any submitted improvement plans shall include provisions to require compliance with the standards and requirements of this chapter.

5-10.405. APPLICATION CONTENTS.

The application for a Grading and Erosion Control Permit shall be filed in the office of the Director, and on a form provided by the City and submitted with such information as is prescribed by the Director, including the following:

(a) The name, address and telephone number of the applicant and the applicant's engineer;

(b) The address and parcel number of the location for which the permit is sought;

(c) A copy of all entitlements granted for the property by the City, including conditions of approval and the environmental documentation;

(d) A copy of the submitted NOI for the site if applicable;

(e) Plans conforming with the requirements of Section 5-10.406;

(f) Specifications conforming with the requirements of Section 5-10.407 if the Director expressly requires this information;

(g) Right of entry conforming with the requirements of Section 5-10.408;

(h) Fees conforming with the requirements of Section 5-10.409;

(i) The Director may require other information as necessary to fulfill the intent of this chapter.

5-10.406. PLANS.

Plans shall be prepared by a civil engineer in conformance with the City of Modesto's Erosion and Sediment Control Standard, and Specifications for Construction Activities and shall include, but are not limited to, the following:

(a) A vicinity map indicating the site location and significant geographic features;

(b) A site delineation map indicating boundary lines of the property and each lot or parcel into which the site is proposed to be divided;

(c) The location of on-site and surrounding watercourses and wetlands, existing and proposed drainage systems, and drainage area boundaries and acreages. Additional hydrologic analysis shall be provided as required by the Director;

(d) The location of existing and proposed roads and structures on the site, and on adjacent property;

(e) Accurate contours at two (2) foot intervals for slopes up to ten (10) percent, and five (5) foot intervals for slopes over ten (10) percent showing topography of existing ground and location of existing vegetation, including all oak trees, all other trees over six (6) inches in diameter measured at four and one-half (4½) feet above the ground, groves of trees, and natural features such as rock outcroppings. Spot

elevations will be required where relatively flat conditions exist. The spot elevations or contour lines shall be extended off-site for a minimum distance of fifty (50) feet, or one hundred (100) feet in flat terrain;

(f) Elevations, location, extent and slope of all proposed grading shown by contours, cross-sections or other means, and location of any disposal areas, fills or other special features to be included in the work;

(g) A statement of the quantity of material to be excavated, the quantity of material to be filled, whether such excavation or fill is permanent or temporary, and the amount of such material to be imported to or exported from the site;

(h) A delineation of the area to be cleared and grubbed;

(i) A statement of the estimated starting date, grading completion date, and when site improvements will be completed;

(j) The location, implementation schedule, and maintenance schedule of all erosion control measures and sediment control measures to be implemented or constructed prior to, during or after the proposed activity;

(k) A description of measures designed to control dust and stabilize the construction site road and entrance;

(l) A description of the location and methods of storage and disposal of construction materials;

(m) Any additional plans or control measures required by the Director.

5-10.407. SPECIFICATIONS.

When required by the Director, the following information shall be prepared and signed by a civil engineer, and submitted with the application for a Grading and Erosion Control Permit:

(a) Preparation of natural ground to occur prior to placement of fill, including provisions for removal of organic or deleterious materials;

(b) Quality control of native or imported fill material;

(c) Degree of compaction;

(d) Gradient of cut and fill slopes;

(e) Geotechnical engineering or engineering geology reports used in the development of the above information.

5-10.408. RIGHT OF ENTRY.

Whenever any portion of the work requires entry onto adjacent property for any reason, the applicant shall obtain the written consent of the adjacent property owner or his or her authorized representative, and shall file a copy of said consent with the Director before a permit for such work may be issued.

5-10.409. PERMITTING FEES.

(a) A fee shall be paid by the applicant to the City for plan checking and review, materials testing, site inspections, processing, permit issuance and other services performed by the Community Development Department in connection with the investigation of an application for, and administration of, a Grading and Erosion Control Permit. The fees for these services shall be set by resolution of the City Council in the amount of the actual costs incurred by the City based on the hourly rate of the personnel performing the services, including all overhead costs.

(b) Any applicant desiring a Grading and Erosion Control Permit shall pay a minimum deposit in an amount to be set by resolution of the City Council. This deposit shall be deducted from the permitting fees set forth in Section 5-10.409.

(c) The Director shall not perform any services for an applicant if an amount owing is not paid within twenty-eight (28) days, until such time that all amounts owing and interest thereon is paid in full. The balance of fees owing shall be paid in full prior to final inspection. In the event the actual costs do not exceed the minimum deposit amount, the City shall reimburse the applicant the difference between the deposit amount and the actual total charges.

5-10.410. ENVIRONMENTAL REVIEW.

Grading and Erosion Control Permits, and amendments thereto, are subject to the requirements of the California Environmental Quality Act (CEQA). The applicant shall furnish a copy of the application to the Director for preparation and processing of the appropriate environmental documents. The Director is

authorized to hold public hearings on Negative Declarations, Draft Environmental Impact Reports and Final Environmental Impact Reports prepared on applications for Grading and Erosion Control Permits, for the purposes of receiving comments from the public. The Director shall not approve a Grading and Erosion Control Permit prior to considering the applicable environmental document and complying with the requirements of CEQA and City procedures for preparation and processing of environmental documents.

5-10.411. APPLICATION REVIEW.

The Director shall review and approve, conditionally approve or deny Grading and Erosion Control Permit applications and improvement plans in accordance with the provisions of this chapter. Grading and Erosion Control Permit applications and improvement plans shall be issued or approved unless the Director finds in writing that:

(a) The applicant has failed to provide sufficient or adequate plans, information or other data necessary to allow determinations respecting compliance with the provisions of this chapter or City specifications; or

(b) The environmental review has not been completed, other provisions of this Code or of State law pertaining to environmental review have not been satisfied, or the activity will have significant adverse environmental impacts, which cannot be substantially mitigated. Where the activity will have significant impacts, the Director may approve the permit in accordance with the provisions of this chapter and the California Environmental Quality Act of 1970; or

(c) The proposed activity will violate provisions of this chapter, City specifications, or State or Federal laws, and such violation cannot be resolved by the imposition of conditions pursuant to Section 5-10.413; or

(d) The proposed activity will adversely affect surrounding properties and public rights-of-way, the water quality of watercourses, or existing drainage.

5-10.412. CONTENTS OF PERMITS.

The Grading and Erosion Control Permit shall include but not be limited to a complete description of the activity for which it is issued, the property for

which it is issued, the date of issuance and the date of expiration, and a description of any and all conditions upon which the permit has been issued. The permit shall be kept at the site during the activity for which the permit was issued. A Grading and Erosion Control Permit authorizes the permittee to undertake only that activity described in the permit and only on the property for which the permit is issued.

5-10.413. CONDITIONS.

The Director may at the time of issuance of the Grading and Erosion Control Permit impose such conditions as are necessary to ensure compliance with this chapter, City specifications, or State or Federal laws. Such conditions shall be reasonably related to the public needs created by the proposed activity. Conditions to mitigate environmental impacts of the activity may also be imposed by the Director.

5-10.414. PROCEDURE FOR IMPOSITION.

Any condition imposed pursuant to the provisions of Section 5-10.413 shall be embodied, together with the reasons therefor, in the permit and served upon the applicant or permittee.

5-10.415. TERM.

A Grading and Erosion Control Permit shall be effective on the date of issuance, and shall remain in force for one (1) year, unless suspended or revoked by the Director, or voluntarily relinquished by the permittee. Before the expiration of a permit, a permittee may apply for an extension of time in which to complete the activity. One (1) extension of not more than one (1) year may be granted by the Director.

5-10.416. TRANSFERABILITY.

A Grading and Erosion Control Permit shall not be transferable or assignable from one person to another, unless approved by the Director and the person to whom the permit is to be transferred agrees to comply with the requirements of the original permit and to any conditions imposed therein.

5-10.417. DENIAL OF PERMIT.

The Director shall deny an application for a Grading and Erosion Control Permit if any of the findings in Section 5-10.411 are made. Notice shall be

served on the applicant, in writing with the reasons stated therefor, pursuant to the provisions of Section 1-6.205 of this Code.

5-10.418. AMENDMENT OF PERMIT.

Any proposed changes in the activity authorized by the permit shall be submitted to the Director for review. The permittee shall not undertake or allow activity to occur which does not conform with the plans or conditions of the original permit, unless approved by the Director. The Director shall review any proposed changes in the same manner and pursuant to the same standards as the original application.

5-10.419. REQUEST FOR INSPECTION.

Requests for inspection of any site subject to the provisions of this chapter shall be made to the Director at the following phases of activity. Such a request shall be made at least two (2) full business days in advance of the desired day of inspection.

(a) When the site has been cleared of vegetation and unapproved fill, and scarified, benched, or otherwise prepared and before any fill is placed; and the erosion control and sediment control measures to be implemented in this phase have been placed;

(b) When approximate final elevations have been established; drainage terraces, swales and other drainage devices have been graded and are ready for paving; berms have been installed at the top of slopes; and the erosion control and sediment control measures to be implemented in this phase have been placed;

(c) When work has been completed; slope planting established and irrigation systems installed, if required; and the erosion control and sediment control measures to be implemented in this phase have been placed.

The Director, upon inspection of the site, shall notify the person or permittee (1) that the phase of work inspected is approved, or (2) what deficiencies, corrections or other work needs to be completed before approval of that phase.

5-10.420. REPORTS.

Notification to the Director shall be required within twenty-four (24) hours following the failure of authorized measures to prevent erosion or sediment from leaving the construction site; the deposit of debris or material on adjoining

property or public rights-of-ways, or; the interference with any existing watercourses or drainage facilities.

5-10.421. CESSATION OF WORK.

If activity is ceased on site for any reason for a period in excess of fifteen (15) calendar days, and before the activity being conducted under the permit is completed, all necessary steps shall be taken to prevent damage through erosion or sedimentation to adjoining properties or to the public rights-of-way or to any natural or artificial drainage blend into the adjacent terrain. The Director shall be notified as soon as possible, but no later than fifteen (15) calendar days, after the cessation of work.

5-10.422. COMPLETION OF WORK.

After completion of work in accordance with and conforming with an approved permit and delivery to the City of record plans and a grading plan as finally implemented, and payment of all fees, the Director shall issue a certificate of completion.

5-10.423. INSPECTION.

The Director may enter and inspect property for which a Grading and Erosion Control Permit has been applied to determine applicability or compliance with this chapter and City specifications. The Director may also inspect any and all property on which grading, filling, clearing and grubbing or excavating activities are occurring.

5-10.424. GROUNDS FOR SUSPENSION OR REVOCATION.

A Grading and Erosion Control Permit may be suspended if:

(a) The physical state of the property differs from the descriptions, plans or information furnished to the Director in the permit application; or

(b) The activity does not conform to the approved plans, grades, conditions or terms of the permit; or

(c) The activity is in violation of this chapter, City specifications, or State or Federal laws; or

(d) Any reports required to be submitted to the Director have not been submitted; or

(e) Any of the information contained in reports submitted to the Director is in error.

5-10.425. METHOD OF SUSPENSION OR REVOCATION.

The Director may suspend or revoke a Grading and Erosion Control Permit by issuing a notice of suspension or revocations, stating the reasons therefor, and serving same, upon the permittee. Upon suspension or revocation of a permit, in accordance with the provisions of this section, the permittee shall immediately cause all grading, filling, excavating, storing, disposing or clearing and grubbing to cease until written authorization is received from the Director to proceed with the activity.

The permittee shall have twenty (20) calendar days after the date of service of the suspension or revocation in which to file an appeal in accordance with the provisions of Sections 1-6.501 et seq. If such an appeal is filed, the suspension or revocation shall remain in force and be effective until a final decision on the appeal is issued by the hearing officer.

If the Director suspends a permit, such permit may either be reinstated or revoked by the Director, depending upon whether the permittee corrects the grounds stated for the suspension in the notice issued by the Director. If the permittee fails to remedy the grounds for suspension within a time period specified by the Director, but in no event later than sixty (60) calendar days, the Director shall revoke the permit.

5-10.426. LAWS NOT ENFORCED.

There are many ordinances and other laws applicable to activities permitted under this chapter which are not sought to be enforced under this permitting process. Such laws include, but are not limited to, building, floodplain management, and land development measures. The issuance of a Grading and Erosion Control Permit shall not be deemed to constitute a representation that the activity so permitted or the property upon which such activity is occurring complies with such other ordinances or other laws. Nor shall the existence of such an unrevoked permit be deemed to preclude any criminal or civil remedy for violation of such other ordinances or laws. The possession of a Grading and Erosion Control Permit shall not be deemed to relieve the holder of the requirement to apply for or obtain any other license or permit required by ordinance or statute.

ARTICLE 5. INSPECTION AND MONITORING

5-10.501. INSPECTION AUTHORITY.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of this chapter, the agent may in accordance with Section 1-6.104 of this Code, enter such building or premises to inspect the same or perform any duty imposed upon the officer by this chapter.

If an owner, tenant, occupant, agent or other responsible party refuses to grant the City permission to enter or inspect, the City may seek an administrative inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm drain system, or similar factors.

5-10.502. AUTHORITY TO SAMPLE AND ESTABLISH SAMPLING DEVICES.

With the consent of the owner or occupant or pursuant to a search warrant, any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the authorized enforcement officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recording of the activities onsite.

5-10.503. MONITORING, ANALYSIS AND REPORTING AUTHORITY.

Any authorized enforcement officer may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analysis and furnish such reports as the officer may specify. The burden, including costs, of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis, and reports and the benefits to be obtained. The recipient of such request shall undertake and

provide the monitoring, analysis and/or reports requested. In the event the owner or operator of a facility subject to a monitoring and/or analysis order fails to conduct required monitoring and/or analysis and furnish the required reports in the form required, the authorized enforcement officer may cause such monitoring and/or analysis to be performed and the cost, therefore, including the reasonable additional administrative costs incurred by the City shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property.

5-10.504. NOTIFICATION OF SPILLS.

Any person owning, occupying or in charge of a premises or responsible for emergency response for a facility have a personal responsibility to train facility personnel and maintain notification procedures to assure immediate notification is provided to the City of any suspected, confirmed, or unconfirmed release of materials, pollutants or wastes creating a risk of discharge into the City storm drain system. As soon as any person owning, occupying or in charge of the premises or responsible for emergency response for a facility has knowledge of any suspected, confirmed or unconfirmed release, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall immediately notify the City of the occurrence by telephoning the illicit discharge hotline and confirming the notification by written correspondence to the Director within twenty-four (24) hours of any known or confirmed pollutant.

5-10.505. CERTIFICATE OF EXEMPTION.

The Director may issue a certificate of exemption from the annual sampling requirements of the California General Industrial Permit to any user upon application. If an industry can demonstrate that it has implemented BMPs and has eliminated onsite risks of storm water pollution, that industry may be granted an exemption from sampling. The specific criteria for exemption will be developed by the City and approved by the Regional Water Quality Control Board (RWQCB) prior to implementation of the program. The filing or granting of a certificate of exemption shall not relieve the user from its obligation to comply with the following conditions at the time application is made:

(a) The user shall develop and implement an effective SWPPP and identify and implement appropriate BMPs for the facility.

(b) The user shall make available monitoring data sufficient to substantiate the effectiveness of the BMPs.

(c) The user shall meet all requirements of the general permit including certifications regarding elimination of illicit connections.

Users requesting a Certificate of Exemption must submit their NOI and SWPPP to the Storm Drainage Administration and Monitoring Division with supporting data as appropriate. Applications shall be submitted by May 1 of the year preceding the year for which the exemption is being requested. Applications to renew/extend Certificates of Exemptions made by the same user for the same use covered by the previously granted Certificate of Exemption, shall be requested in writing and consist of (1) visual monitoring and annual inspection reports, (2) revisions to the SWPPP, (3) annual report to RWQCB, and (4) any supplemental data deemed appropriate to support the application, unless otherwise requested by the City.

Certificate of Exemptions are issued to a specific user for a specific site, not to exceed five (5) years in duration. A certificate shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation, and shall not extend to an increase in usage, discharge, or operation by an existing user without the written approval of the City. Any succeeding owner or user shall apply for a sampling exemption certificate sixty (60) days prior to change of ownership or the exemption shall expire.

ARTICLE 6. ENFORCEMENT AUTHORITY

5-10.601. ENFORCEMENT POWERS.

(a) The enforcement officer may utilize any enforcement powers authorized or provided in this Code. These include, but are not limited to, administrative penalties as set forth in Title 1, Chapter 6, Article 5 of this Code.

(b) The enforcement officer may exercise any of the following supplemental enforcement powers as he deems necessary or advisable:

(1) **Notice to Clean and Abate:** Whenever an authorized enforcement officer finds any oil, earth dirt, cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the City storm drain system or natural water course, he or she may give notice to remove and abate such oil, earth, dirt, cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of

such notice shall undertake the activities as described in the notice.

In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the authorized enforcement officer may cause such required activities as described in the notice and the cost thereof shall be invoiced to the owner of the property pursuant to Title 1, Chapter 6, Article 7 of the this Code.

(2) **Storm Water Pollution Prevention Plan:** The authorized enforcement officer shall have the authority to establish elements of a Storm Water Pollution Prevention Plan, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter.

(3) **Best Management Practices:** The authorized enforcement officer may establish the requirements of Best Management Practices for any premises.

(4) **Compliance Schedule:** Any activity not complying with the strictest of any applicable Federal or State standards or regulations covering the discharge of storm water or surface water, may require the Director or his or her designee to develop and implement a schedule for compliance for any measure or facilities as may be necessary to meet said standards and regulations. Failure to complete the compliance schedule by any specified date shall constitute a violation of this chapter.

(5) **Cease and Desist Orders:** When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall:

(i) Comply with the requirement;

(ii) Comply with a time schedule for compliance; and/or

(iii) Take appropriate remedial or preventive action to prevent the violation from recurring.

Corrected 8-31-99

(6) **Abatement:** The authorized enforcement officer may order the abatement of any discharge from any source to the storm water drain system when, in the opinion of the authorized enforcement officer, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable.

(7) **Criminal Citation:** The Director or his/her authorized enforcement officers shall have and are hereby vested with the authority to arrest or cite any person who violates any section of this Code in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanor infractions as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereafter amended).

Such authorized enforcement officers may issue a citation and notice to appear in the manner prescribed by Chapter 5 of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees acting the course and scope of employment pursuant to this chapter.

5-10.602. APPEAL.

Any person served with an administrative citation, administrative notice and order, notice to clean and abate, cease and desist order, compliance schedule or is aggrieved by a decision of the Director or his or her designee, may appeal pursuant to the provisions set forth in Title 1, Chapter 6, Article 5 of this Code.

(6) **Abatement:** The authorized enforcement officer may order the abatement of any discharge from any source to the storm water drain system when, in the opinion of the authorized enforcement officer, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable.

(7) **Criminal Citation:** The Director or his/her authorized enforcement officers shall have and are hereby vested with the authority to arrest or cite any person who violates any section of this Code in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanor or infractions as prescribed by Chapters 5, 5c, and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereafter amended).

Such authorized enforcement officers may issue a citation and notice to appear in the manner prescribed by Chapter 5 of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees acting the course and scope of employment pursuant to this chapter.

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Any person served with an administrative citation, administrative notice and order, notice to clean and abate, cease and desist order, compliance schedule or is aggrieved by a decision of the Director or his or her designee, may appeal pursuant to the provisions set forth in Title 1, Chapter 6, Article 5 of this Code.

ARTICLE 7. FUNDING

5-10.701. STORM DRAINAGE USER CHARGE.

The City is implementing activities to improve the environmental quality of storm water by decreasing the amount of pollutants that enter the system. Each person owning property within the City limits shall pay a storm drainage user charge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Director. The user charge is based on the size, type of, and use and intensity of use of property and shall go to pay the costs of the City NPDES program, operation and maintenance of the storm drain system, improvements and additions to the storm drain system, and any other costs associated with the storm drain enterprise. Property owners shall remain responsible for the cost of storm management and quality control on their property. The Council shall have the power to establish, by agreement or resolution, the rate or rates to be charged and the method of collecting the storm drainage user charge for properties outside the boundaries of the City limits for those properties which discharge into the City's storm drain system.

5-10.702. INDUSTRIAL ACTIVITIES FEES.

Council shall, from time to time, establish by resolution a schedule of industrial activities fees. These fees shall apply to parcels which are required by Federal law to obtain a National Pollutant Discharge Elimination System (NPDES) permit regulating the discharge of storm water and surface water from the site of an industrial activity. The fees shall correspond to the costs expended by the City in monitoring the discharge from such a site of industrial activity for compliance with the conditions of its NPDES permit, as well as any costs associated with damage to or degradation of City's storm drain system.

5-10.703. CONSTRUCTION ACTIVITIES FEES.

Council shall, from time to time, establish by resolution a schedule of construction activities fees. These fees shall apply to parcels which are required by Federal law to obtain a National Pollutant Discharge Elimination System (NPDES) permit regulating the discharge of storm water and surface water from the site of construction activity. The fees shall correspond to the costs expended by the City in monitoring the discharge from such a site of construction activity for compliance with the conditions of its NPDES permit, as well as any costs associated with damage to or degradation of City's storm drain system.

5-10.704. ADMINISTRATIVE REVIEW.

Any parcel owner who disputes the amount of any storm drainage user charge or who requests a deferred payment schedule thereof must request a revision or modification of such charge in writing from the Director. The Director may notify any owner or occupier and take appropriate action in the event the Director considers the charge to be inadequate or improper.

5-10.705. COLLECTION, INTEREST AND PENALTIES.

(a) The City's Finance Director is authorized to have the charges imposed by this article collected by the county in conjunction with the county's collection of property tax revenues for the City. In the event that the county collects the charges imposed by this article, the imposition of penalties, additional fees and interest upon owners who fail to remit any charge imposed by this chapter, or who fail to remit any delinquent remittance under this chapter, shall be subject to and governed by the rules, regulations and procedures utilized by the county in its collection of property taxes and charges for the City, and in its collection of this additional charge for the City.

(b) Every penalty imposed and such interest as accrues under the provisions of this article shall become a part of the charges herein required to be paid.

(c) Every assessment, cost, fee, charge, penalty, or other monies collected under this chapter shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter.

5-10.706. DELINQUENT CHARGES REMEDIES.

(a) **Lien**. Any and all monetary penalties, charges, fees, or other costs incurred for violation of this chapter may be billed to the owner of the property. If the invoice remains unpaid for sixty (60) days, a lien shall be placed upon and against such premises, and any steps authorized by law may be taken by the City to enforce payment of such lien.

(b) The amount of any charge, penalty, and interest imposed under the provisions of this article shall be deemed a debt to the City.

(c) The remedies established in this article are cumulative and in addition to any other remedies available under this chapter for collection of the charges, penalties and fees imposed herein.

5-10.707. COSTS OF ENFORCEMENT.

If the City prevails in any administrative, civil, or criminal proceeding initiated under this chapter, the City shall be entitled to seek reimbursement for all costs incurred in connection with said proceeding. In any such action, the City shall be entitled to reasonable reimbursement which may include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expense, cost of administrative hearings, attorney's fees, and costs of lawsuit.

5-10.708. NO TAKING.

The provisions of this chapter shall not be construed or operate to deprive any property owner of substantially all of the market value of such owner's property or otherwise constitute an unconstitutional taking without compensation.

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 11th day of May, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3138-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 18th day of May, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999

Print

ORDINANCE NO. 3139 -C.S.

AN ORDINANCE AMENDING SECTION 15-3-9 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(73), AS AN ADDITION TO P-D(73), PROPERTY LOCATED ON THE NORTH SIDE OF SPANOS COURT EAST OF COFFEE ROAD. (MID-VALLEY ENGINEERING/MEMORIAL HOSPITAL ASSN.)

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 the following described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(73), as an addition to P-D(73):

P-O to P-D(73), as an addition to P-D(73)

All that certain real property situate in a portion of the southwest quarter of Section 15, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the County of Stanislaus, State of California, described as follows:

All of Parcel B as shown on that Parcel Map filed in the office of the Recorder of Stanislaus County, California, on December 10, 1986, in Volume 38 of Parcel Maps at Page 99;

Also, the northerly 350.01 feet measured at right angles of the southwest quarter of the southwest quarter of above mentioned Section 15.

Including also the southerly 30 feet of 60-foot Celeste Drive, located immediately adjacent to the above-described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(73) Zone, as an addition to P-D(73), 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. Hospital storage facility, medical/professional office for uses as allowed in the P-O Zone.

2. Off-street parking as shown on the approved plans.

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 11th day of May, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED:
RICHARD A. LANG, Mayor

ATTEST:

By
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By
Community Development Department
Development Services

Ord. No. 3139-C.S.

FINAL ADOPTION CLAUSE

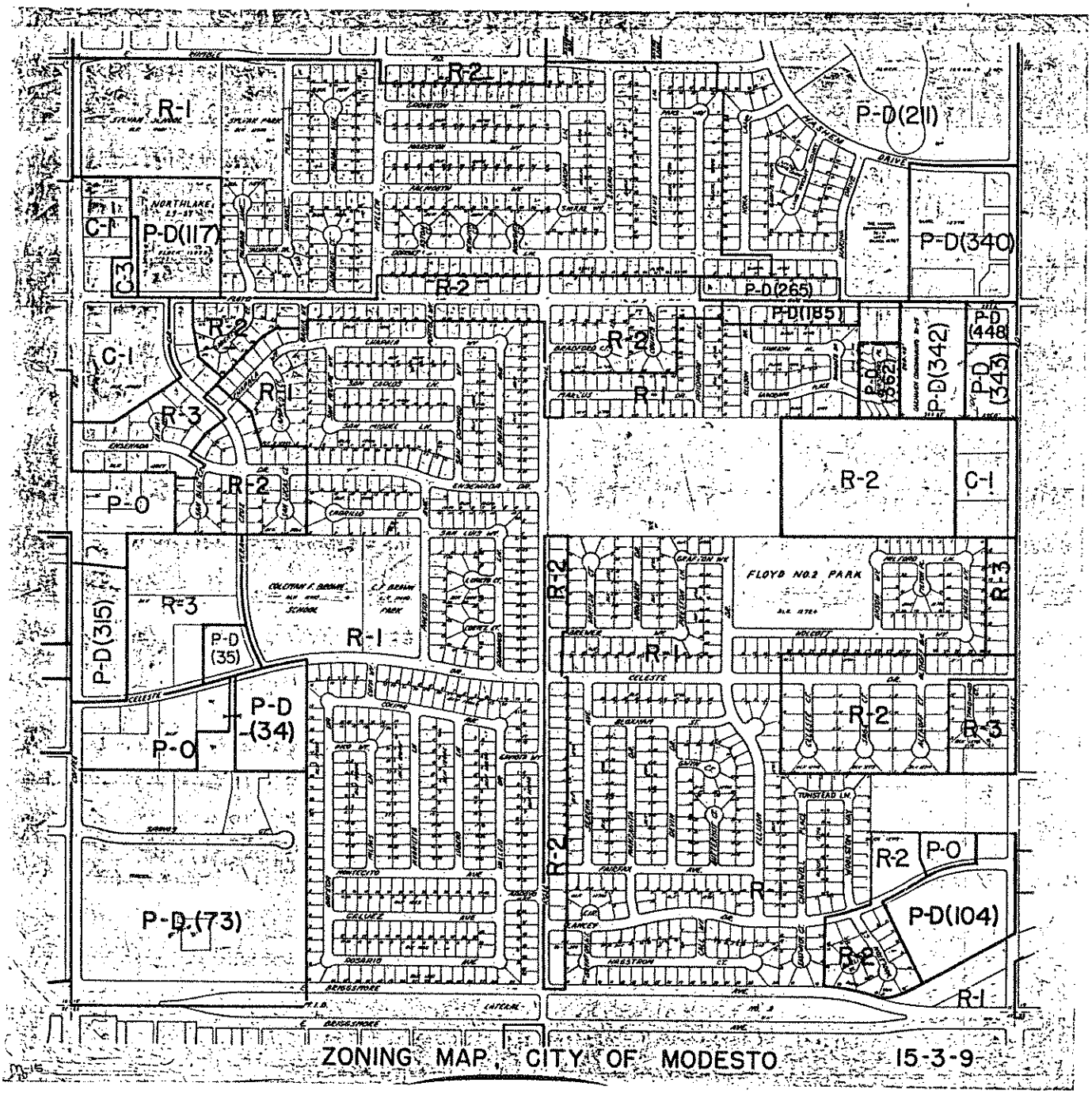
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of May, 1999, Councilmember Dobbs, moved its final adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Friedman

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999



ZONING MAP, CITY OF MODESTO 15-3-9

Print

ORDINANCE NO. 3140 -C.S.

AN ORDINANCE AMENDING SECTION 8-4-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (EDWARD T. TAYLOR)

WHEREAS, a verified application for an amendment to Section 8-4-9 of the Zoning Map was filed by Edward T. Taylor on February 16, 1999, to reclassify a portion of Planned Development Zone, P-D(498), to Low Density Residential Zone, R-1, property located on the south side of Algen Avenue west of Crows Landing Road, and

WHEREAS, after a public hearing held on April 5, 1999, 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. 99-33, adopted on April 5, 1999, the Planning Commission recommended to the Council that the application of Edward T. Taylor to amend Section 8-4-9 of the Zoning Map to reclassify the hereinafter described property from a portion of Planned Development Zone, P-D(498), to Low Density Residential Zone, R-1, be approved,

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

SECTION 1. After a public hearing held on May 11, 1999, in the 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 Low-Density Residential Zone is compatible with surrounding development.

2. That the requested Residential Zone is consistent to and within an area designated by the General Plan for Residential Uses (R).

SECTION 2. ZONING CHANGE. Section 8-4-9 of the Zoning Map is hereby amended to reclassify the following described property from a portion of Planned Development Zone, P-D(498), to Low Density Residential Zone, R-1:

P-D(498) to R-1

All that certain real property situate in a portion of the southeast quarter of Section 8, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, in the County of Stanislaus, State of California, described as follows:

Lots 73, 74, 75, 76, 82, 83, 84, and 85 in Block 9851 of the Algen Gardens subdivision, according to the official Map, thereof, filed in the office of the Recorder of Stanislaus County, California, on June 15, 1994, in Volume 36 of Maps at Page 81.

Including also the south 30 feet of Algen Avenue being immediately adjacent to the above described property.

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 11th day of May, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3140-C.S.

FINAL ADOPTION CLAUSE

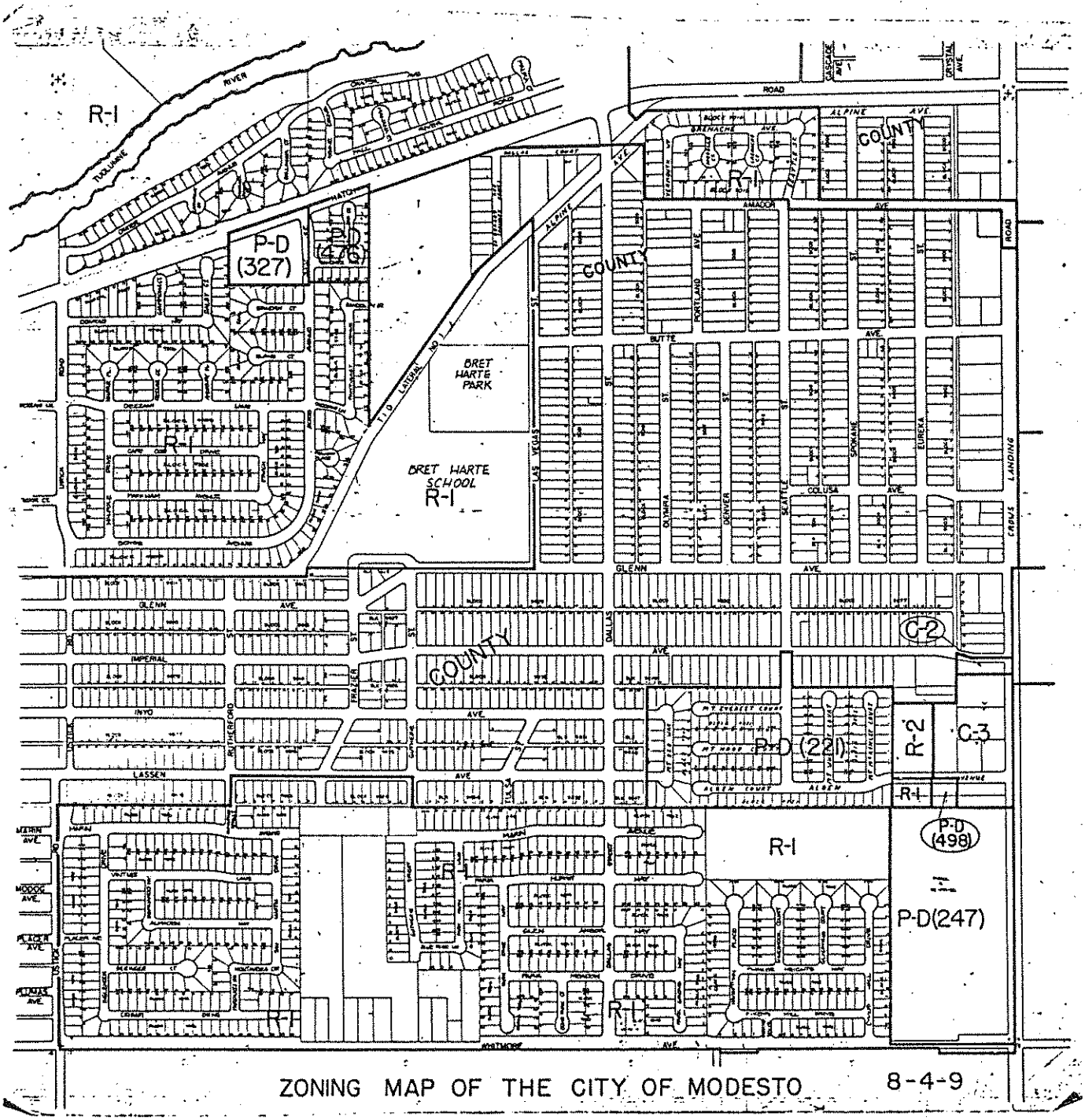
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of May, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: June 17, 1999



ZONING MAP OF THE CITY OF MODESTO 8-4-9

Print

ORDINANCE NO. 3141-C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 25 OF THE VILLAGE ONE SPECIFIC PLAN, TO ALLOW DEVELOPMENT IN THE PRECISE PLAN TO UTILIZE PUBLIC STREETS, PROPERTY LOCATED ON THE EAST SIDE OF MILLBROOK AVENUE SOUTH OF FLOYD AVENUE. (LOWE DEVELOPMENT)

WHEREAS, the City Council, on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that precise plans be adopted prior to any development in the Village One area, and

WHEREAS, the Village One Specific Plan is divided into 35 precise plan areas, and a precise plan is required prior to development in each area, and

WHEREAS, Ordinance No. 2997-C.S., which became effective on September 12, 1996, adopted a Precise Plan for Area No. 25 of the Village One Specific Plan, including conditions and provisions for a development agreement relating to property located on the southeast corner of Floyd Avenue and Esta Avenue, and

WHEREAS, Ordinance No. 2998-C.S., which became effective on September 12, 1996, rezoned the property encompassed by Precise Plan for Area No. 25 to Specific Plan-Overlay Zone, SP-O, and Low Density Residential Zone, R-1, as Underlying Zoning, and

WHEREAS, an application was filed by Lowe Development for an amendment to the Precise Plan for Area No. 25 to allow development in the precise plan to utilize public streets, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on April 19, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution 99-34, recommended to the City Council approval of an amendment to the Precise Plan for Area No. 25, and

WHEREAS, said matter was set for a public hearing of the Council of the City of Modesto to be held on May 18, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, a duly noticed public hearing to consider said recommendations of the Planning Commission was held at the date and time above mentioned, and

WHEREAS, the Council declares that said amendment to the Precise Plan for Area No. 25 is required by public necessity, convenience, and general welfare for the following reason:

> That the proposed amendment to Precise Plan No. 25 is consistent with the General Plan and Village One Specific Plan.

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

SECTION 1. APPROVAL OF AMENDMENT TO THE PRECISE PLAN. The City Council has reviewed and considered the amendment to the Precise Plan for Area No. 25 of the Village One Specific Plan to allow development in the precise plan to utilize public streets as recommended by the Planning Commission, and the Council does hereby approve said amendment to the Precise Plan for Area No. 25. A copy of said amendment is attached hereto.

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 18th day of May, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

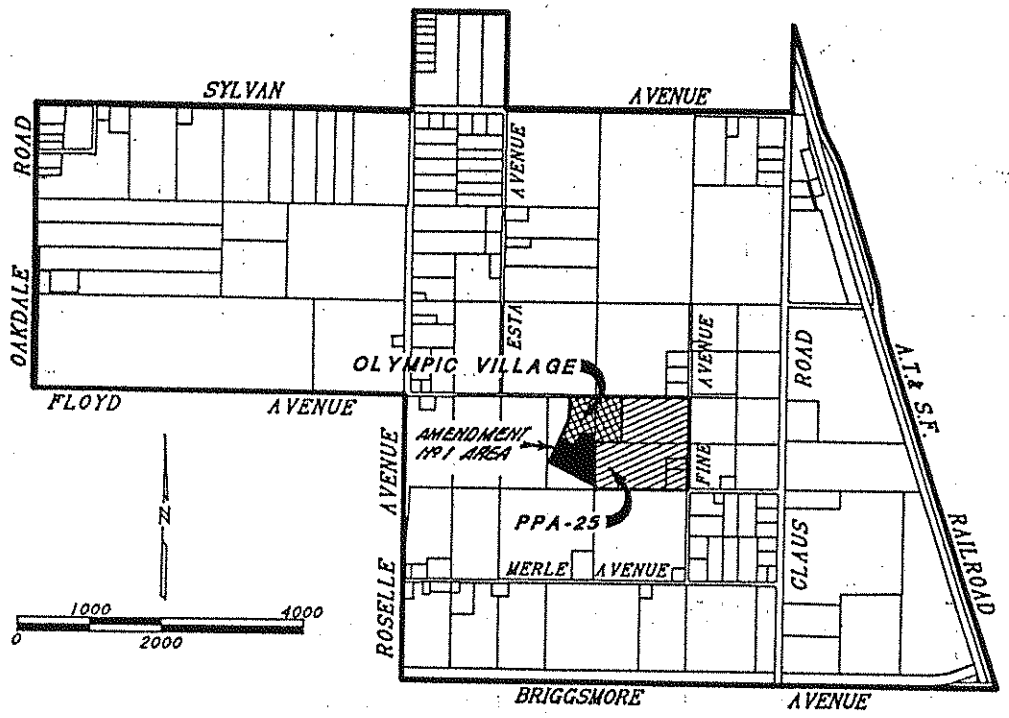
By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

VILLAGE ONE
PRECISE PLAN AREA NO. 25
AMENDMENT NO. 1



UNDEVELOPED REMAINDER OF
"OLYMPIC VILLAGE"
MODESTO, CALIFORNIA

MAY 1999
RECEIVED

PREPARED BY:

DELAMARE-FULTZ
ENGINEERING AND SURVEYING
3421 TULLY ROAD, SUITE J, MODESTO, CA 95350
TELEPHONE (209) 529-7450

JANUARY 4, 1999

Job 9624B

AMENDMENT NO. 1 TO
PRECISE PLAN AREA NO. 25
AND
"OLYMPIC VILLAGE"

DEVELOPMENT PLAN

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I. Introduction

Project Description
The proposed project entails a request for approval and adoption of an amendment to the development plan for Precise Plan Area No. 25, for the westerly portion of the above mentioned Precise Plan Area.

Project Applicant
Lowe Development
609 Cherry Hill Court
Modesto, CA 95356
Tel. (209) 523-4223
FAX (209) 523-0969

Project Planners, Engineers, and Surveyors
DeLaMare-Fultz Engineering
3421 Tully Road, Suite J
Modesto, CA 95350
Tel. (209) 529-7450
FAX (209) 529-0457

Planning Area
Precise Plan Area No. 25 is bordered by Floyd Avenue to the north, Fine Avenue to the east, Sharon Avenue extension (Village One Road "K") to the south and Millbrook Avenue extension to the west.

Special Considerations
"Olympic Village" is to be developed with single family residences only, at a density consistent with the Village Residential Standard.

Property Owner List
Property owners within Precise Plan Area No. 25

APN 52-23-10
Billie C. Holloman
2313 Fine Avenue
Modesto, CA 95355

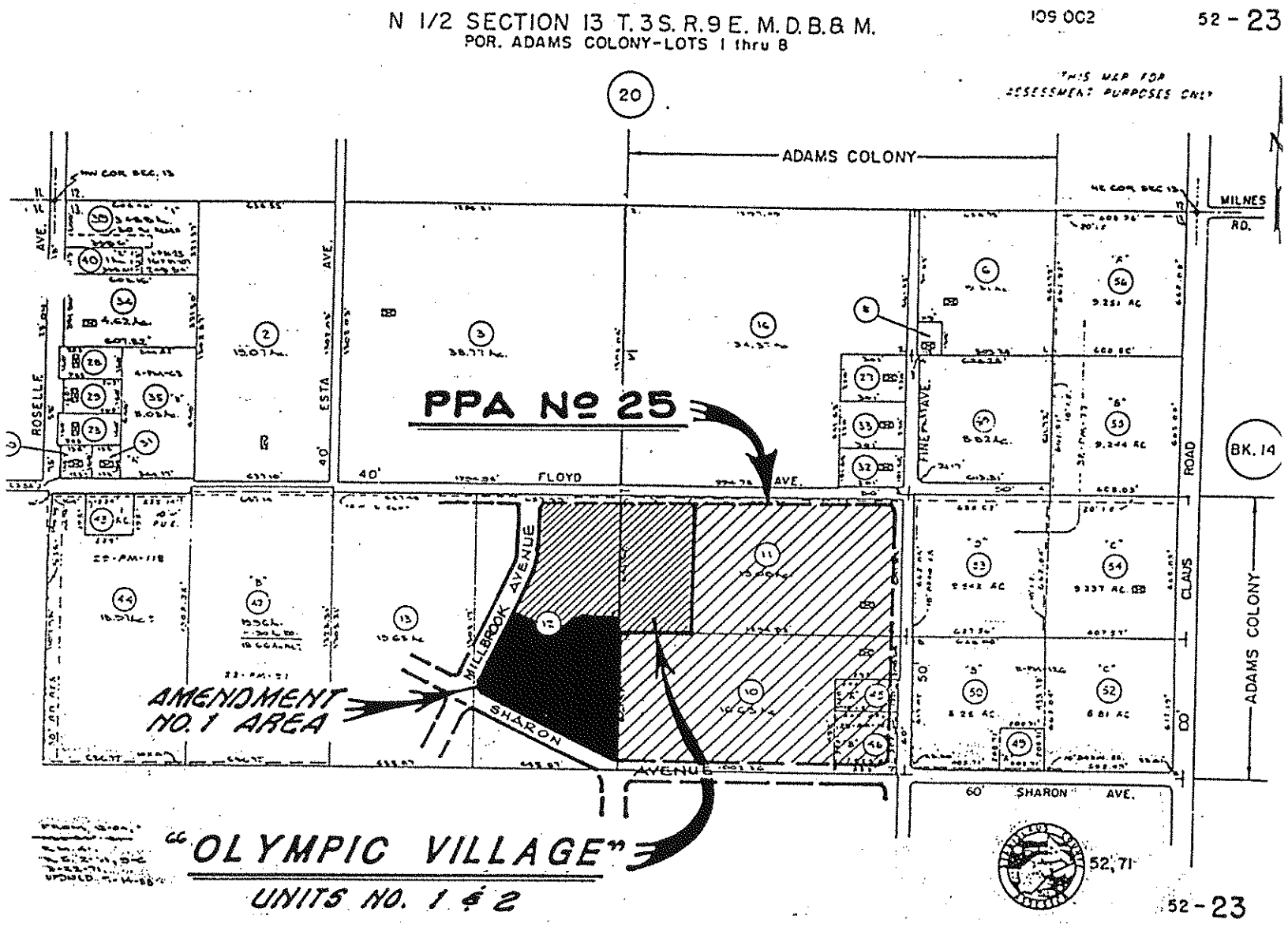
APN 52-23-12
L & L Venture
609 Cherry Hill Court
Modesto, CA 95356

APN 52-23-46
David G. Graham
2205 Fine Avenue
Modesto, CA 95355

APN 52-23-11
Warren S. Lawson
3113 Floyd Avenue 2307
Modesto, CA 95355

APN 52-23-45
Susan Regnerus Et Al
Fine Avenue
Modesto, CA 95355

AMENDMENT No. 1 LIES ENTIRELY WITHIN THIS PARCEL ONLY



Property Owner Written Consent Form For The Submittal of Amendment No. 1 to Village One Precise Plan, Area No. 25

I, as property owner of the site of the proposed amendment to the Village One Precise Plan, Area No. 25, do hereby consent to allow Lowe Development Co. to file with the City of Modesto the amendment to Precise Plan Document for the property listed below:

APN 52-23-12

Rodney K. Lowe
L & L Venture

2/3/99
Date

II. Applications/Approvals

Application Fees

Environmental Questionnaire		$535
Precise Plan		1,590
	Total	$2,125

Environmental Review

Applicant will pay fee and City of Modesto staff will complete the Environmental Questionnaire and compile mitigation measures consistent with the original Village One Environmental Document.

Precise Plan Amendment

The City of Modesto will approve and adopt the Precise Plan Amendment Development Standards and Regulations for use in governing the development of projects within the geographic sub region. Future development within Precise Plan Amendment No. 1 Area of No. 25 that is not consistent with the Development Standards and Regulations proposed will be required to further amend the Precise Plan Area No. 25 document accordingly.

III. Land Use

Acreage

Precise Plan Area No. 25 encompasses approximately 53.6 acres, all of which is zoned for Village Residential Use. The area to be amended by this document encompasses approximately 7.6 acres.

Existing Use

The project site is currently being utilized as follows:

APN 52-23-11	Olympic Village Units 1 and 2, and undeveloped open ground in the area of this amendment.

Land Use Intensity

The precise plan area can accommodate 348 dwelling units based on the above acreage and density factor of 6.5 units per acre. The proposed amendment area project will have as a minimum, 5,000 SF lots, number not to exceed allowable densities.

Principal Underlying Zone

R-1 Single Family Residential

IV. Street Design

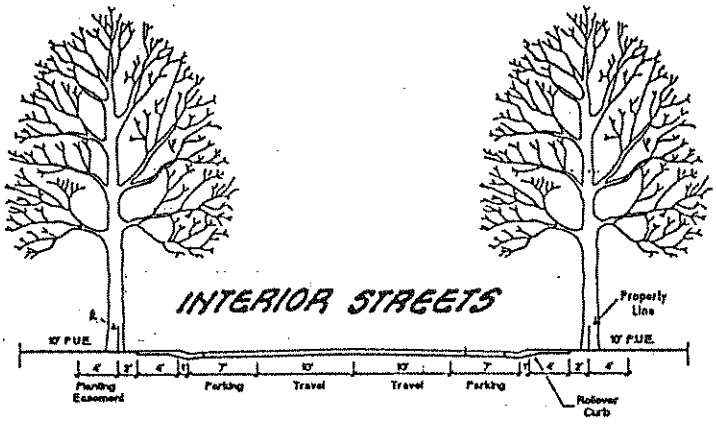
Street Sections
The precise plan will be developed in accordance with the attached street sections, which were developed for use specifically in Village One. These proposed streets are consistent with the street sections developed with Implementation Plan No. 2 of the Village One Feasibility Study which are scheduled to be incorporated into Specific Plan Amendment No. 8.

Sharon Avenue (Village One Road "K")
To be developed as a 70' wide Village One neighborhood connector, that include two travel lanes, two bike lanes and two 8' wide parkways between curb and sidewalk. On-street parking will be allowed on both sides of the street. In addition to the 8' wide parkway, there will be 10' of landscaping behind the sidewalk which will be maintained by the city. Street improvements of Sharon Avenue proposed to be part-width, with full development north of centerline and pavement installed to 15' south of centerline and terminated with headerboard.

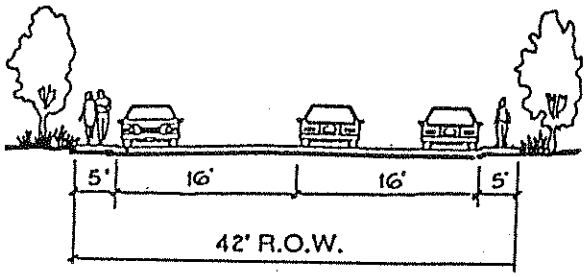
Millbrook Avenue
To be developed as a 64' wide Village One connector street that include two travel lanes, two bike lanes and two 8' wide parkways between curb and sidewalk. On-street parking will not be allowed. In addition to the 8' wide parkway, there will be 10' of landscaping behind the sidewalk which will be maintained by the city. Street improvement of Millbrook Avenue proposed to be part-width, with full development east of centerline and pavement installed to 15' west of centerline and terminated with headerboard.

Interior Streets
To be developed as a 48' wide Village One minor residential streets, two travel lanes, one lane each way, sidewalk on both sides of the street, with parking on both sides of the street. Interior streets may be 42' wide private or 48' wide public streets.

Alley
A 20 foot wide alley will be built at the south end of Turning Leaf Drive. This alley shall be maintained by the Homeowners' Association of Olympic Village.

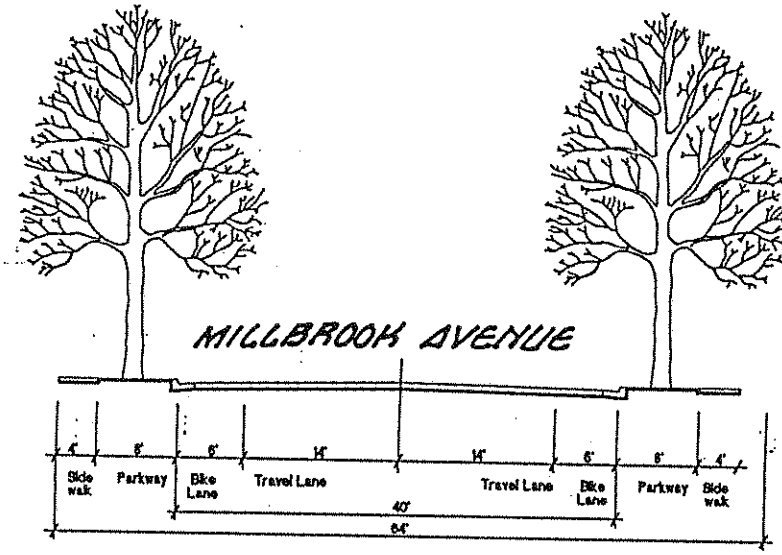


OR

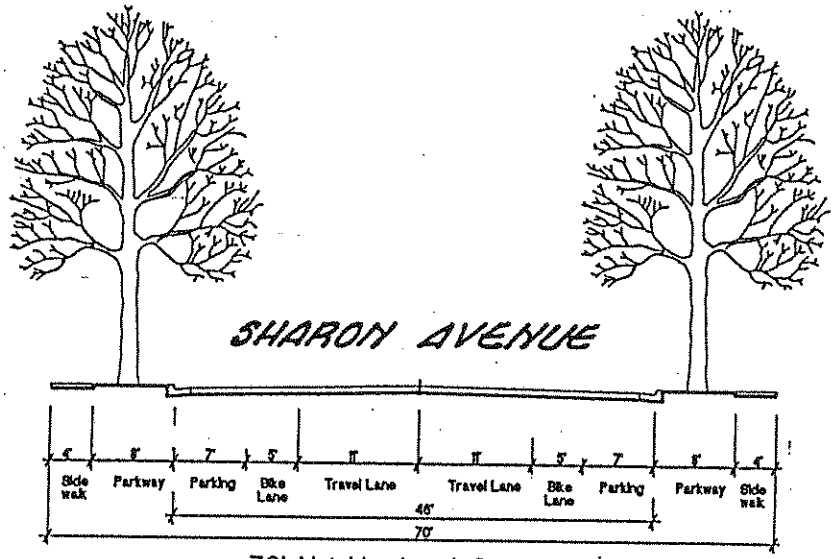


INTERIOR STREETS

Minor Residential Street: 48' right-of-way, 2 Lanes



64' Connector Street

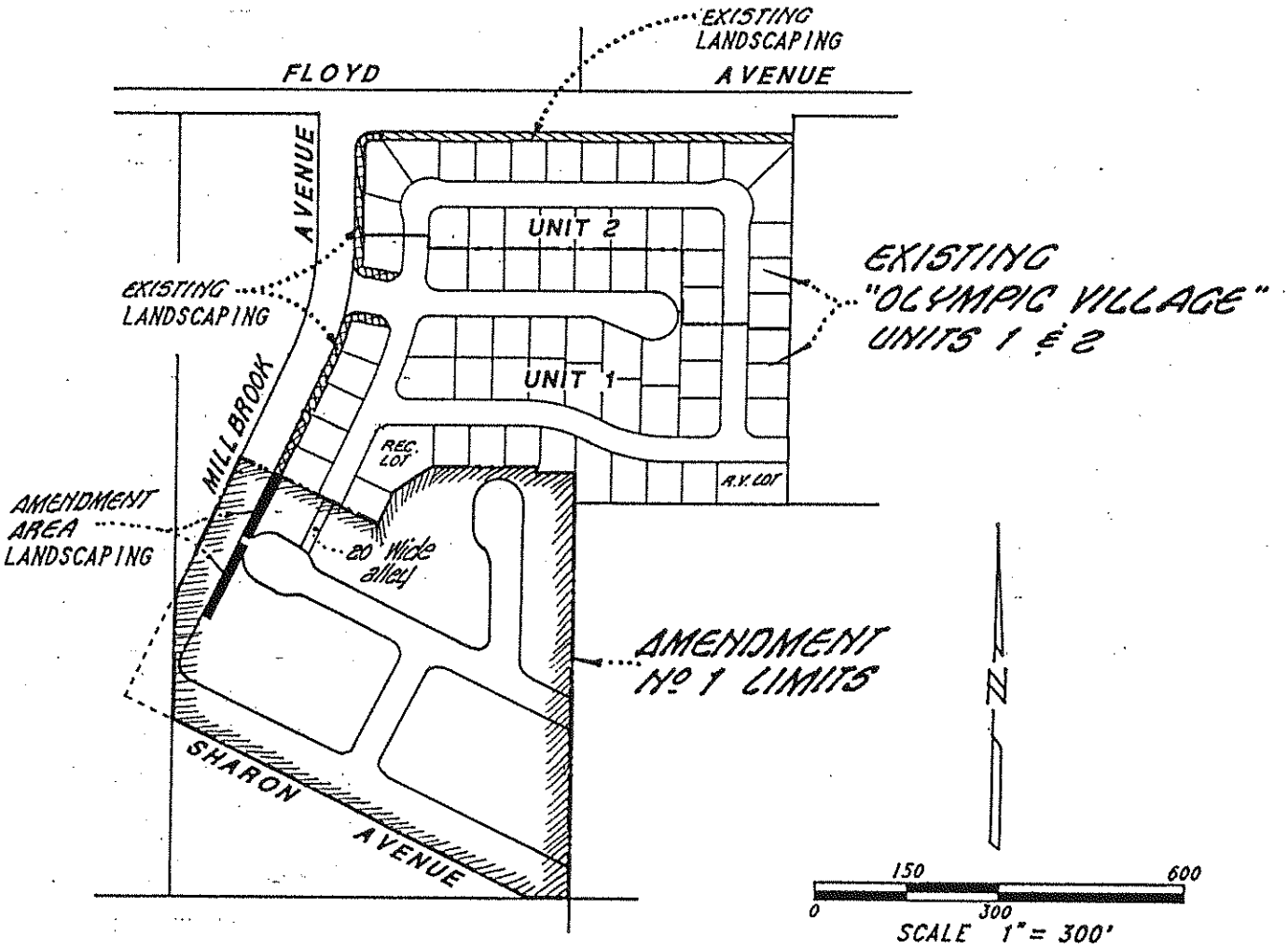


70' Neighborhood Connector

STREET SECTIONS

Landscaping Areas

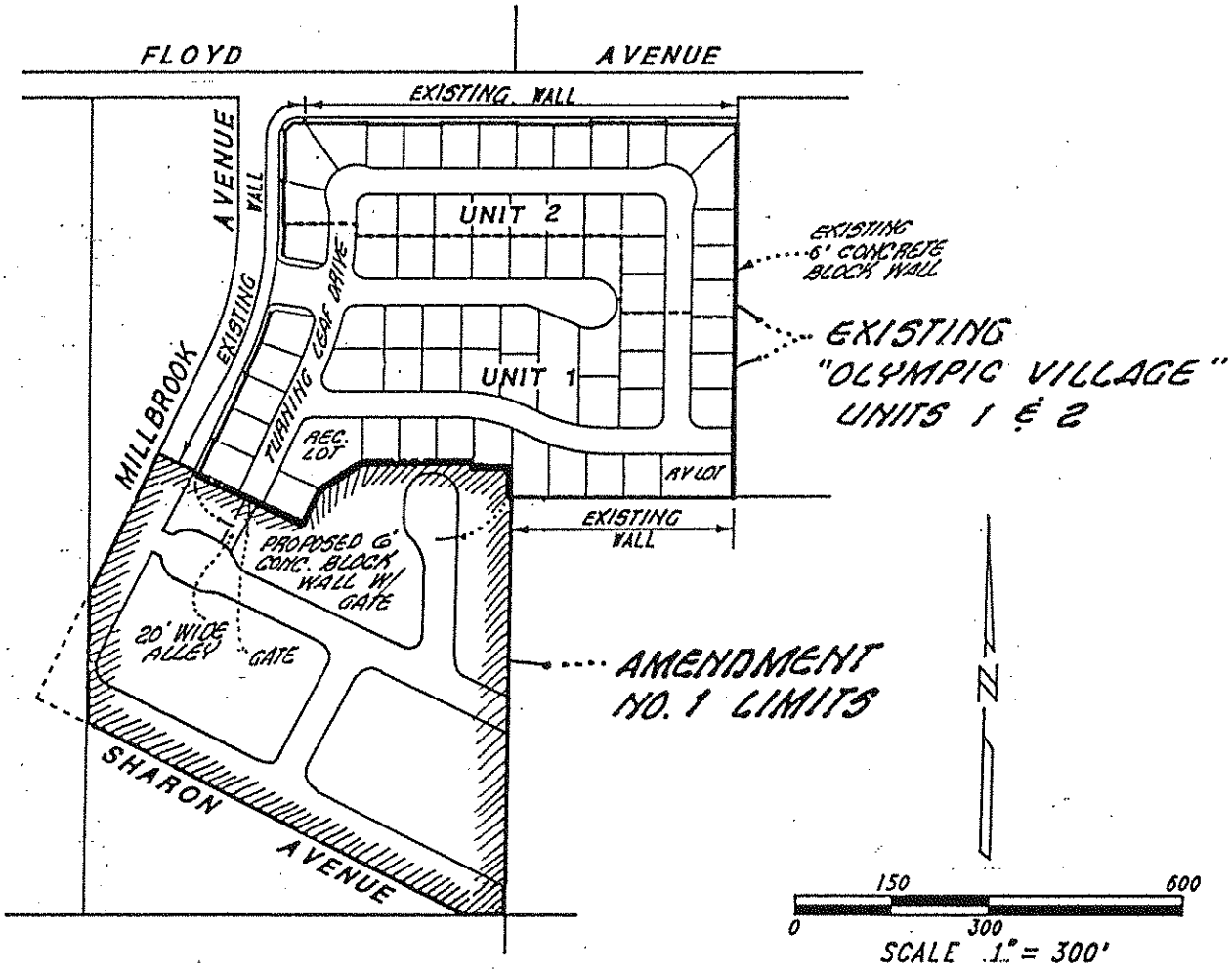
The landscaping areas shown on the attached map indicate the specific areas within the amended project that will be dedicated to and maintained by the City of Modesto. The applicants will work with staff to create landscaping areas that reflect the Village Concept through the use of a combination of street trees, shrubs, and bushes. The landscaping areas shown on the map below indicate the specific areas along the perimeter of the amended project that will be dedicated to and maintained by the City of Modesto. Funding for maintenance of these specified areas will be obtained by the formation of a Landscape Maintenance District for the area. These areas include the landscaped areas behind the sidewalk on Sharon and Millbrook Avenues.



PERIMETER LANDSCAPE PLAN

Walls/Fencing

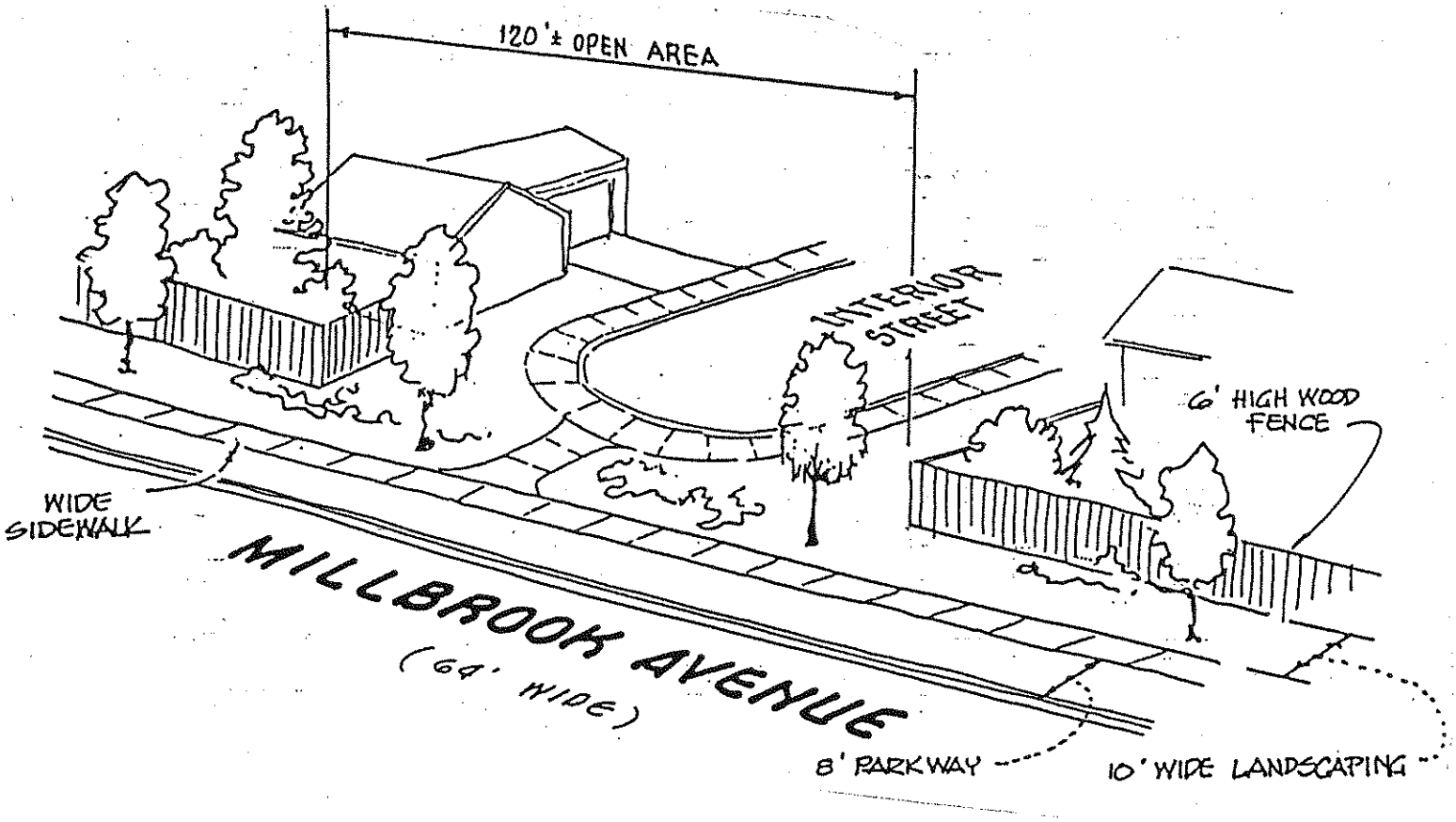
The developer of this amendment area is proposing to terminate the development of the Olympic Village Gated Community and will complete the perimeter wall of that development. As shown below, the perimeter wall will ultimately be constructed around the entire existing project with a gate installed at the south end of Turning Leaf Drive for emergency access.



WALL AND FENCING PLAN

Cul-de-Sac End Detail

An opening will be developed at the cul-de-sac end at Millbrook Avenue as shown below.

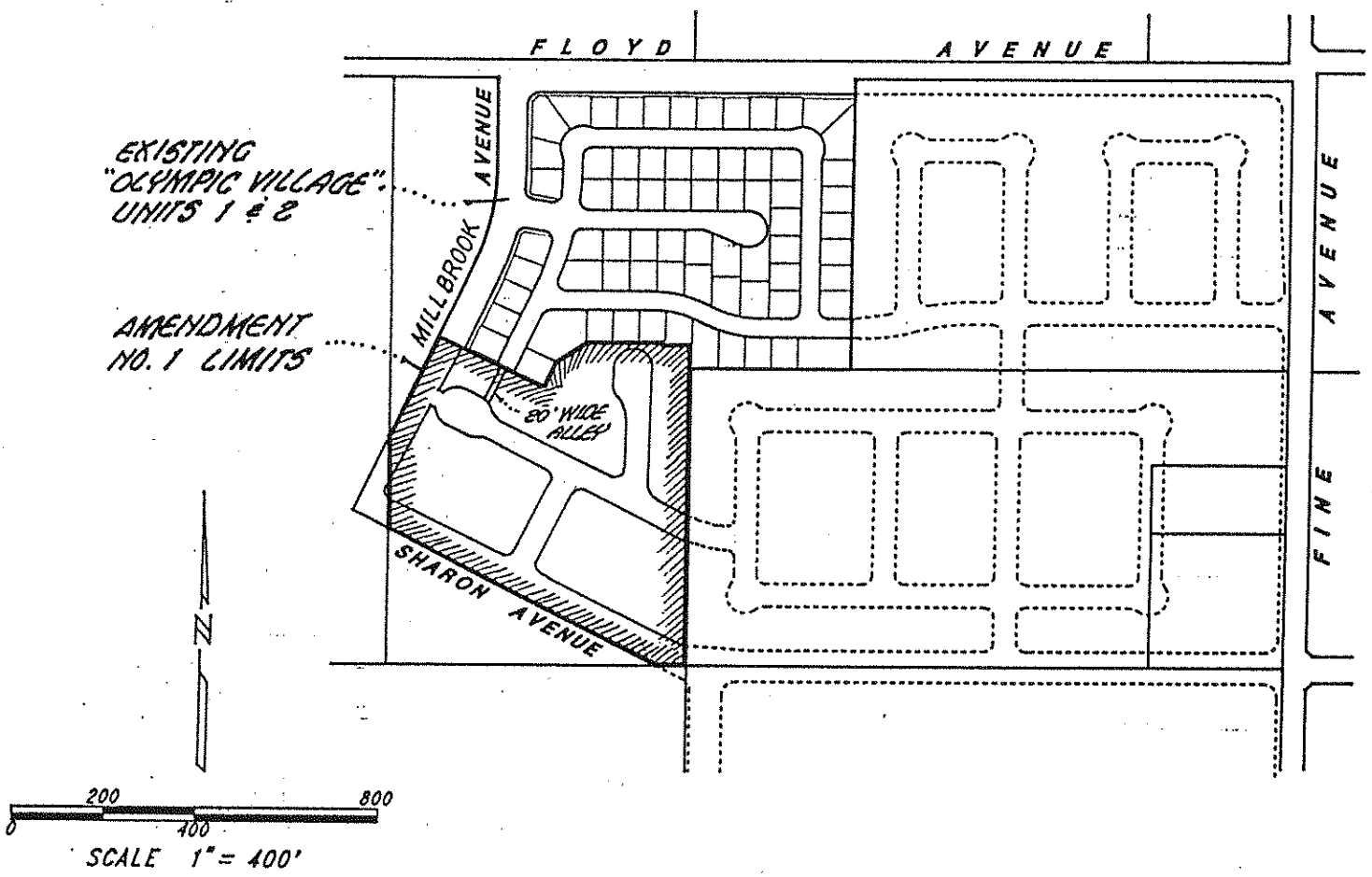


CUL-DE-SAC END DETAIL

Circulation

Circulation through the amended area of PPA No. 25 will be through Village One minor residential streets that are connected to Sharon Avenue. Millbrook Avenue will link the residents of PPA No. 25 with the rest of Village One.

PPA No. 25 was designed to give pedestrian access to Millbrook Avenue via entry roadways. Once on Millbrook Avenue, pedestrians will be able to take advantage of the landscaped walking areas to access the rest of Village One. In addition, the proposed bike lanes will also enhance non vehicular transportation in this area of the village project.



CIRCULATION PLAN

V. Village One Specific Plan

Specific Plan Conformance

Land Use/Community Design
The plan meets the residential densities outlined for the subject portion of Village One. The amendment to the PPA No. 25 design will be consistent with the Village One Community Design Policies.

Circulation
The plan provides for efficient interior circulation within the precise plan area and provides logical connection points for future development within the context of the Village One Plan.

Public Facilities
The plan will allow the development of public facilities to serve new growth within the precise plan area and provide logical connection points to allow for future development on the surrounding properties.

Schools
Development within PPA No. 25 will pay established school fee on a per house basis.

Parks
Development with PPA No. 25 will pay the applicable park fees.

Affordable Housing
Development within PPA No. 25 will participate in the Affordable Housing Program established by the City of Modesto.

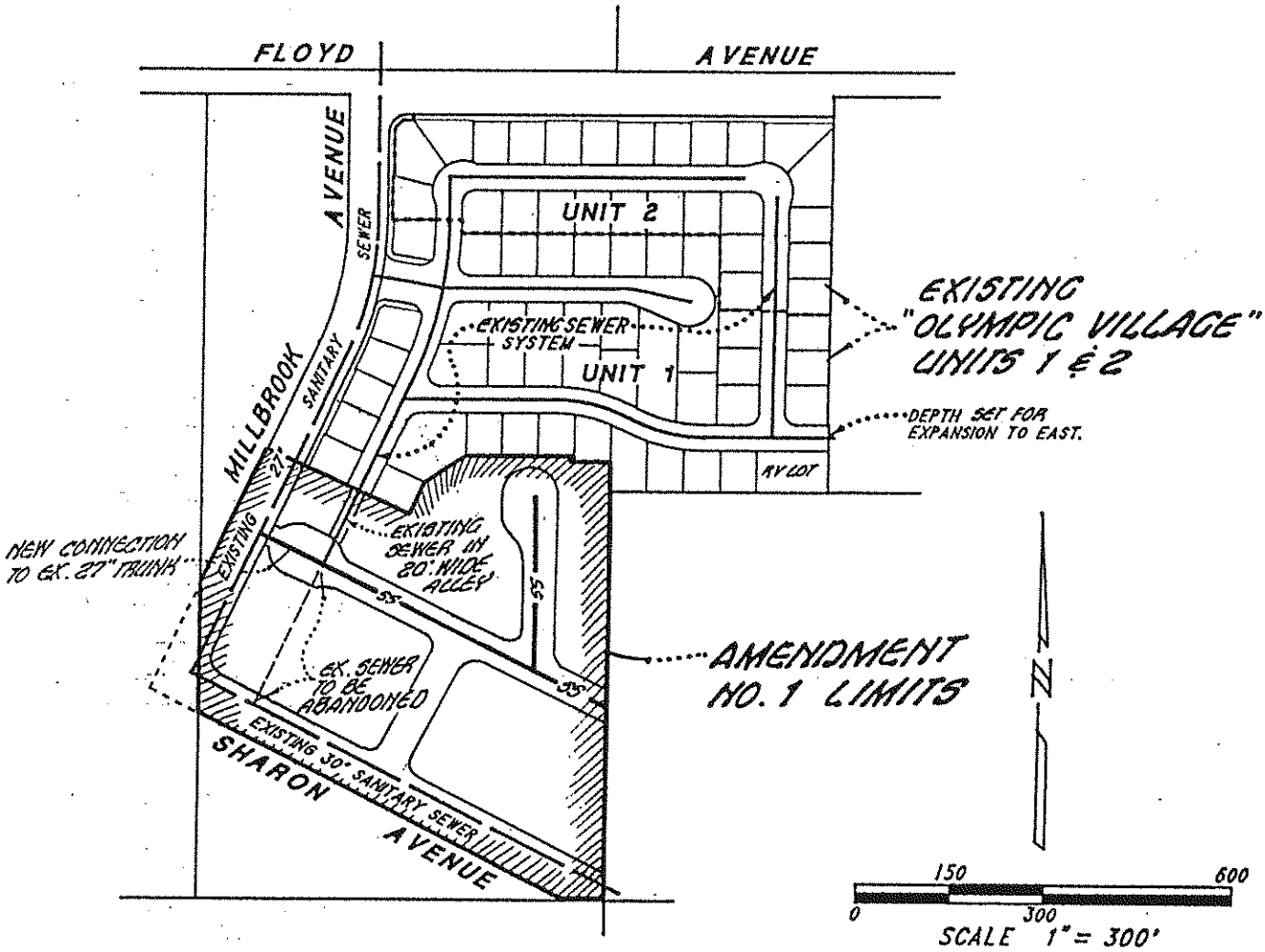
Setbacks
All setbacks proposed in this Amendment No. 1 area to meet Village One standards.

VI. Infrastructure Plan

Pipeline sizes shown are based upon preliminary Subdivision design. Pipeline sizes for construction will be finalized when the improvement plans are completed.

Sanitary Plan

Sewer service for the amended area will be provided by the City. The proposed sewer lines in the amended area will be per the City Standards and will connect to the existing 27" sewer main in the existing Millbrook Avenue right-of-way.

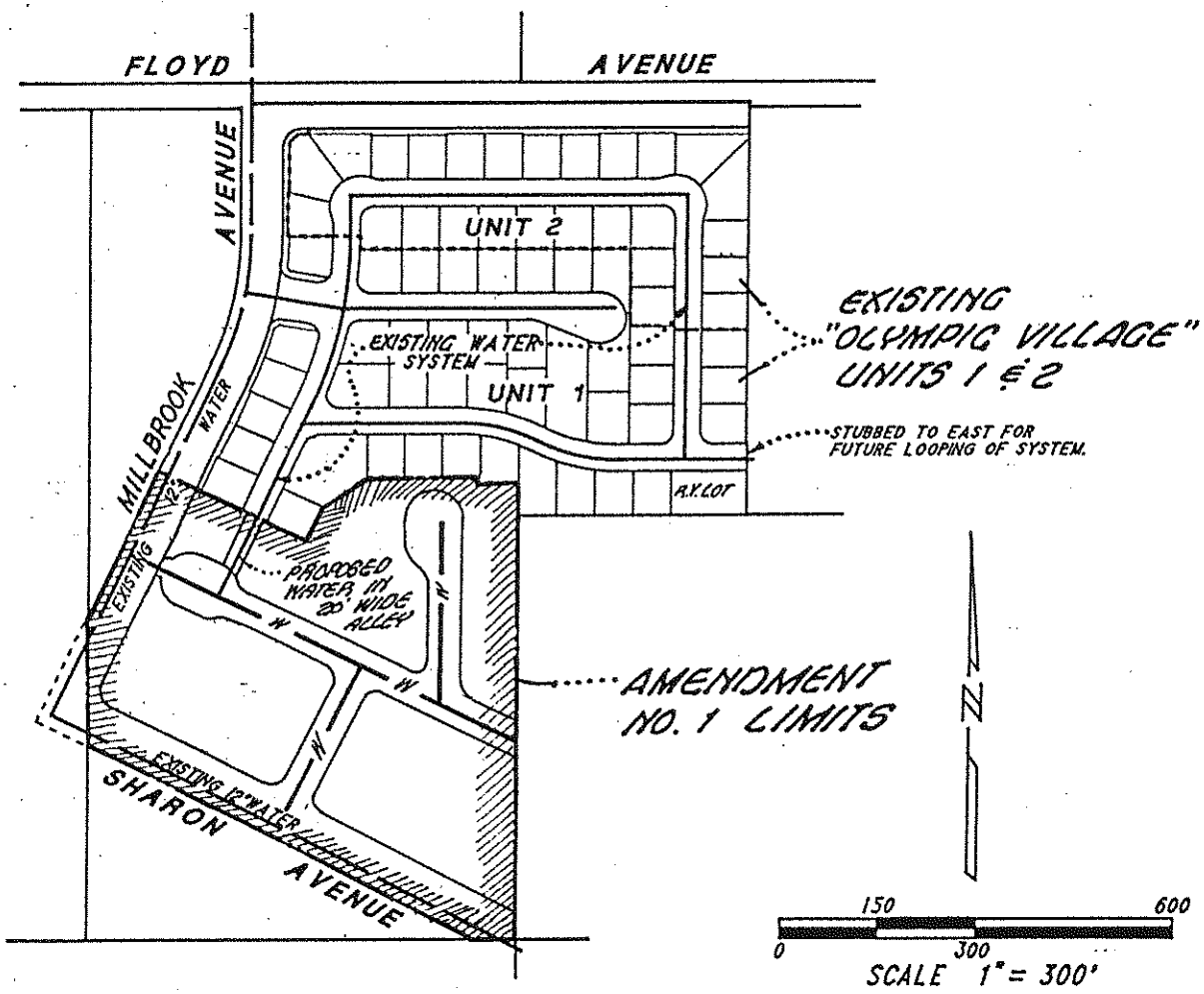


SANITARY SEWER PLAN

Infrastructure Plan

Water

Domestic water for the amendment area will be provided by the City. The proposed water lines in the subdivision will be per the City Standards and will connect to an existing 12 inch water main in the existing Millbrook Avenue right-of-way. The 12 inch water main connects to the existing 48 inch water transmission main on the south side of the M.I.D. lateral Number 3.

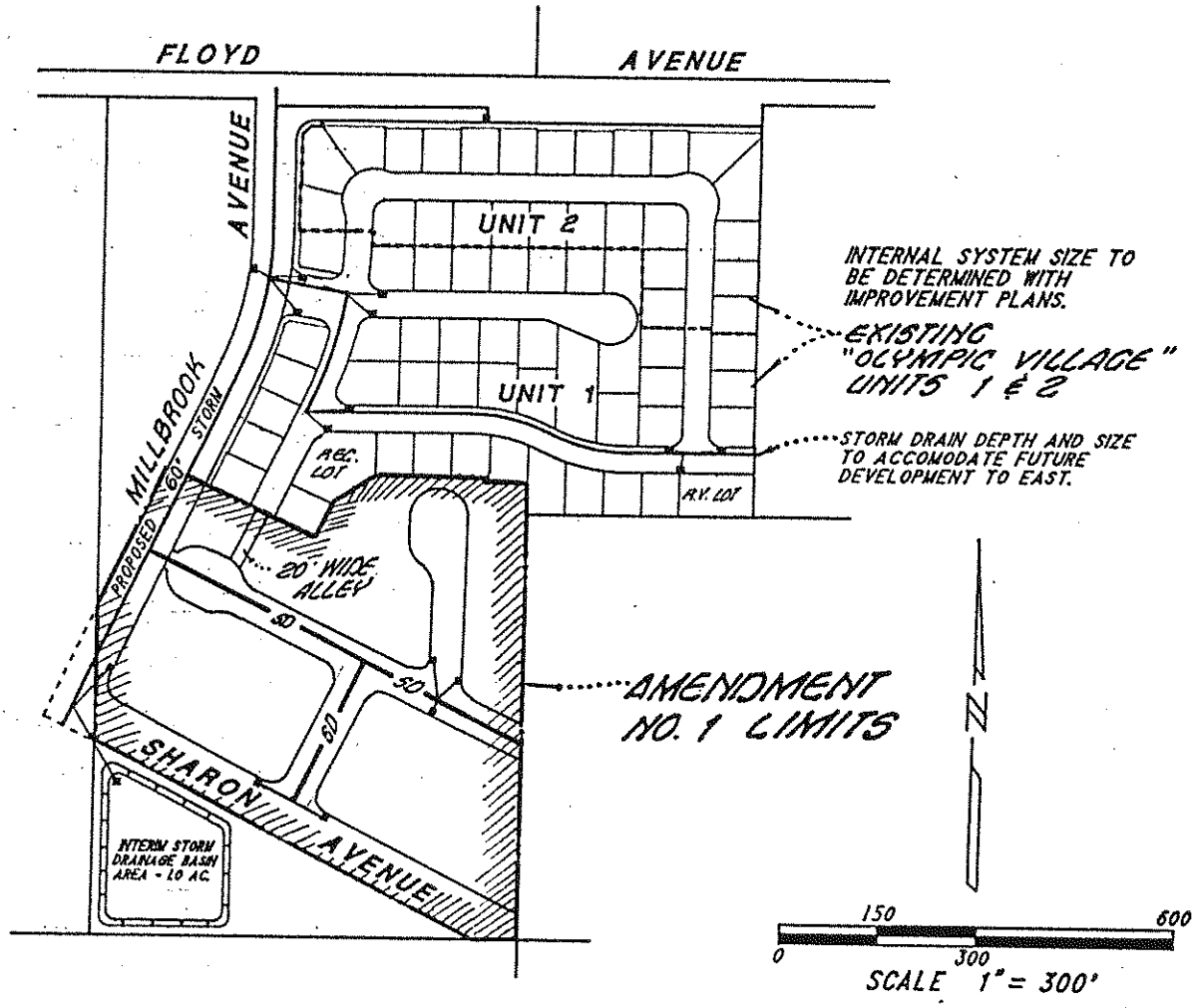


WATER PLAN

Infrastructure Plan

Storm Drainage

The storm drain system for the amendment area will ultimately tie into a City master planned basin via an existing 60 inch pipeline in Millbrook Avenue. Until the City master planned basin is available, the subdivision drainage will be retained in a temporary retention basin on an adjacent area southwest of the subdivision.



STORM DRAINAGE PLAN

VII. Miscellaneous

Legal Description and Plat of Amendment No. 1 Area

The attached legal description and accompanying sketch detail the boundary area of the proposed amendment to PPA No. 25.

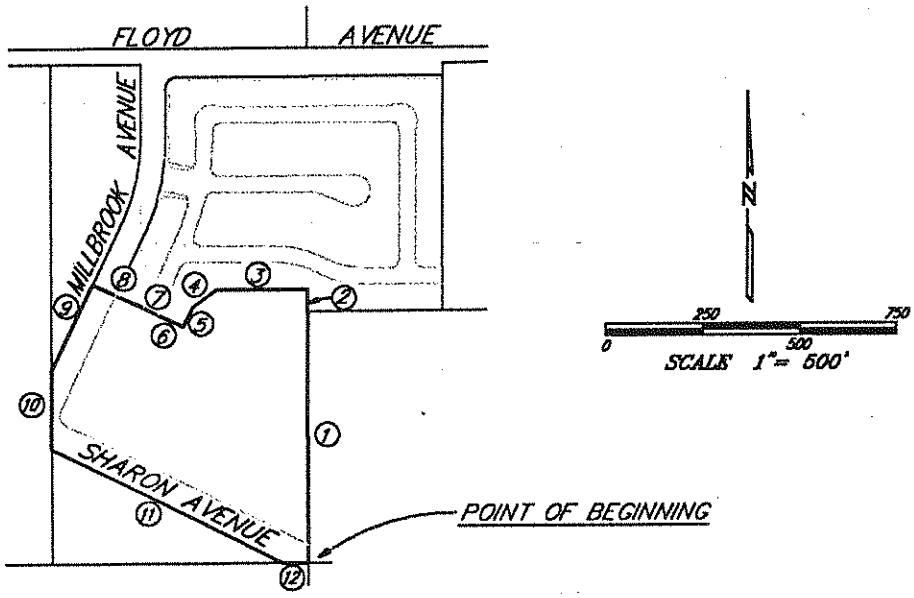
All that certain real property situate in a portion of the north half of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the northwest corner of Lot 10 of the Adams Colony recorded in Volume 4 of Maps, Page 5, Stanislaus County Records; thence North 0°25'40" West along the west line of Lot 7 of said Adams Colony a distance of 661.88 feet to the south line of Olympic Village East Unit No. 1 filed for record in Volume 37 of Maps at page 81, Stanislaus County Records; thence along the southerly line of said Olympic Village East Unit No. 1 the following seven (7) courses:

1. North 0°08'07" West 58.88 feet,
2. South 89°51'30" West 234.75 feet,
3. South 52°38'01" West 74.44 feet,
4. South 26°59'01" West 58.05 feet,
5. North 65°23'20" West 71.72 feet,
6. North 61°37'16" West 42.09 feet, and
7. North 65°23'20" West 143.00 feet

to the future westerly right of way line of Millbrook Avenue; thence South 24°36'40" West 248.81 feet along said future westerly line of Millbrook Avenue to the west line of the east half of the southeast quarter of the northwest quarter of said Section 13; thence South 0°27'44" East along said west line 201.18 feet to the future southerly right of way line of 70 foot wide Sharon Avenue; thence South 63°00'59" East along said future southerly line of Sharon Avenue a distance of 673.18 feet to the south line of the northwest quarter of said Section 13; thence North 89°51'39" East along said south line a distance of 59.68 feet to the point of beginning.

①	N. 0°25'40"W.	661.88'
②	N. 0°08'07"W.	58.88'
③	S.89°51'30"W.	234.75'
④	S.52°38'01"W.	74.44'
⑤	S.26°59'01"W.	58.05'
⑥	N.65°23'20"W.	71.72'
⑦	N.61°37'16"W.	42.09'
⑧	N.65°23'20"W.	143.00'
⑨	S.24°36'40"W.	248.81'
⑩	S. 0°27'44"E.	201.18'
⑪	S.63°00'59"E.	673.18'
⑫	N.89°51'39"E.	59.68'



LEGAL DESCRIPTION & PLAT

PRECISE PLAN STATEMENTS, AS REQUIRED BY THE "VILLAGE ONE SPECIFIC PLAN"

1. Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.

2. All deeds for lots sold in this subdivision shall contain the following statement:

   "This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various chemicals through spraying, spreading or other customary means in accordance with applicable state and federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses."

3. Construction noise is regulated by the City's Noise Ordinance, Section 4.9-103. Construction noise is generally permitted during the hours of 7:00 a.m. to 9:00 p.m. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection Division for conformance with the City's Noise Ordinance.

4. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.

POLICY DIRECTIONS APPLYING TO ALL PRECISE PLAN AREAS (AS SUMMARIZED FROM SECTION III D OF THE VILLAGE ONE SPECIFIC PLAN, DATED JUNE 30, 1996)

All Precise Plans prepared within the Village One Specific Plan Area shall incorporate the following policies into their designs, where appropriate:

1. Land Use Compatibility between Precise Plan Areas may be provided in many ways such as the design, orientation, size of lots, arrangement of specific land uses, or the limitation or provision of pedestrian access. Precise Plans shall incorporate appropriate policies for effective transition between Precise Plans.

2. Right of way acquisition for connector street linkages shall provide for the relocation and or acquisition of structures that are located within the road alignments. If there is an existing dwelling or structure that is located in those alignments, it should be relocated or acquired.

3. Precise Plan Areas may be combined to create larger increments for submittal of plans. When one property encompasses several Precise Plan Areas, the property owner may submit individual Precise Plan applications, or one combined Precise Plan application covering all relevant Precise Plan Areas.

4. Remainder parcels within a Precise Plan Area, such as a small triangular properties, shall be assembled and/or reconfigured before approval of a Precise Plan. When applicable, a Precise Plan shall provide for the incorporation of the remainder parcels from the adjacent Areas.

5. All road alignments for connector streets shall be consistent with the Facilities Master Plan.

6. The Land Use and Community Design Policies presented in Chapter II (Section II-G) shall be incorporated, where relevant, into each Precise Plan. The Development Review process to implement these policies may specify that, for existing and proposed lots greater than 5,000 square feet in size, performance standards may be utilized, in lieu of architectural and plot plan submittals, to demonstrate conformance with the Land Use and Community Design Policies.

7. The Village One Affordable Housing Program presented in Chapter II (Section II-H) shall be implemented throughout each Precise Plan which proposes residential development.

8. All Precise Plans which propose residential development shall include the following requirement for residential subdivisions notifying future home buyers in the project area of potential land use impacts although it may not fully mitigate the impact:

"All deeds for lots sold in this subdivision shall contain the following statement:

'This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various chemicals through spraying, spreading or other customary means in accordance with applicable state and federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses.'"

9. All Precise Plans which propose residential development shall include the following requirement:

> The Developer shall provide Pedestrian linkage to school facilities serving the particular residential Precise Plan Area. Linkage may consist of any surface and route agreed to by the City Transportation Division and School District Facilities Planners to provide safe and continuous linkage from the residential areas to the school facility.
>
> -or-
>
> As an alternative to construction of pedestrian linkage, reimburse the school district for busing arrangement until such time as necessary pedestrian linkage is in place.

This policy does not intend for developers to construct walkways to schools that don't exist.

10. Precise Plans in the project area shall contribute to the financing and implementation of the required improvements to provide capacity for projected traffic at the Oakdale and Briggsmore intersection. This shall include the following intersection improvements:

> Widen the eastbound and westbound approaches to add a separate right-turn lane on each approach, converting the existing right-turn lane to a through and restriping the departures to receive three through lanes. Restripe the northbound and southbound approaches and widen the departures to convert the existing separate right-turn lanes to through +right-turn lanes.

Department of Public Works and Transportation staff shall determine the design and phasing of these roadway improvements based on the Facilities Master Plan. Completion of final inspection by Construction Inspection Division shall constitute compliance with this measure.

11. The following statement shall be placed in all Precise Plans for Residential Development:

Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.

12. Noise Mitigation for Residential Precise Plan Areas

Noise measures might include, but are not necessarily limited to, setbacks, barriers, site design, or acoustical building treatment. Precise Plans shall determine from this list which measures are most relevant. This requirement shall apply to dwellings located within the identified 65 dBA exterior noise level contours. Verification of noise treatment to reduce interior noise levels to 45 dBA, prior to final inspection by Building Inspection Division shall constitute compliance with this measure.

Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Sylvan Avenue		
	Oakdale to Roselle	142 ft.
	Roselle to Claus	136 ft.
Floyd		
	Oakdale to Roselle	106 ft.
	Roselle to Clause	76 ft.
Briggsmore		
	Oakdale to Roselle	171 ft.
	Roselle to Clause	138 ft.
Oakdale		
	Sylvan to Floyd	214 ft.
	Floyd to Briggsmore	209 ft.

Roselle		
	Sylvan to Merle	126 ft.
	Merle to Briggsmore	150 ft.
Claus		
	Sylvan to Floyd	171 ft.
	Floyd to Briggsmore	176 ft.

Source: Brown-Buntin Associates Noise Study, April 1993

13. All Precise Plans shall contain the following statement:

> "Construction noise is regulated by the City's Noise Ordinance, Section 4.9-103. Construction noise is generally permitted during the hours of 7:00 a.m. to 9:00 p.m. To avoid complaints from nearby residents, and possible citations, the full test of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection Division for conformance with the City's Noise Ordinance."

14. A qualified biologist shall conduct a breeding season survey of active and historical Swainson's Hawk territories to determine the exact location of nests and the extent of use the site receives by foraging Swainson's Hawks. This survey shall be conducted in concert with the Environmental Impact Report for the Modesto General Plan Rewrite.

In conducting this survey, the most recent documentation from the State Department of Fish and Game shall be employed, including the "Draft Swainson's Hawk Guidelines" dated 1994.

If an active Swainson's Hawk nest is located within an approximate 10-mile radius, then a foraging habitat compensation ratio of one-half acre preserved in close proximity of the nest, for every one acre of foraging habitat lost will be required. This can be accomplished by, but not limited to, the acquisition and preservation in perpetuity, of suitable grassland foraging habitat, and through the use of conservation easements on suitable "grassland-like" agricultural lands.

15. Precise Plans for development within the project area shall contain the following statement:

During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.

VILLAGE ONE
AMENDMENT FOR PRECISE PLAN AREA NO. 25

This amendment would terminate the Olympic Village gated development at the south boundary of Olympic Village Unit No. 1 and amend the street layout in the south 7.6 acres to allow conventional single-family lots.

Details of Amendment

8. Area 7.6 acres

9. Land Use Intensity
   a. Village Residential; changed 7.6 acres from a gated development to conventional 5,000 SF lots minimum in accordance with the Village One densities.

10. Special Considerations
   a. The use will remain single-family residential.
      1. The average number of dwelling units will be 41.
   b. Lots will front on Sharon and side on Millbrook.
   c. The amendment will still allow pedestrian access to the commercial area in Precise Plan Area No. 20.

4. Principal Underlying Zone
   a. Will remain at R-1, Low Density Residential.

Need for Amendment

Several other gated developments have been approved in Village One in the last two (2) years depleting the market. The owner sees no other way to build out their property than with convention homes.

The amendment is consistent with the Village One Land Use designations.

The amendment is in conformance with the Circulation Plan, the Public Facilities and Infrastructure Master Plan, Schools, Parks, Community Design Policies, and the E.I.R. mitigation measures. Since the amendment proposes a less intense land use there will be no impact to the adopted Environmental Impact Report.

Ord. No. 3141-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 June, 1999, Councilmember Dobbs, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Friedman

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: July 1, 1999

ORDINANCE NO. 3142-C.S.

Print

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO AMENDING ORDINANCE NO. 3111-C.S. AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER)

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

WHEREAS, Ordinance No. 3111-C.S. was introduced at the regular meeting of the Council of the City of Modesto held on the 8th day of December, 1998, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Mayor Lang, was upon roll call carried and ordered printed and published, and

WHEREAS, thereafter, said ordinance was published as required by law and read a second time, and

WHEREAS, said 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 January, 1999, Councilmember Friedman, moved is final adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the ordinance adopted, and

WHEREAS, said ordinance incorporated by reference a certain Exhibit "A" attached thereto and incorporated therein, being the rate and method of apportionment of special taxes within the District, and

WHEREAS, on April 6, 1999, the City Council adopted a Resolution of Consideration directing City staff to process an amendment to the Carver-Bangs/Pelandale-Snyder CFD No. 1998-2, adding taxes for the completion of Snyder Avenue improvements, and

WHEREAS, on May 25, 1999, the City Council declared its intention, by its Resolution of Intention to Make Changes in Special Taxes Within Tax Area B (Pelandale-Snyder) No. 99-263, to increase the one-time special facilities tax in Tax Area B so that Snyder Avenue could be completed, and

WHEREAS, on June 3, 1999, the electors of Tax Area B did approve, by a greater than 2/3 majority vote, the increase in the special taxes so described,

NOW, THEREFORE, the City Council of the City of Modesto DOES ORDAIN as follows:

SECTION 1. This Council finds and determines that the above recitals are all true and correct.

SECTION 2. By the passage of this Ordinance, the special tax previously levied by the City Council at the rate and method of apportionment set forth in Exhibit "A" to Ordinance No. 3111-C.S. is hereby amended and changed as set forth in the amended Exhibit "A" attached to this ordinance, to reflect an increased one-time special facilities tax in Tax Area B (Pelandale-Snyder) to greater assure that Snyder Avenue shall be completed.

SECTION 3. In all other respects, Ordinance No. 3111-C.S. remains operative and in full effect, except as specifically amended in Exhibit "A" attached hereto.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective after thirty (30) days from 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 8th day of June, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3142-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

EXHIBIT "A"

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)

CFD PUBLIC REPORT

March 25, 1999

Prepared For:

CITY OF MODESTO

Prepared By:

DAVID TAUSSIG AND ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109

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III. **Description of Facilities and Services to be Funded by CFD No. 1998-2** 4

APPENDICES:

Appendix A: CFD Boundary Map
Appendix B: Rate and Method of Apportionment of Special Tax and Reimbursements
Appendix C: Detailed Facility Cost Estimates

I. BACKGROUND

Community Facilities District (CFD) No. 1998-2 is being formed to provide a funding and reimbursement mechanism for public facilities and services required to serve the Carver-Bangs and Pelandale-Snyder Specific Plans in the City of Modesto. Portions of both Specific Plan areas are included within the initial boundaries of the CFD, and the remainder of the property within both Plan areas is expected to annex into the CFD at a later date.

As a condition of development of the Specific Plan areas, the developers are required to install various public improvements which will serve the increased population generated from the projects. Many of these improvements must be provided in the early stages of development and, therefore, the first developers to build within the projects must install the improvements and receive fee credits or reimbursements in exchange for the facilities. CFD No. 1998-2 is the vehicle that will be used to ensure that all landowners in the Specific Plans pay their fair share of the public improvements. In addition, the CFD will generate funding for ongoing maintenance of landscaping and open space within the project areas.

Following is a brief description of both projects:

A. Carver-Bangs Specific Plan

On April 1, 1997, the City Council of the City of Modesto approved Resolution No. 97-161, thereby adopting the Carver-Bangs Specific Plan. The Specific Plan was subsequently amended by City Council Resolution 97-633. Carver-Bangs is a proposed 160-acre project bounded on the east by Carver Road, on the North by Bangs Avenue, on the south by the Pelandale-Snyder Specific Plan (discussed further below), and on the west by the Kiernan Business Park area. The Carver-Bangs Specific Plan will be developed under the City's Village Residential guidelines, which will yield approximately 800 single family residential units.

B. Pelandale-Snyder Specific Plan

The Pelandale-Snyder Specific Plan was approved by the City Council on January 16, 1996 by the adoption of Resolution No. 95-16, and was subsequently amended by City Council Resolutions 97-136 and 97-139. The Specific Plan area is bounded by Dale Road on the west, the extension of Pelandale Road on the north, Union Pacific Railroad on the east, and the Modesto Irrigation District canal and Snyder Avenue on the South. Approximately 227 acres of the project are designated Single Family Residential (SFR), and 57 acres are designated Multi-Family Residential; in total, 2,613 residential dwelling units are expected at buildout of the Specific Plan. In addition, 36 acres of the Specific Plan area will be used for an elementary school site, a City park, and a church.

II. *STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 1998-2*

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 1998-2 (Resolution No. 98-582) was adopted by the City Council on November 3, 1998. After a public hearing and a successful election by landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of CFD 1998-2

As mentioned above, the initial boundaries of the CFD include portions of both the Carver-Bangs and Pelandale-Snyder Specific Plans. Additional property is expected to annex into the CFD in future years as development in the area expands. It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax formula as property in the CFD from the start, with a maximum Facilities Special Tax (discussed further below) assigned to the property when it is annexed. Property in the Carver-Bangs Specific Plan is included within Tax Area A of the CFD, and parcels in Pelandale-Snyder make up Tax Area B of the CFD. A separate maximum tax has been calculated for each tax area, as discussed further in Section C below.

The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in Volume 3, page 5 of the Book of Maps of Assessment Districts and Community Facilities Districts in the Stanislaus County Recorder's Office. A copy of the CFD boundary map is provided as Appendix A of this CFD Public Report.

C. CFD Special Tax Structure

1. Facilities Special Tax

Each year, special taxes will be levied and collected from parcels within the CFD to pay costs associated with storm drainage and road improvements, as well as maintenance of these improvements (authorized facilities and maintenance costs are discussed in more detail below). The Rate and Method of Apportionment of Special Tax and Reimbursements ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in Sections D and E of the RMA, two different special taxes will be levied within the CFD. First, a "Facilities Special Tax" will be levied to pay for capital improvements and appurtenant expenses, such as design, planning, engineering and inspection. The entire Facilities Special Tax will be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction on a parcel within the CFD. Because each Specific Plan area is responsible for only the facilities required to serve that area, separate "tax areas" were established within the CFD to avoid any crossover of responsibility for the funding of required infrastructure. A separate Facilities Special Tax has been determined for each assessor's parcel that was included within each tax area at the time CFD No. 1998-2 was formed; Attachment 2 of Appendix B identifies the maximum Facilities Special Tax assigned to each parcel.

Section C.1 of the RMA (Appendix B) explains how the Facilities Special Tax obligation assigned to each original assessor's parcel will be reallocated when subdivision occurs. Regardless of changes in land use in future years, the maximum Facilities Special Tax revenues that can be collected from property in the CFD will never be reduced. In January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each assessor's parcel will be increased by four percent of the amount in effect in the prior year.

Section D of Appendix B sets forth a credit/reimbursement program which allows developers who have constructed and dedicated public improvements to take credits against the Facilities Special Taxes that would otherwise be paid until such credits equal the cost set forth in Appendix C of this CFD Public Report for the public improvements provided by the developer. Regardless of the actual cost incurred by the developer for construction of the public improvement(s), credits against the Facilities Special Tax can be taken until the amount credited is equal to the facility cost shown in Appendix C for that improvement(s). If the developer's project is built out and a balance remains to be credited, the developer will instead receive a cash reimbursement from Facilities Special Taxes collected from other property owners in the CFD until the combined amount of fee credits and cash reimbursements is equal to the cost of the public improvement(s) as shown in Appendix C of this report. All costs and reimbursements are subject to a four percent increase in January 2002 and each January thereafter.

Facility Special Tax credits and reimbursements will be applied based on a specified order of priority, which is identified in Attachment 1 of Appendix B. Until all facilities of a higher priority have been fully funded, a developer who builds an improvement that is of a lower priority will not receive fee credits or reimbursements. The order of priority is specific to each tax area, which means facilities of a lower priority may be funded in one tax area even if the higher priority facilities in the other tax area have not yet been fully funded. Appendix B provides a more detailed description of the credit/reimbursement program.

2. Maintenance Special Tax

The second special tax that can be levied in the CFD is the "Maintenance Special Tax", which will be collected to pay costs associated with maintaining parkways and open space in both Specific Plan areas. Again, a separate maximum Maintenance Special Tax has been determined for Tax Area A and Tax Area B, as shown in the following table:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
Land Use Type	***Tax Area A (Carver-Bangs)***	***Tax Area B (Pelandale-Snyder)***
Single Family	$118 per unit	$92 per unit
Multi-Family	$945 per Acre	$733 per Acre
Non-Residential	$945 per Acre	$733 per Acre
* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.		

The Maintenance Special Tax will be collected each fiscal year on the property tax bills of all parcels in the CFD that have had a final building permit inspection conducted or a certificate of occupancy issued prior to June 1 of the preceding fiscal year.

III. FACILITIES AND SERVICES TO BE FUNDED BY CFD NO. 1998-2

The facilities and services described below are all facilities which the City of Modesto is authorized to finance and which are required to adequately meet the needs of CFD No. 1998-2. The special taxes required to pay for these facilities and services will be apportioned according to the "Rate and Method of Apportionment of Special Tax" included as Appendix B of this report.

Capital Improvements

A. Carver-Bangs (Tax Area A)

Following is a summary of the capital improvements to be funded through CFD No. 1998-2 to serve the Carver-Bangs Specific Plan. A detailed breakdown of facility components and the corresponding cost estimates is provided in Appendix C of this report.

Storm Drainage Improvements	$1,494,750
Prescott Road	145,422
American Avenue	24,033
Bangs Avenue	254,305
Carver Road	57,270
American Avenue Canal Overcrossing	295,066
Class I Bike Trail	142,500
CFD Formation Costs	67,500
Total Capital Improvement Costs	**$2,480,847**

B. Pelandale-Snyder (Tax Area B)

Storm Drainage Improvements	$4,389,042
Dale Road	531,075
Prescott Road	628,297
Tully Road	1,011,016
Snyder Avenue	504,283
Class I Bike Trail	752,675
CFD Formation Costs	67,500
Total Capital Improvement Costs	**$7,883,888**

Annual Maintenance Costs

A. Carver-Bangs

Item	Quantity	Unit	Unit Cost	Total Cost
Bangs Avenue (South Side)				
8' Landscape Strip (4,680 LF x 8' = 37,400 SF)	37,400	SF	$0.72	$26,957
American Avenue (East Side)				
8' Landscape Strip (1,200 LF x 8' =9,600 SF)	9,600	SF	$0.72	$6,912
Prescott Road 16' Center Median	10,500	SF	$0.72	$7,740
Prescott Road Treewell and Vine Blockouts with 10' Sidewalk and Masonry Wall (56 Each 5' x 5' Treewalls + 56 each 3' x 10' vine blockouts)	3,080	SF	$0.72	$2,218
Class I Bike Trail	1,308	SF	$0.72	$942
Pelandale Avenue (North Side) Landscape Strip	1,996	SF	$0.72	$1,437
Carver Road (West Side) (1, 194 L.F. x 8' = 9,552 S.F.)	9,552	SF	$0.72	$6,877
Total Annual Maintenance Costs				**$53,083**

B. Pelandale-Snyder

Item	Quantity	Unit Unit	Total Unit Cost	Total Cost
Dale Road (East Side), 12' Wide Landscape Strip (1,255 LF x 12' = 14,700 SF)	14,700	SF	$0.72	$10,584
Prescott Road (East Side), 12' Wide Landscape Strip (1,225 LF x 12' = 14,700 SF)	14,700	SF	$0.72	$10,584
Prescott Road 16' Center Median	10,750	SF	$0.72	$7,740
Tully Road (Both Sides), 12' Wide Landscape Strip (2,650 LF x 12' = 21,800 SF)	31,800	SF	$0.72	$22,896
Tully Road 16' Center Median	10,750	SF	$0.72	$7,740
Class I Bike Trail	8,820	SF	$0.72	$6,350
Pelandale Avenue (South Side)	10,400	SF	$0.72	$7,488
Carver West Side Back-up Lots South of Pelandale Avenue (515 L.F. x 5' = 2,575)	2,575	SF	$0.72	$1,854
Landscaping Surrounding Storm Drain Basins	35,000	SF	$0.72	$25,200
Total Annual Maintenance Costs				**$100,436**

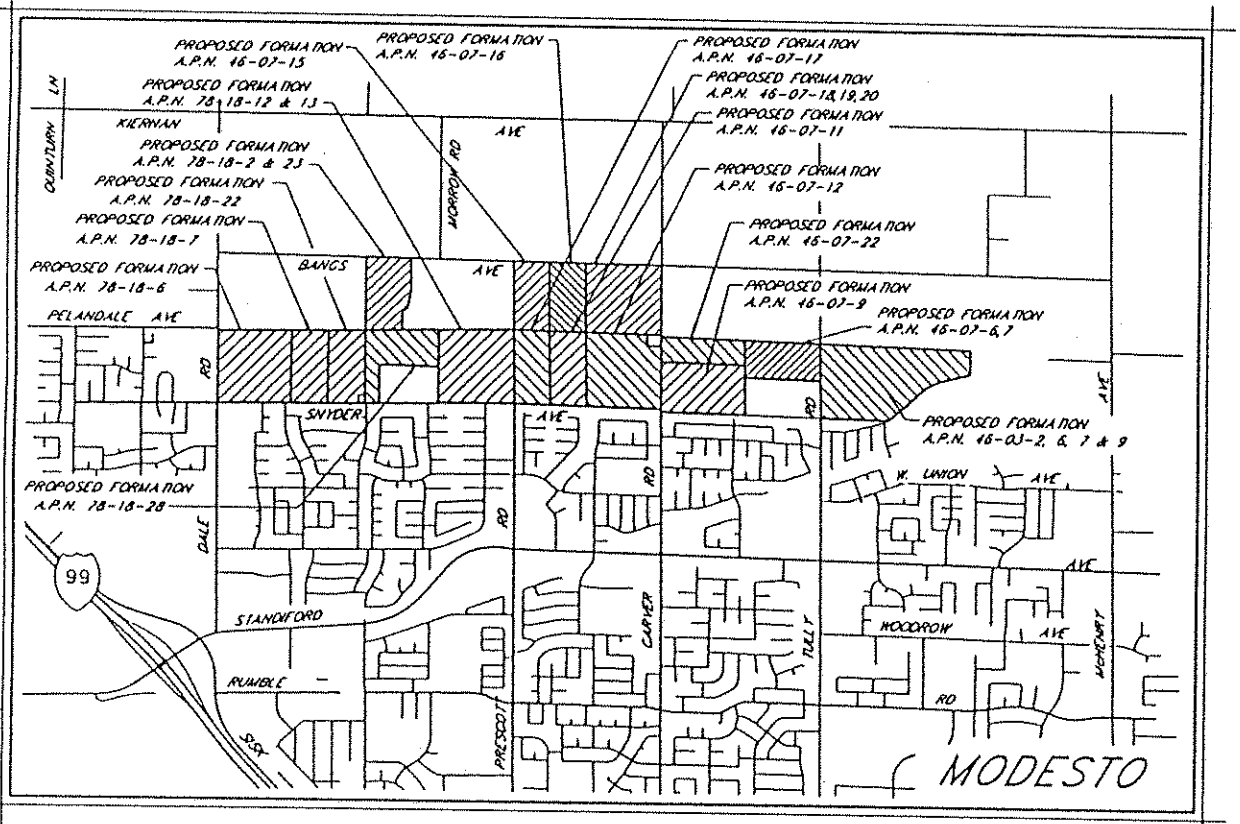
The description of facilities and services, as set forth herein, is general in nature. The final nature and location of improvements will be determined upon the preparation of final plans and specifications.

APPENDIX A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

BOUNDARY MAP

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



CFD 1998-2 FORMATION MAP

NO SCALE

BASIS OF BEARINGS:
THE BEARING OF SOUTH 89°17'39" WEST ALONG THE LINE BETWEEN CPS MONUMENTS 3722 AND 3731 AS SHOWN IN BOOK 32 OF SURVEYS AT PAGE 31, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTE:
THE DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCES BY THE GRID FACTOR (.9999303534) TO OBTAIN GRID DISTANCES.

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND WAS BASED ON INFORMATION OF RECORD AS NOTED ON THE MAP. I HEREBY STATE THAT THE MAP SUBSTANTIALLY CONFORMS TO THE REQUIREMENTS FOR A COMMUNITY FACILITIES DISTRICT MAP AS PRESCRIBED IN DIVISION 4.5 OF THE STREETS AND HIGHWAYS CODE.

DATED THIS ___ DAY OF _____, 1998

_____
ROY A. GALLI, R.C.E. 16024

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS ___ DAY OF _____, 1998.

_____
JEAN ZAHR, CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2, (CARVER-BANGS/PELANDALE-SNYDER), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO, AT A MEETING THEREOF, HELD ON THE ___ DAY OF _____, 1998, BY ITS RESOLUTION NO. _____

_____
JEAN ZAHR, CITY CLERK

RECORDER'S STATEMENT:

FILED THIS ___ DAY OF _____, 1998, AT THE HOUR OF _____ O'CLOCK ___ M., UNDER RECORDER'S INSTRUMENT NO. _____, IN BOOK ___ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE ___, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

KAREN MATHEWS, COUNTY RECORDER
OF THE COUNTY OF STANISLAUS,
STATE OF CALIFORNIA

BY: _____
DEPUTY

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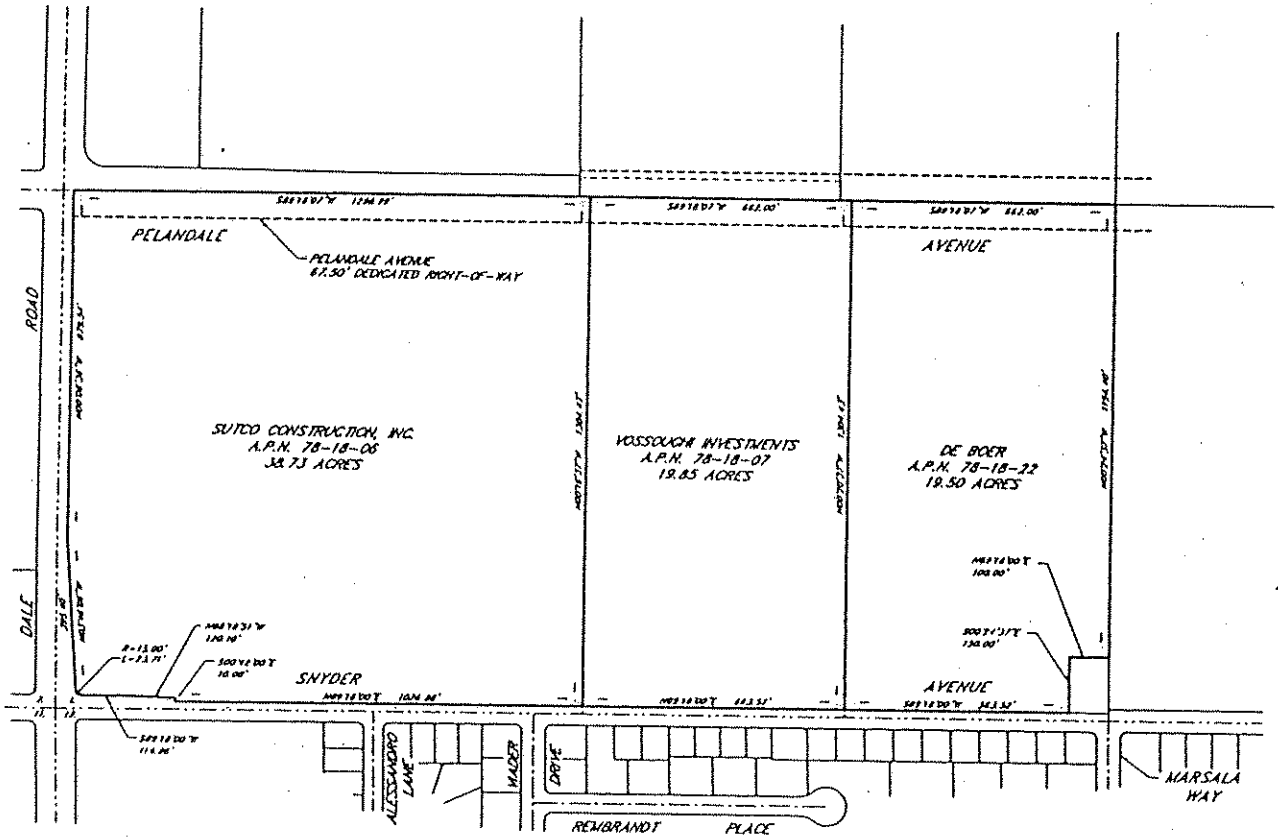
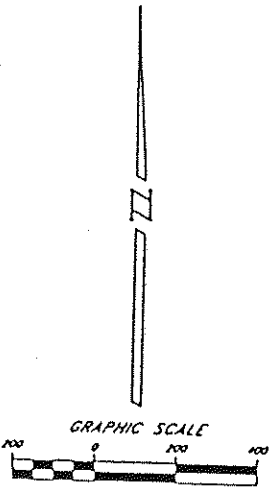
908 H STREET, SUITE A · MODESTO, CA. 95354 · PH: (209) 524-1214 · FAX: (209) 524-0443

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS , STATE OF CALIFORNIA





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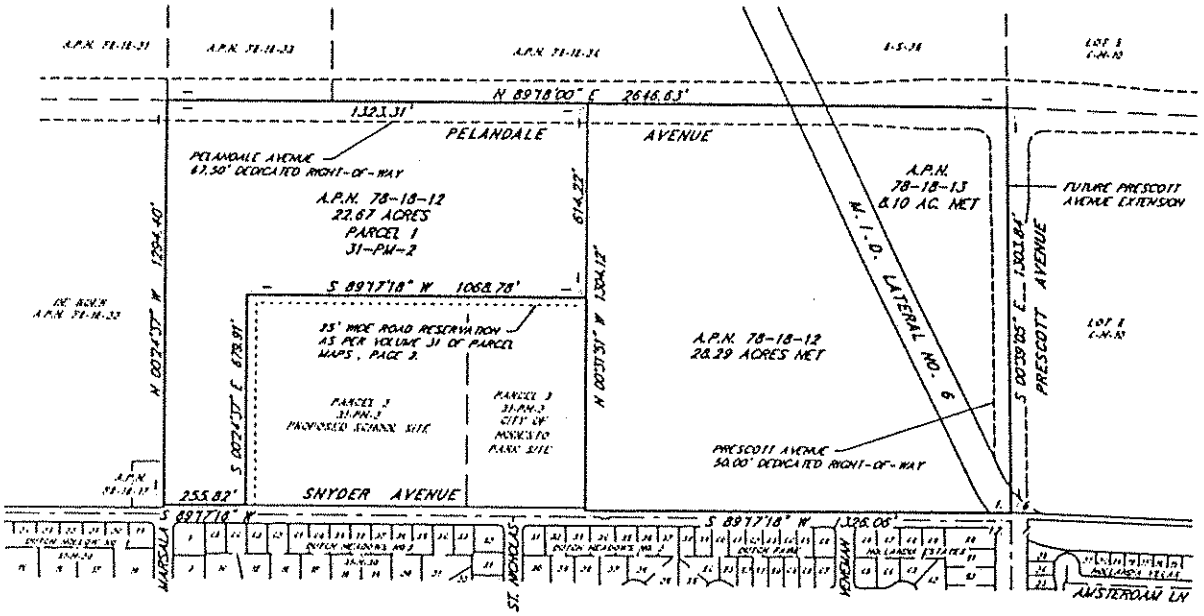
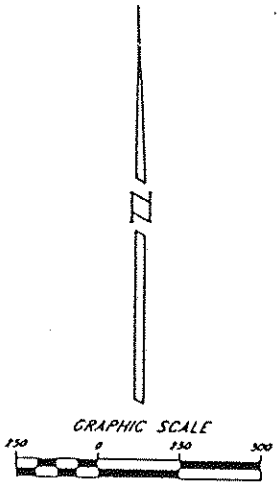
PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS , STATE OF CALIFORNIA





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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND REIMBURSEMENTS

EXHIBIT B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND REIMBURSEMENTS

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1998-2 (herein "CFD No. 1998-2") shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 1998-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1998-2 unless a separate Rate and Method of Apportionment of Special Tax and Reimbursements is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, parcel map, or other recorded County parcel map.

"Administration Component" means that portion of the Facilities Special Tax which must be paid (i.e., is not subject to fee credits) prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure. The revenue collected from the Administration Component will be used by the City to pay annual expenses, consultants' fees, and staff time associated with administering the CFD, monitoring the Authorized Facilities and effecting reimbursements, including but not limited to the following: (i) tracking development in the CFD, (ii) preparing the tax roll for the Annual Maintenance Special Tax, (iii) calculating and collecting the Facilities Special Tax, (iv) engineering, (v) planning, (vi) legal services, and (vii) acquisition and construction of land and improvements associated with the Authorized Facilities.

"Administrator" shall mean the person(s) or firm(s) designated by the City to administer the Special Tax according to this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor's Parcel number.

"Authorized Facilities" or **"Authorized Facility"** means those public improvements (including portions of such public improvements) to be funded by CFD No. 1998-2 as identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements, including appurtenant expenses such as planning, design, engineering and inspection.

"Buildable Lot" means an individual numbered lot which is in its final configuration and for which a building permit may be issued.

"CFD Costs" means the total amount shown in the CFD Public Report to cover costs associated with CFD formation, CFD administration, and engineering, legal services, planning and geotechnical studies related to the Authorized Facilities.

"CFD Public Report" means the report filed with the City Clerk on behalf of CFD No. 1998-2 pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982.

"Church Property" means any Parcel within the CFD that is exempt from ad valorem property taxes because it is owned by a religious organization.

"City" means the City of Modesto.

"Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1998-2.

"Credit/Reimbursement Amount" means the sum of the portion of the CFD Costs and the costs of Authorized Facilities that have been paid in advance by a builder/developer and have not yet been reimbursed to that builder/developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the builder/developer from Facilities Special Taxes collected from other builders/developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

"Facilities Special Tax" means a Special Tax collected by the City to pay for one or more of the following: (i) the costs of Authorized Facilities and CFD Costs, (ii) to reimburse a builder/developer who has an outstanding Credit/Reimbursement Amount, and (iii) if all Authorized Facilities have been completed, to pay for maintenance authorized to be funded by the CFD.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*).

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 1998-2, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

"Non-Residential Property" means, in any Fiscal Year, all Parcels for which a building permit has been issued for a commercial, office or industrial establishment or any other use which is not single family or multi-family residential property and which is not exempt from Special Taxes pursuant to Section F below.

"Order of Priority" means the order in which the Authorized Facilities and CFD Costs must be fully credited or reimbursed before Special Tax Credits can be made against the Facilities Special Tax or reimbursements paid to a builder/developer for other CFD facilities that are of lower priority. The Order of Priority is identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Original Parcel" means an Assessor's Parcel that will be further subdivided upon recordation of a Final Map. The Original Parcels in CFD No. 1998-2 at the time the Resolution of Formation of CFD No. 1998-2 was approved by the Council are listed in Attachment 2.

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Reimbursable Cost" means, for any of the Authorized Facilities, the amount shown in 1998 dollars in the CFD Public Report, which amount shall, beginning in January 2002 and each January thereafter, be increased by four percent (4%) of the amount in effect in the prior year.

"Special Tax Credit" means a waiver of the creditable portion of the Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the builder/developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

"Subdivided Property" means, in any Fiscal Year, all Buildable Lots for which a final building permit inspection has taken place or a certificate of occupancy has been issued prior to June 1 of the preceding Fiscal Year.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel within the CFD.

"Taxable Property" means, in any Fiscal Year, all Parcels in CFD No. 1998-2 that have not been exempted from the Special Tax pursuant to Section F below.

"Tax Area A" means parcels within the Carver-Bangs Specific Plan Area, which Area is shown in Attachment 3A of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Tax Area B" means parcels within the Pelandale-Snyder Specific Plan Area, which Area is shown in Attachment 3B of this Rate and Method of Apportionment of Special Tax and Reimbursements.

B. ANNUAL MONITORING

The Administrator shall keep an ongoing record of the Acreage and current Assessor's Parcel numbers within Tax Area A and Tax Area B and, after July 1 of each Fiscal Year, shall identify the Assessor's Parcels which have become Subdivided Property and, therefore, will be subject to the levy of the Maintenance Special Tax in that Fiscal Year. The Administrator shall also continually monitor Subdivided Property to ensure the Facilities Special Tax is collected prior to final building permit inspection or issuance of a certificate of occupancy (whichever occurs first), unless the Parcel qualifies for a Special Tax Credit, as discussed further in Section D below.

C. MAXIMUM SPECIAL TAX

1. Facilities Special Tax

The maximum 1998 Facilities Special Tax for Original Parcels in CFD No. 1998-2 when the CFD was formed is shown in Attachment 2. Each time a Final Map is approved within the CFD or when Parcels in the CFD are otherwise subdivided or reconfigured, the Administrator shall reallocate the maximum Facilities Special Tax assigned to each Original Parcel to the Subsequent Parcels created by approval of the Final Map as follows:

Step 1a. Identify the maximum Facilities Special Tax applicable to the Original Parcel being subdivided (the maximum Facilities Special Tax for Original Parcels in the CFD when the CFD was formed are shown in Attachment 2);

Step 1b. Determine the Acreage of Taxable Property within the approved Final Map;

Step 1c. Determine the total Acreage of Taxable Property within the Original Parcel being subdivided, including the Taxable Property within the Final Map;

Step 1d. Divide the Acreage determined in Step 1b by the total Acreage of the Original Parcel determined in Step 1c to calculate a percentage;

Step 1e. Multiply the percentage determined in Step 1d by the amount identified in Step 1a to calculate the maximum Facilities Special Tax to be allocated to the Final Map area. If a Final Map is approved for a portion of an Original Parcel, the maximum Facilities Special Tax that has not been allocated to the Final Map area will stay assigned to the remainder of the Taxable Property within the Original Parcel until it is further subdivided;

Step 1f. Spread the maximum Facilities Special Tax calculated in Step 1e to each of the Successor Parcels within the Final Map area based on each Successor Parcel's share of the Acreage of Taxable Property within the Final Map.

After each reallocation of the maximum Facilities Special Tax upon subdivision or reconfiguration of Original Parcels, the sum of the maximum Facilities Special Tax assigned to Subsequent Parcels shall never be less than the maximum Facilities Special Tax assigned to the Original Parcel(s) prior to such reallocation. Beginning in January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. Annual Maintenance Special Tax

All Subdivided Property within the CFD shall be subject to an Annual Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1998-2 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner. The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1998-2 for Fiscal Year 1998-99:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
Land Use Type	*Tax Area A (Carver-Bangs)*	*Tax Area B (Pelandale-Snyder)*
Single Family	$118 per unit	$92 per unit
Multi-Family	$945 per Acre	$733 per Acre
Non-Residential	$945 per Acre	$733 per Acre
* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.		

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain builders/developers may be required to pay CFD Costs and fund and construct Authorized Facilities that are ultimately intended to be funded from Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, which will ensure that builders/developers that pay more than their fair share of the CFD Costs and/or Authorized Facilities costs will be reimbursed for the overage.

At the request of the landowners and developers at the time this Rate and Method of Apportionment was prepared and CFD No. 1998-2 was formed, all credits and reimbursements to builder/developers who provide Authorized Facilities shall be in amounts equal to the costs set forth for those Authorized Facilities in the CFD Public Report (except as adjusted as described below). Pursuant to this request, whether the actual cost to build an Authorized Facility is higher or lower than the amount shown in the CFD Public Report for that Authorized Facility, a builder/developer shall be credited and/or reimbursed for the dollar amount included in the CFD Public Report for that Authorized Facility. If there is a cost savings for one Authorized Facility and a cost overrun for another, there is no opportunity pursuant to this Rate and Method of Apportionment for the cost savings to offset the cost overrun.

The following steps shall be applied to implement the credit/reimbursement program:

On an Ongoing Basis

- n January 2002 and each January thereafter, the Administrator shall escalate the following items by four percent (4%): (i) the Facilities Special Tax assigned to each Parcel, (ii) the Credit/Reimbursement Amount outstanding for any builder/developer, and (iii) the costs of Authorized Facilities that have not yet been constructed. An updated list of these three items shall be available each year by February 15.

- The Administrator will keep a current list of the adjustments that have been applied in each year to the items listed above.

- The Administrator will keep track of which Authorized Facilities shown in Attachment 1 have been fully credited or reimbursed to establish the next Authorized Facility to be funded according to the Order of Priority.

- For builder/developers who pay more than their pro-rata share of the cost of particular Authorized Facilities and/or CFD Costs and are due a reimbursement after applying Special Tax Credits, the Administrator shall keep track of the date on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) to ensure that reimbursements of costs that fall within the same Order of Priority will be made on a first incurred/first paid basis.

When a Final Map is Approved by the City Council:

Step 1. The Administrator shall determine which Authorized Facilities the builder/developer subdividing the property has funded;

Step 2. The Administrator shall determine the Order of Priority for the Authorized Facilities funded by the builder/developer. If the improvements are not first in the Order of Priority, the Administrator shall determine whether facilities that are of a higher priority have yet been fully reimbursed or credited;

Step 3. By reference to the detailed cost estimates set forth in the CFD Public Report, the Administrator shall determine the estimated 1998 cost that had been included in the maximum Facilities Special Tax for the Authorized Facilities provided by the builder/developer;

Step 4. Using 2002 as the first year of escalation, the Administrator shall escalate the cost of the Authorized Facilities (as shown in the CFD Public Report) provided by the builder/developer to the year in which the Credit/Reimbursement Amount is being calculated. This escalation shall apply on an annual basis (i.e., subtract 2001 from the then current year to determine how many years worth of escalation to apply) and shall be compounded in the same manner as the Facilities Special Tax has been escalated. This escalated cost represents the total Credit/Reimbursement Amount due to the builder/developer, the balance of which, as of the year 2002 and each year following, shall be escalated by four percent (4%) each year until fully reimbursed or credited against Facilities Special Taxes paid by the builder/developer.

Prior to final building permit inspection or issuance of a certificate of occupancy (whichever occurs first)

Note: the following steps may be applied to a single Parcel or a group of Parcels (i.e., all residential lots within a particular Final Map)

The Administrator shall determine if the builder/developer has an outstanding Credit/Reimbursement Amount and apply one of the following:

Step 1. **If there is an outstanding Credit/Reimbursement Amount for the builder/developer**, the Administrator shall apply the following steps to determine if a Facilities Special Tax is due from the subject Parcel(s):

Step 1a. Identify the Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding;

Step 1b. Multiply the amount determined in Step 1a by .07 to calculate the Administration Component, which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 1c. Subtract the Administration Component calculated in Step 1b from the Facilities Special Tax identified in Step 1a to calculate the net amount that could be collected for facility costs, and apply one of the following:

- *If the net amount determined in Step 1c is less than the outstanding Credit/Reimbursement Amount for the builder/developer*, the Administration Component calculated in Step 1b shall be collected and the builder/developer shall be given a Special Tax Credit against the remainder of the Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract that amount from the outstanding Credit/Reimbursement Amount for that builder/developer.

- *If the net amount determined in Step 1c is greater than the outstanding Credit/Reimbursement Amount for the builder/developer*, subtract the outstanding Credit/Reimbursement Amount from the net amount of Facilities Special Tax calculated in Step 1c to determine the amount that must be paid by the builder/developer. If the calculation is being prepared

for multiple Parcels at one time, the builder/developer may use up the remaining Credit/Reimbursement Amount by taking Special Tax Credits against the first lots to develop and pay the remaining balance when the subsequent lots develop. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that builder/developer.

Step 2. **If there is <u>not</u> an outstanding Credit/Reimbursement Amount for the builder/developer,** the Administrator shall apply the following steps:

Step 2a. Identify the Facilities Special Tax assigned to the Parcel(s), which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 2b. Multiply the amount determined in Step 2a by .07 to calculate the Administration Component, which shall remain on deposit with the City;

Step 2c. Subtract the Administration Component calculated in Step 2b from the Facilities Special Tax identified in Step 2a to calculate the net amount that shall be collected to provide reimbursements to builder/developers with outstanding Credit/Reimbursement Amounts;

Step 2d. Determine whether there is an outstanding Credit/Reimbursement Amount due other builder/developers in the CFD and apply one of the following:

- *If there <u>are</u> outstanding Credit/Reimbursement Amounts*, look at the Order of Priority of the Authorized Facilities for which a Credit/Reimbursement Amount is due. In addition, identify the dates on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) which were provided to each builder/developer for which a Credit/Reimbursement Amount is outstanding. Reimbursements shall be paid based on the Order of Priority and, if there are multiple Credit/Reimbursement Amounts due within the same priority level, based on the date on which a "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" was issued to each

builder/developer. After the reimbursements are made, the Administrator shall reduce the Credit/Reimbursement Amount for the builder/developer(s) who received reimbursement by the amount of such reimbursement.

- *If there are no outstanding Credit/Reimbursement Amounts due any builder/developer*, the City shall deposit the Facilities Special Tax into an account which will be designated for funding the Authorized Facilities. The balance in this fund will be used either to pay directly for the construction of Authorized Facilities or to reimburse a builder/developer who constructs Authorized Facilities in future years. The interest earned on funds in this account shall accrue to the account for the same purposes.

E. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The maximum Facilities Special Tax determined pursuant to Section C above shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure within CFD No. 1998-2 and shall be immediately delinquent if not so paid.

2. Annual Maintenance Special Tax

Commencing with Fiscal Year 1999-00 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Subdivided Property as follows:

Step 1: Calculate the total Maintenance Special Tax revenues that could be collected from Subdivided Property within the CFD based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C.2 above;

Step 2: Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1;

Step 3: If the ratio determined in Step 2 is greater than or equal to 1, levy the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 on all Subdivided Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: If the ratio determined in Step 2 is less than 1, levy the maximum Annual Maintenance Special Tax against all Parcels of Subdivided Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 above until the amount so levied equals the Maintenance Special Tax Requirement for the Fiscal Year.

The Annual Maintenance Special Tax for CFD No. 1998-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1998-2 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes levied on the County tax roll.

In no event shall the Maintenance Special Tax levied and collected in one Tax Area be increased due to delinquencies in the other Tax Area.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax and Reimbursements, no Special Tax shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. No Annual Maintenance Special Tax shall be levied on Church Property unless such Church Property is built on a Parcel or Parcels that had previously been developed with residential or non-residential land uses which had paid the Annual Maintenance Special Tax. The maximum Annual Maintenance Special Tax assigned to such Church Property would be equal to the maximum Annual Maintenance Special Tax that had previously been assigned to the residential or non-residential land uses on the property.

The Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus simple interest charges of

1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

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ATTACHMENT 1

COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER BANGS/PELANDALE-SNYDER)
ORDER OF PRIORITY OF AUTHORIZED FACILITIES

First Priority

- Storm drain basin construction (including but not limited to basins, inlet structures, pipelines, and fencing)
- Storm drain trunkline in Snyder Avenue adjacent to school and park sites
- CFD Costs (as identified in the CFD Public Report)
- Engineering design costs for storm drain related improvements (including geotechnical)

Second Priority

- Storm drain basin land purchase for both basins (Van Konynenburg properties), east and west of Modest Irrigation District lateral No. 6

Third Priority

- Storm drain trunk lines (other than trunkline in Snyder Avenue adjacent to school and park sites)

[Note that storm drain trunk lines are specific to each tax area and will remain a third priority within a tax area until all trunk lines within that tax area are credited or reimbursed.]

Fourth Priority

- Storm drain pump station, piping and landscaping around storm drainage basin

Fifth Priority, Tax Area A (Carver Bangs)

- Bike trail
- American Avenue
- Prescott Road
- Bangs Avenue
- Carver Road
- American Avenue crossing of Modest Irrigation District lateral No. 6
- Pedestrian bridge crossing of Modesto Irrigation District lateral No. 6

Fifth Priority, Tax Area B (Pelandale-Snyder)

- Bike trail
- Dale Road
- Prescott Road
- Tully Road
- Snyder Avenue (opposite)
- Tully/Snyder traffic signal

ATTACHMENT 2
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
MAXIMUM FACILITIES SPECIAL TAX

	Carver-Bangs	Pelandale-Snyder
Infrastructure Costs, other than Storm Drainage	$986,097	$3,494,846
Plus: Administration 7.00%	$69,027	$244,639
Subtotal, Costs other than Storm Drainage	$1,055,124	$3,739,485
Storm Drainage Costs	$1,494,750	$4,389,042
Plus: Administration 7.00%	$104,633	$307,233
Subtotal, Storm Drainage Costs	$1,599,383	$4,696,275
Total Costs Assigned to Tax Area	***$2,654,506***	***$8,435,760***
Total Net Acreage Contributing to Non-Drainage Facilities	137.44	298.40
One-Time Special Tax per Net Acre for non-Drainage	$7,677	$12,532
Total Net Acreage Contributing to Storm Drainage	137.44	317.73
One-Time Special Tax per Net Acre for Storm Drainage	$11,637	$14,781

Assessor Parcel No.	Property Owner	Net Acreage	1998 Maximum Facilities Special Tax/1
Tax Area A, Carver-Bangs			
78 12 02	Calvary Chapel	0.89	$17,189
78 18 23	Calvary Chapel	14.19	$274,065
78 18 24	William Han	28.90	$558,173
78 18 14	Lowry, Luscher, Donovan	22.60	$436,495
46 07 15	Kaufman & Broad	16.39	$316,555
46 07 16	Elaine Fowler	18.11	$349,775
46 07 18	Ronald Malik	8.75	$168,997
46 07 19	Ronald Malik	19.30	$372,759
46 07 20	Ronald Malik	8.31	$160,499
Total, Carver-Bangs		*137.44*	*$2,654,506*
Tax Area B, Pelandale-Snyder			
78 18 06	TRS Enterprises	35.45	$968,228
78 18 7	Vossoughi Investments	18.67	$509,924
78 18 22	Rodney K. Lowe, Inc.	18.35	$501,184
78 18 28	Corn-Harris Development	20.62	$563,184
78 18 12	Resource Development	24.08	$657,685
46 07 17	Marlene Johnston, et. al.	16.22	$443,009
46 07 11	Verna Mae Johnson Trust	17.95	$490,259
46 07 12	William P. Couture	35.65	$973,691
46 07 22	Red Rock Ranch	13.05	$356,428
46 07 09	Walker Family Partnership	26.90	$734,706
46 07 07	Resource Development	13.89	$379,371
46 07 06	Resource Development	4.58	$125,091
46 07 08	Brent & Diana Holtz	18.62	$508,559
46 03 02	Big Valley Grace Comm. Church	7.20	$196,650
46 03 06	Big Valley Grace Comm. Church	9.07	$247,724
46 03 07	Big Valley Grace Comm. Church	18.10	$494,356
46 03 09	Big Valley Grace Comm. Church	19.33	$285,711
Total, Pelandale-Snyder		*317.73*	$8,435,760

/1 Maximum taxes shall be increased each year by four percent of the amount in effect in the prior year.

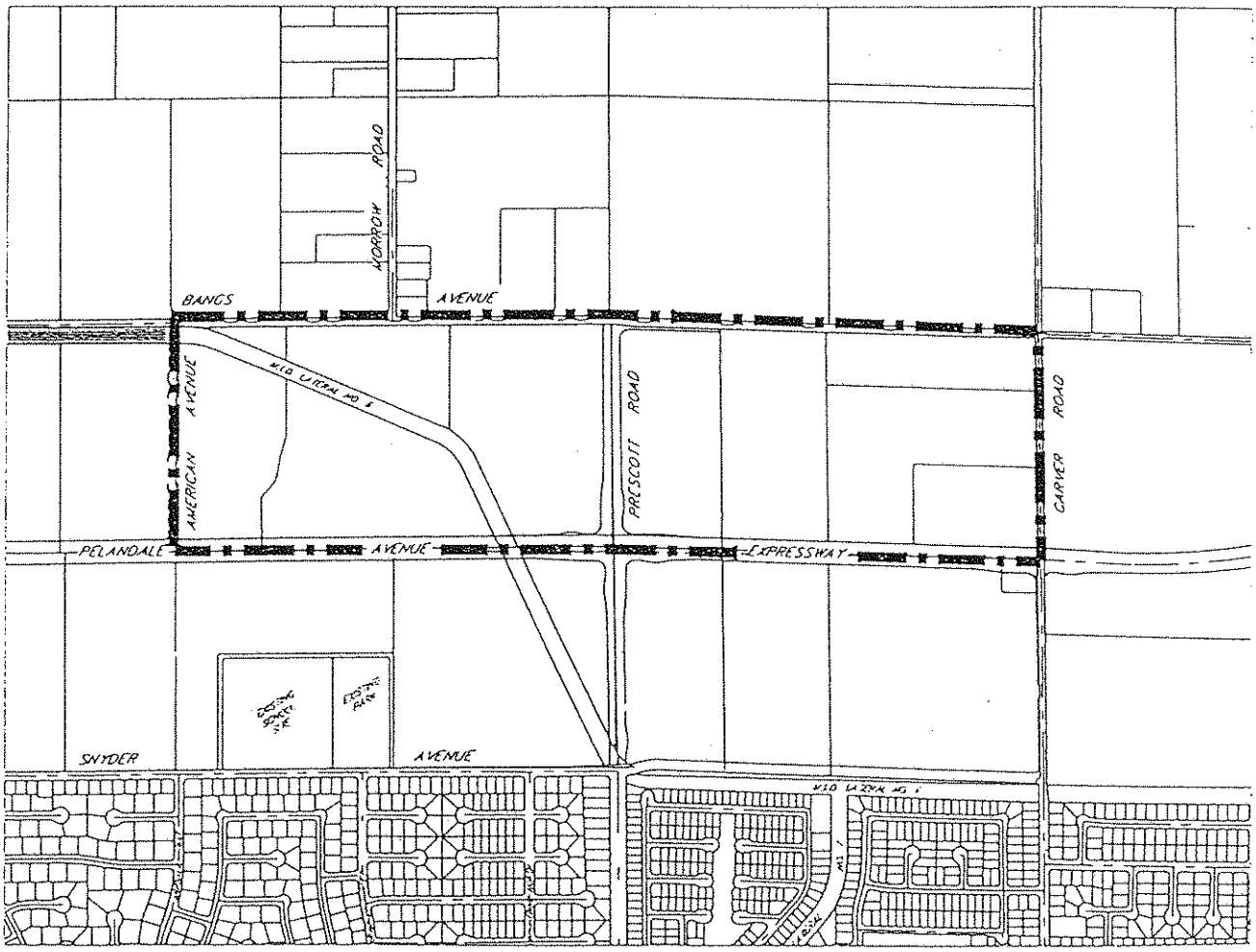
ATTACHMENT 3

COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER BANGS/PELANDALE-SNYDER)

IDENTIFICATION OF TAX AREA A AND TAX AREA B

COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "A"

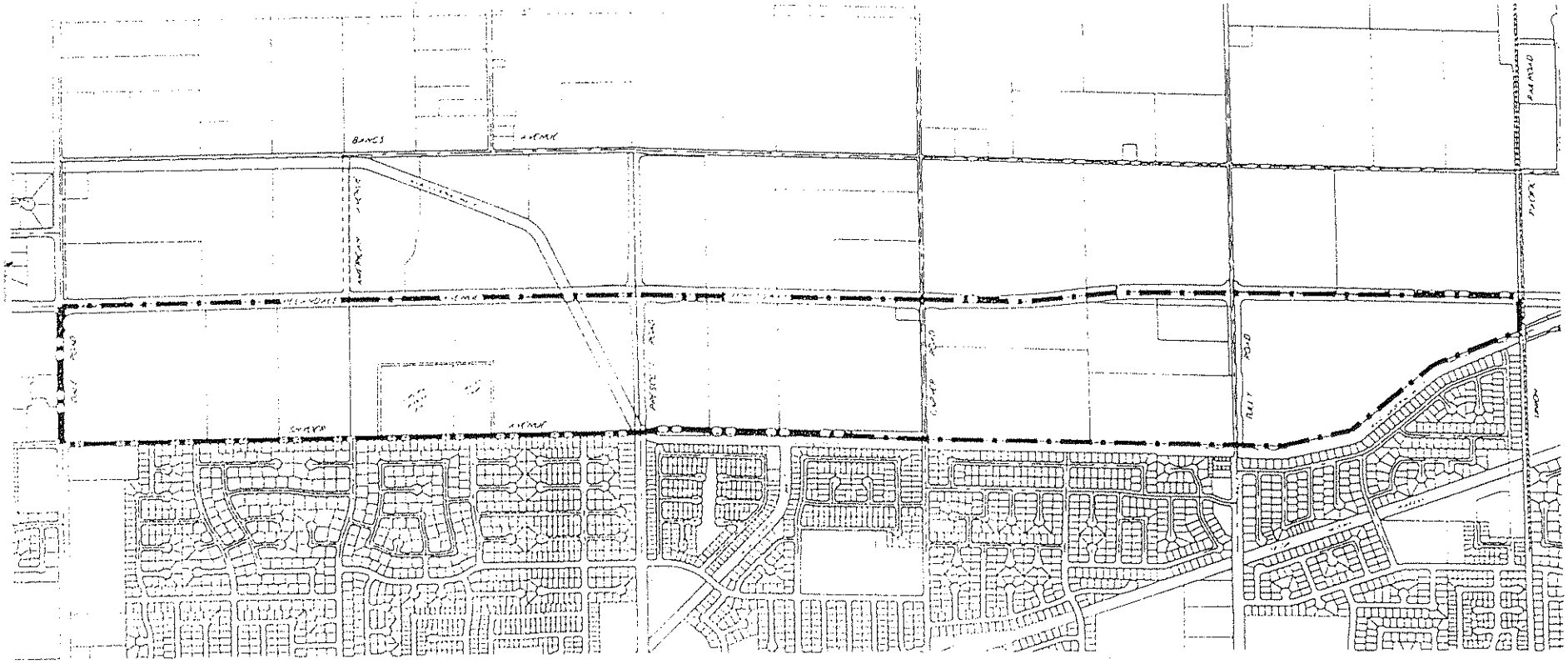


NORTH

Drawn J.R.M.	C.F.D. 1998-2 (CARVER-BANGS/ PELANDALE-SNYDER)	mid-valley engineering	FAX (209) 526-0803
Date 10-14-98			SHEET 1
Scale			
Job No. 71-159.16			

COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "B"



NORTH

Drawn	JRM
Date	10-14-98
Scale	
Job No.	209'98
Ext.	184-B

C.F.D. 1998-2
(CARVER-BANGS/
PELANDALE-SNYDER)

ATTACHMENT 3B

mid-valley engineering
900 H ST STE C MODESTO, CALIFORNIA 95354
(209) 526-4214
FAX (209) 526-0803

SHEET 1 OF 1

APPENDIX C

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

DETAILED FACILITY COST ESTIMATES

CARVER-BANGS
(TAX AREA A)

DETAILED FACILITY COST ESTIMATES

23-Oct-98
JOB 71159

CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT (CFD) 1998-2
SUMMARY

I. CARVER / BANGS SPECIFIC PLAN AREA

TOTAL ESTIMATED CFD COSTS ~~$2,424,418~~ $2,480,847

A. C.F.D. FEE PER NET ACRE

$2,424,418 / 137.44 NET ACRES = COST PER NET ACRE ========> $17,640

B. ANNUAL LANDSCAPE MAINTENANCE COSTS PER NET ACRE

COST PER NET ACRE ==========> $715

CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
CFD REIMBURSEMENT PRIORITY

I. ORDER OF REIMBURSEMENT AND/OR CREDIT

A. FIRST PRIORITY

1. STORM DRAIN BASIN CONSTRUCTION (INCLUDING BUT NOT LIMITED TO BASINS, INLET STRUCTURES, PIPELINES, AND FENCING)
2. STORM DRAIN TRUNKLINE IN SNYDER AVENUE ADJACENT TO SCHOOL AND PARK SITES.
3. ALL CFD RELATED FORMATION COSTS (I.E., CITY OF MODESTO, DAVID TAUSSIG AND ASSOCIATES, KAUFMAN & BROAD, RON MALIK, MID-VALLEY ENGINEERING, J.B. ANDERSON LAND PLANNING, RUSSELL A. HARRISON, CONSULTING CIVIL ENGINEER, INC., AND HERUM, CRABTREE, DYER, ZOLEZZI AND TERPSTRA).
4. ALL ENGINEERING DESIGN COSTS FOR STORM DRAIN RELATED IMPROVEMENTS (INCLUDING GEOTECHNICAL).

B. SECOND PRIORITY

1. STORM DRAIN BASIN LAND PURCHASE FOR BOTH BASINS (VAN KONYNENBURG PROPERTIES), EAST AND WEST OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

C. THIRD PRIORITY

1. STORM DRAIN TRUNK LINES.

D. FOURTH PRIORITY

1. STORM DRAIN PUMP STATION, PIPING AND LANDSCAPING AROUND THE STORM DRAIN BASIN.

E. FIFTH PRIORITY

1. BIKE TRAIL.
2. AMERICAN AVENUE.
3. PRESCOTT ROAD.
4. BANGS AVENUE.
5. CARVER ROAD.
6. AMERICAN AVENUE CROSSING OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.
7. PEDESTRIAN BRIDGE CROSSING OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

23-Oct-98
JOB 71159

CARVER BANGS SPECIFIC PLAN AREA (TAX AREA A)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

A.	STORM DRAINAGE	$1,494,750
B.	PRESCOTT ROAD	$145,422
C.	AMERICAN AVENUE	$24,033
D.	BANGS AVENUE	$254,305
E.	CARVER ROAD	$57,270
F.	AMERICAN AVENUE CANAL CROSSING	$295,066
G.	CLASS I BIKE TRAIL	$142,500
H.	FORMATION COSTS	$67,500
	TOTAL CFD COSTS ====	**$2,480,847**

NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE COSTS IS ESTIMATED AT $751 PER ACRE.

2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIV WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF PELANDALE-SNYDER
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. STORM DRAIN TRUNK LINES					
A. CONSTRUCTION					
1.	30" STORM	2,549	LF	$100.00	$254,900
2.	36" STORM	1,279	LF	$121.00	$154,759
3.	48" STORM	597	LF	$161.00	$96,117
4.	SHARE OF 54" STORM DRAIN TO BASIN	46	LF	$182.00	$8,372
5.	MANHOLES	14	EA	$5,750.00	$80,500
	SUB-TOTAL STORM DRAIN TRUNK LINES =====>				$594,648
	10% CONTINGENCY =====>				$59,465
	TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>				$654,113
II. STORM DRAINAGE BASIN FACILITIES					
A. CONSTRUCTION					
1.	STORM DRAIN BASIN EXCAVATION	42,628	CY	$6.00	$255,768
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	$165,445.00	$165,445
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	$8,943.00	$8,943
4.	FENCING	1,227	LF	$16.00	$19,632
5.	LANDSCAPING	10,433	SF	$2.80	$29,212
6.	INLETS	LUMP SUM	LS	$2,981.00	$2,981
7.	STRIPPING / CLEARING / DISCING	LUMP SUM	LS	$2,981.00	$2,981
	SUB-TOTAL STORM DRAIN BASIN FACILITIES =====>				$484,962
	10% CONTINGENCY =====>				$48,496
	TOTAL STORM DRAIN BASIN FACILITIES =====>				$533,459
B. FEES					
1.	ENGINEERING	1	EST	$29,808.00	$29,808
2.	STAKING	1	EST	$14,755.00	$14,755
3.	CONSTRUCTION MANAGEMENT	1	EST	$19,873.00	$19,873
4.	GEOTECHNICAL	1	EST	$5,365.00	$5,365
	TOTAL FEES =====>				$64,436

Carver-Bangs Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C.	LAND ACQUISITION				
1.	LAND PURCHASE	29.61% OF TOTAL COST OF $1,030,239 =			$305,054
2.	ADMINISTRATION		LUMP SUM	LS $2,125.00	$2,125
			TOTAL LAND ACQUISITION ====>		$307,179
			GRAND TOTAL ====>		**$1,494,750**

NOTES:

1. THE CARVER-BANGS PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCE WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENTS THE FORMULA USED FOR CONSTRUCTION AND FEES:

   A. GROSS ACREAGE SUMMARY

PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ====>	509.26

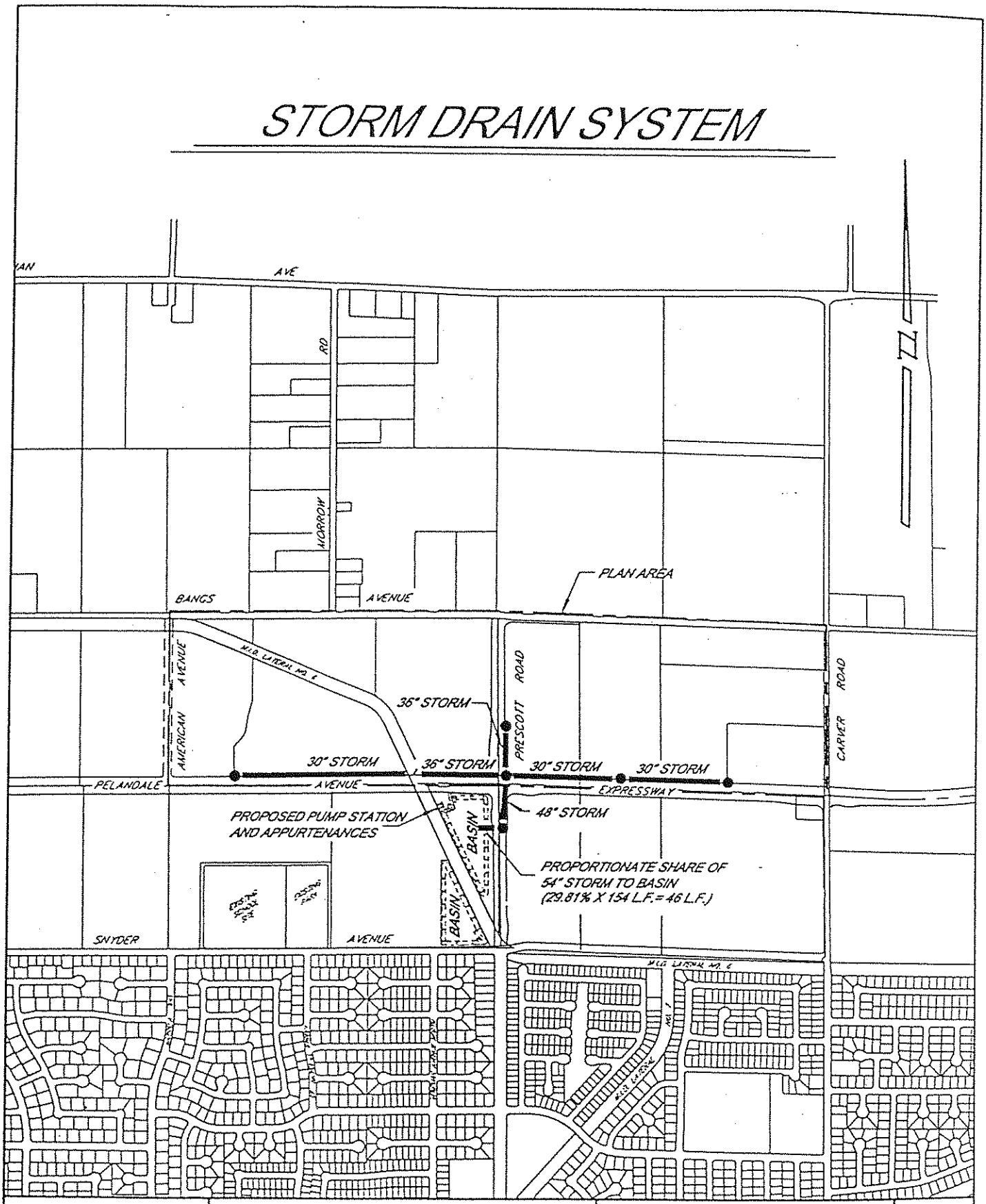
   B. CARVER / BANGS PROPORTIONATE SHARE

151.80 / 509.26 =	29.81%

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER AND CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID-VALLEY ENGINEERING, INC.

3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE DOW DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AREA GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

STORM DRAIN SYSTEM



Drawn	J.FREITAS
Date	4-29-98
Scale	
Job No.	71-159.16

FIGURE 1

CARVER BANGS CFD FORMATION

mid-valley engineering

900 H ST. STE. C MODESTO CALIFORNIA 95354

FAX (209) 526-0803

SHEET 1 OF

23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD (20' CFD PORTION)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,323' C.L. TO C.L.)
(REFERENCE FIGURE 2)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A.	CONSTRUCTION (20' CFD PORTION)				
1.	CLEARING AND GRADING	24,675	SF	$0.60	$14,805
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	24,675	SF	$2.00	$49,350
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	$1,000.00	$4,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	200	LF	$30.00	$6,000
c.	MANHOLES	2	EA	$2,000.00	$4,000
4.	PRIME COAT	24,675	SF	$0.02	$494
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COST)	1	EST	$3,207.75	$3,208
				CONSTRUCTION TOTAL =====>	$81,856
				15% CONTINGENCY =====>	$12,278
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$94,135
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$5,648.08	$5,648
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$2,824.04	$2,824
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$3,765.39	$3,765
				TOTAL FEES =====>	$12,238
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.57	AC	$65,000.00	$37,050
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$39,050
				GRAND TOTAL =====>	**$145,422**

NOTES:

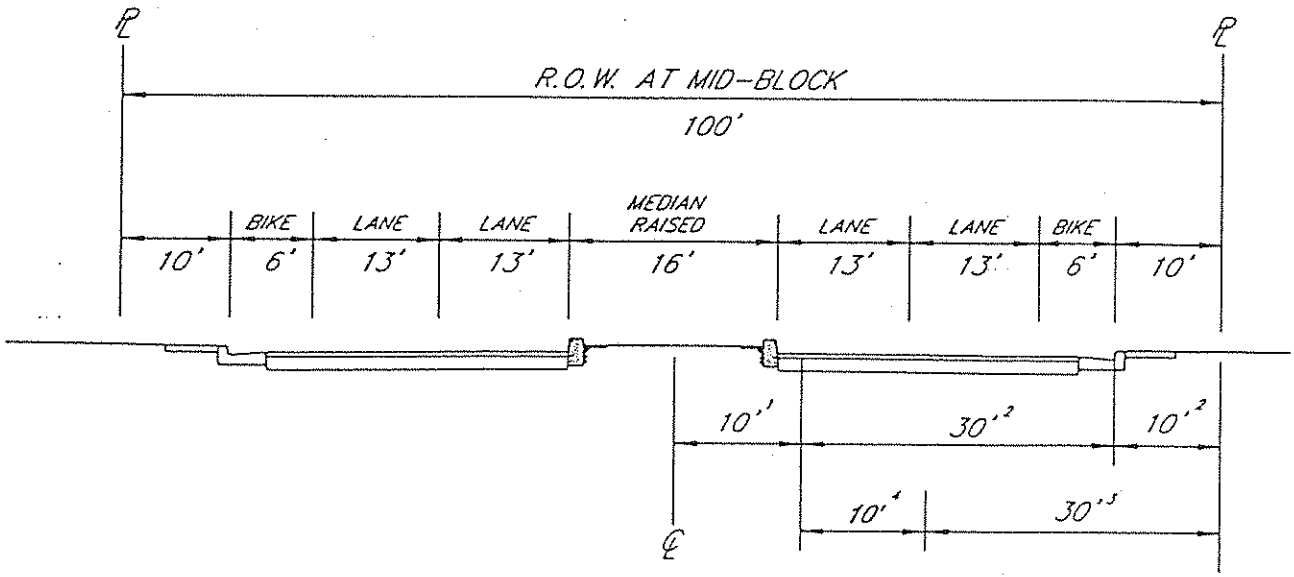
1. THE ABOVE ESTIMATE IS FOR THE PORTION OF PRESCOTT ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 2).

2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD SECTION

(MID-BLOCK)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.

2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.

3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.

4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.FREITAS	FIGURE 2	mid-valley engineering	FAX (209) 526-0803
Date 4-29-98	CARVER BANGS CFD FORMATION	900 H ST. STE. C , MODESTO, CALIFORNIA , 95354	SHEET 1 OF 1
Scale			
Job No. 71-159.16			

23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE (2' CFD PORTION HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 3)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A.	CONSTRUCTION (CFD PORTION)				
1.	CLEARING AND GRADING	2,535	SF	$0.35	$887
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	2,535	SF	$1.75	$4,436
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	$1,000.00	$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	$30.00	$3,000
c.	MANHOLES	2	EA	$2,000.00	$4,000
4.	PRIME COAT	LUMP SUM	LS	$100.00	$100
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	LUMP SUM	LS	$300.00	$300
				CONSTRUCTION TOTAL =====>	$14,724
				15% CONTINGENCY =====>	$2,209
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$16,932
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$1,015.92	$1,016
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$507.96	$508
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$677.28	$677
				TOTAL FEES =====>	$2,201
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.06	AC	$65,000.00	$3,900
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$1,000.00	$1,000
				TOTAL LAND ACQUISITION =====>	$4,900
				GRAND TOTAL =====>	**$24,033**

NOTES:

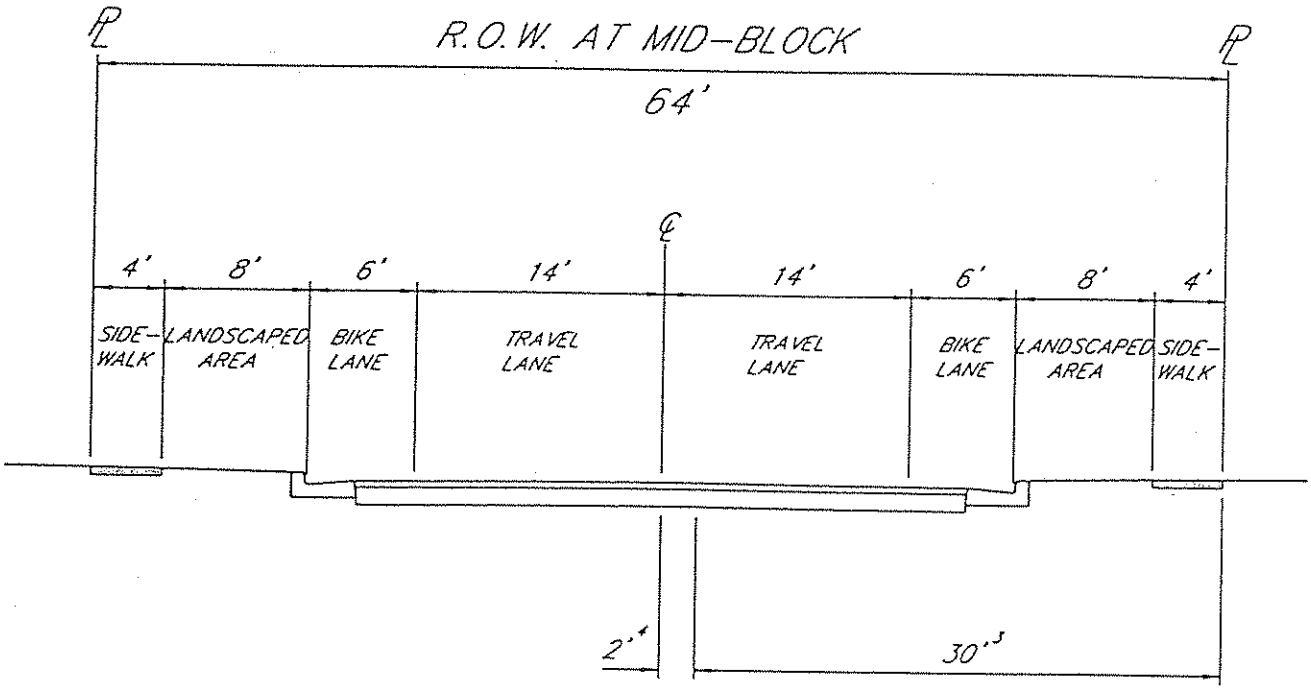
1. THE ABOVE ESTIMATE IS FOR THE PORTION OF AMERICAN AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 3).

2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

AMERICAN AVENUE SECTION

(MID-BLOCK-LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.

2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.

3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.

4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.R.M.	FIGURE 3	mid-valley engineering	FAX (209) 526-0803
Date 7-28-98	CARVER BANGS CFD FORMATION		SHEET 1
Scale			
Job No. 71-159.16			

23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BANGS AVENUE (9' CFD PORTION, HALF SECTION ONLY)
FROM
AMERICAN AVENUE TO CARVER ROAD (5,350' C.L. TO C.L.)
(REFERENCE FIGURE 4)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A.	CONSTRUCTION (CFD PORTION)				
1.	CLEARING AND GRADING	48,150	SF	$0.35	$16,853
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	48,150	SF	$1.75	$84,263
3.	STORM DRAINAGE				
a.	CATCH BASINS	7	EA	$1,000.00	$7,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	350	LF	$30.00	$10,500
c.	MANHOLES	7	EA	$2,000.00	$14,000
4.	PRIME COAT	48,150	SF	$0.02	$963
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	$5,055.75	$5,056
				CONSTRUCTION TOTAL =====>	$138,634
				15% CONTINGENCY =====>	$20,795
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$159,429
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$9,565.73	$9,566
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$4,782.86	$4,783
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$6,377.15	$6,377
				TOTAL FEES =====>	$20,726
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	1.11	AC	$65,000.00	$72,150
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$74,150
				GRAND TOTAL =====>	**$254,305**

NOTES:

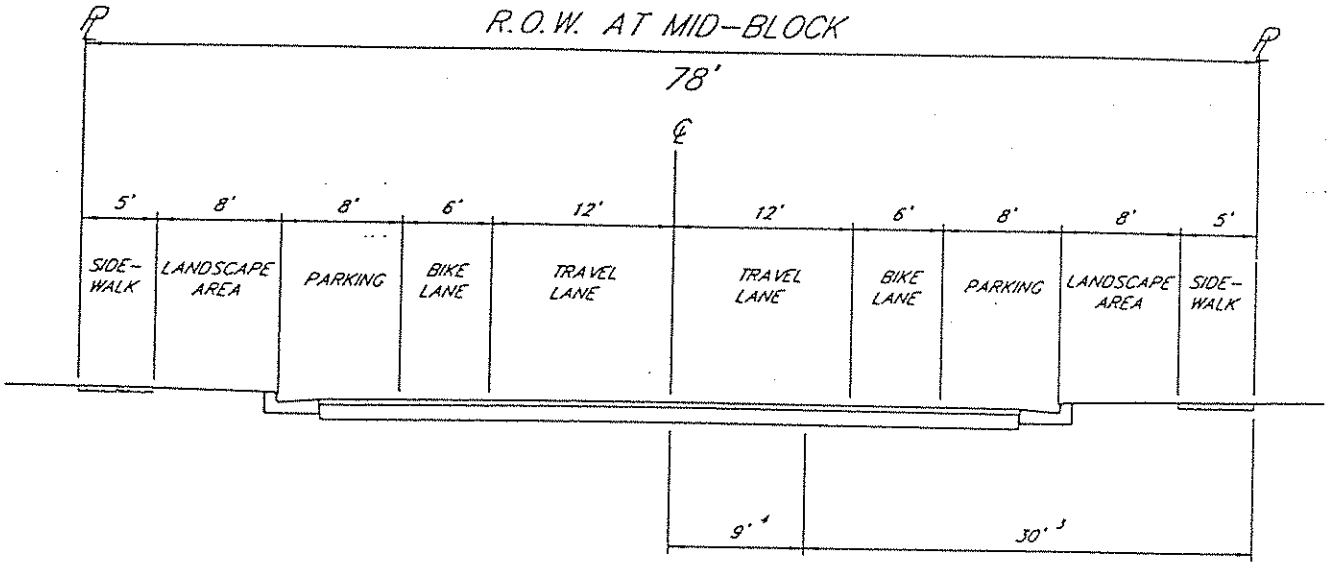
1. THE ABOVE ESTIMATE IS FOR THE PORTION OF BANGS AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 4).

2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

BANGS AVENUE SECTION

(MID-BLOCK LOOKING EAST)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.

2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.

3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.

4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.R.M.	FIGURE 4	mid-valley engineering	FAX (209) 526-0803
Date 7-28-98	CARVER BANGS CFD FORMATION	900 H ST. STE. G . MODESTO. CALIFORNIA . 95354	SHEET 1 OF 1
Scale			
Job No. 71-159.16			

23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CARVER ROAD (9' CFD PORTION, HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE
(REFERENCE FIGURE 5)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A.	CONSTRUCTION (6' CFD PORTION)				
1.	CLEARING AND GRADING	9,900	SF	$0.35	$3,465
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	9,900	SF	$1.75	$17,325
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	$1,000.00	$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	$30.00	$3,000
c.	MANHOLES	2	EA	$2,000.00	$4,000
4.	PRIME COAT	9,900	SF	$0.02	$198
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	$1,039.50	$1,040
				CONSTRUCTION TOTAL =====>	$31,028
				15% CONTINGENCY =====>	$4,654
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$35,682
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$2,140.90	$2,141
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$1,070.45	$1,070
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$1,427.27	$1,427
				TOTAL FEES =====>	$4,639
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.23	AC	$65,000.00	$14,950
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$16,950
				GRAND TOTAL =====>	**$57,270**

NOTES:

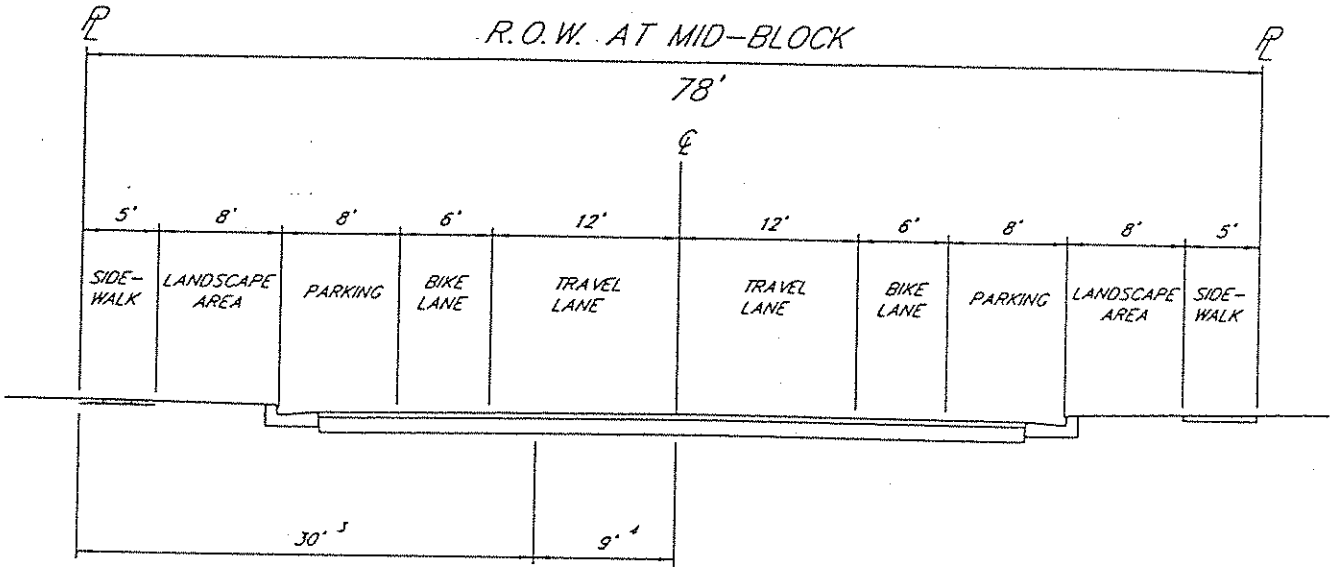
1. THE ABOVE ESTIMATE IS FOR THE PORTION OF CARVER ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 5).

2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

CARVER ROAD SECTION

(MID-BLOCK LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.

2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.

3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.

4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.R.M.	FIGURE 5	mid-valley engineering	FAX (209) 526-0803
Date 7-28-98	CARVER BANGS CFD FORMATION	900 H ST. STE. G, MODESTO, CALIFORNIA, 95354	SHEET 1 OF 1
Scale			
Job No. 71-159.16			

23-Oct-98
JOB 71159

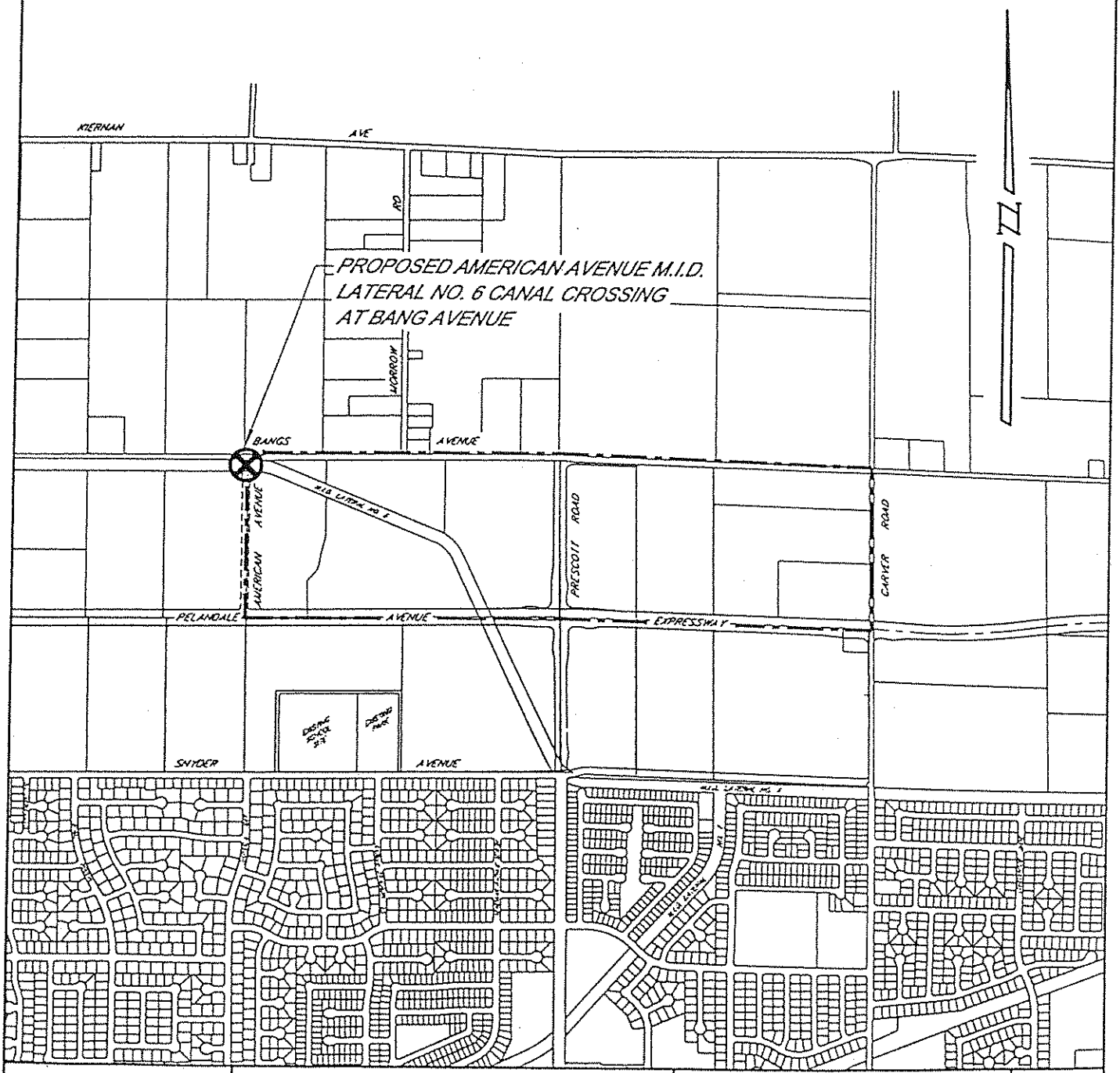
CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
CULVERT CROSSING AT BANGS AVENUE
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	LUMP SUM	LS	$15,000.00	$15,000
2.	EARTHWORK	LUMP SUM	LS	$23,750.00	$23,750
3.	CAST-IN-PLACE REINFORCED CONCRETE 4.5' x 12' DOUBLE BOX CULVERT	LUMP SUM	LS	$125,000.00	$125,000
4.	INLET STRUCTURE	1	EA	$21,200.00	$21,200
5.	OUTLET STRUCTURE	1	EA	$21,200.00	$21,200
6.	FENCING	LUMP SUM	LS	$4,370.00	$4,370
7.	UTILITY RELOCATION	1	EST	$10,000.00	$10,000
				CONSTRUCTION TOTAL =====>	$220,520
				15% CONTINGENCY =====>	$33,078
				TOTAL CONSTRUCTION FOR AMERICAN AVENUE CULVERT CROSSING =====>	$253,598
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$15,215.88	$15,216
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$7,607.94	$7,608
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$10,143.92	$10,144
4.	GEOTECHNICAL	1	EST	$5,000.00	$5,000
5.	MID PERMITTING	1	EST	$3,500.00	$3,500
				TOTAL FEES =====>	$41,468
				GRAND TOTAL =====>	**$295,066**

NOTES:

1. THE ABOVE ESTIMATE INCLUDES THE COST TO INSTALL AN ULTIMATE CROSSING TO ACCOMMODATE THE 64' ULTIMATE AMERICAN AVENUE CROSS SECTION AS SHOWN ON EXHIBIT 4-5 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN.

M.I.D. LATERAL NO. 6
AMERICAN AVENUE CANAL CROSSING



Drawn	J.FREITAS
Date	4-29-98
Scale	
Job No.	71-159.16

FIGURE 6

CARVER BANGS
CFD FORMATION

mid-valley engineering
900 H ST. STE. G . MODESTO CALIFORNIA 95354
FAX (209) 526-0803

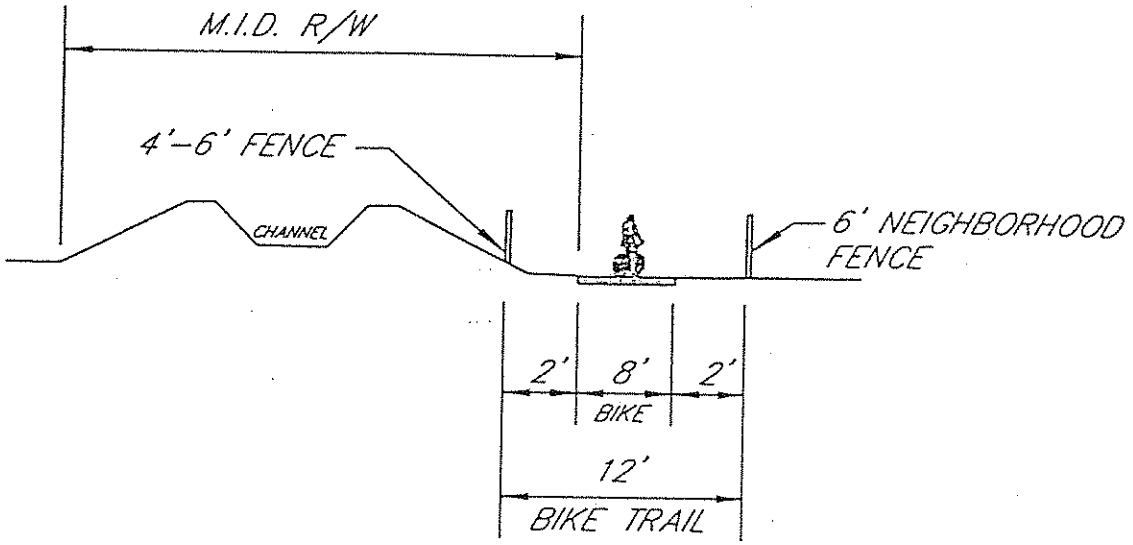
SHEET 1 OF 1

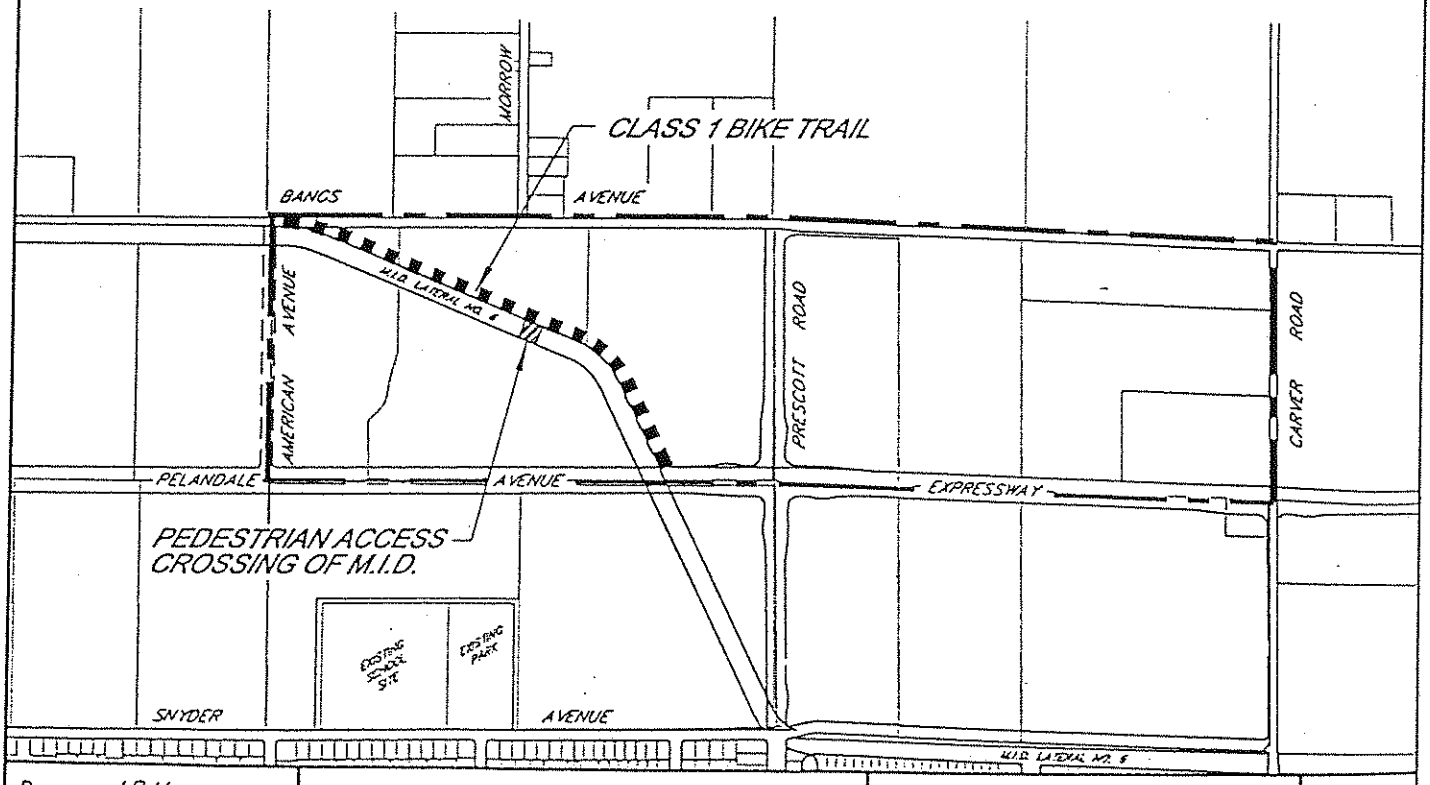
23-Oct-98
JOB 71159

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CLASS I BIKE TRAIL
AND
PEDESTRIAN ACCESS CROSSING OF
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
(REFERENCE FIGURE 7)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I.	**DESIGN PARAMETERS**				
1.	INSTALL 12' BIKE TRAIL SYSTEM (8' PATH WITH TWO-2' SHOULDER AREAS) IN ACCORDANCE WITH EXHIBIT 4-7 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN				
2.	TOTAL LENGTH 2180 L.F. OR 0.413 MILES				
3.	THE CITY'S CFF PROGRAM HAS THE FOLLOWING CLASS I BIKE TRAIL COSTS INCLUDED:				
	Existing CFF Portion				
	0.413 Miles x $105,600 =	$43,613			
II.	**CLASS I BIKE TRAIL**				
A.	CONSTRUCTION				
1.	8' BIKE PATH	17,440	SF	$2.00	$34,880
2.	2' GRAVEL SHOULDER EACH SIDE (2" DECOMPOSED GRANITE)	8,720	SF	$0.30	$2,616
3.	4-6' FENCE	2,180	LF	$16.00	$34,880
4.	PEDESTRIAN ACCESS CROSSING	LUMP SUM	LS	$50,000.00	$50,000
				CONSTRUCTION TOTAL =====>	$122,376
				10% CONTINGENCY =====>	$12,238
				TOTAL BIKE PATH =====>	$134,614
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$8,076.82	$8,077
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$4,038.41	$4,038
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$5,384.54	$5,385
				TOTAL FEES =====>	$17,500
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION (10' WIDE; ASSUME 2' JOINT USE OF EXISTING MID RIGHT-OF-WAY)	0.50	AC	$65,000.00	$32,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$1,500.00	$1,500
				TOTAL LAND ACQUISITION =====>	$34,000
				GRAND TOTAL =====>	$186,113
				CFF PORTION =====>	$43,613
				TOTAL CARVER BANGS CFD PORTION =====>	$142,500

CLASS 1 BIKE PATH / PEDESTRIAN ACCESS CROSSING OF M.I.D. NO.6





Drawn	J.R.M.
Date	7-28-98
Scale	
Job No.	71-159.16

FIGURE 7

CARVER BANGS CFD FORMATION

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PELANDALE-SNYDER
(TAX AREA B)

DETAILED FACILITY COST ESTIMATES

23-Oct-98
JOB 71159

PELANDALE / SNYDER SPECIFIC PLAN AREA (TAX AREA B)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

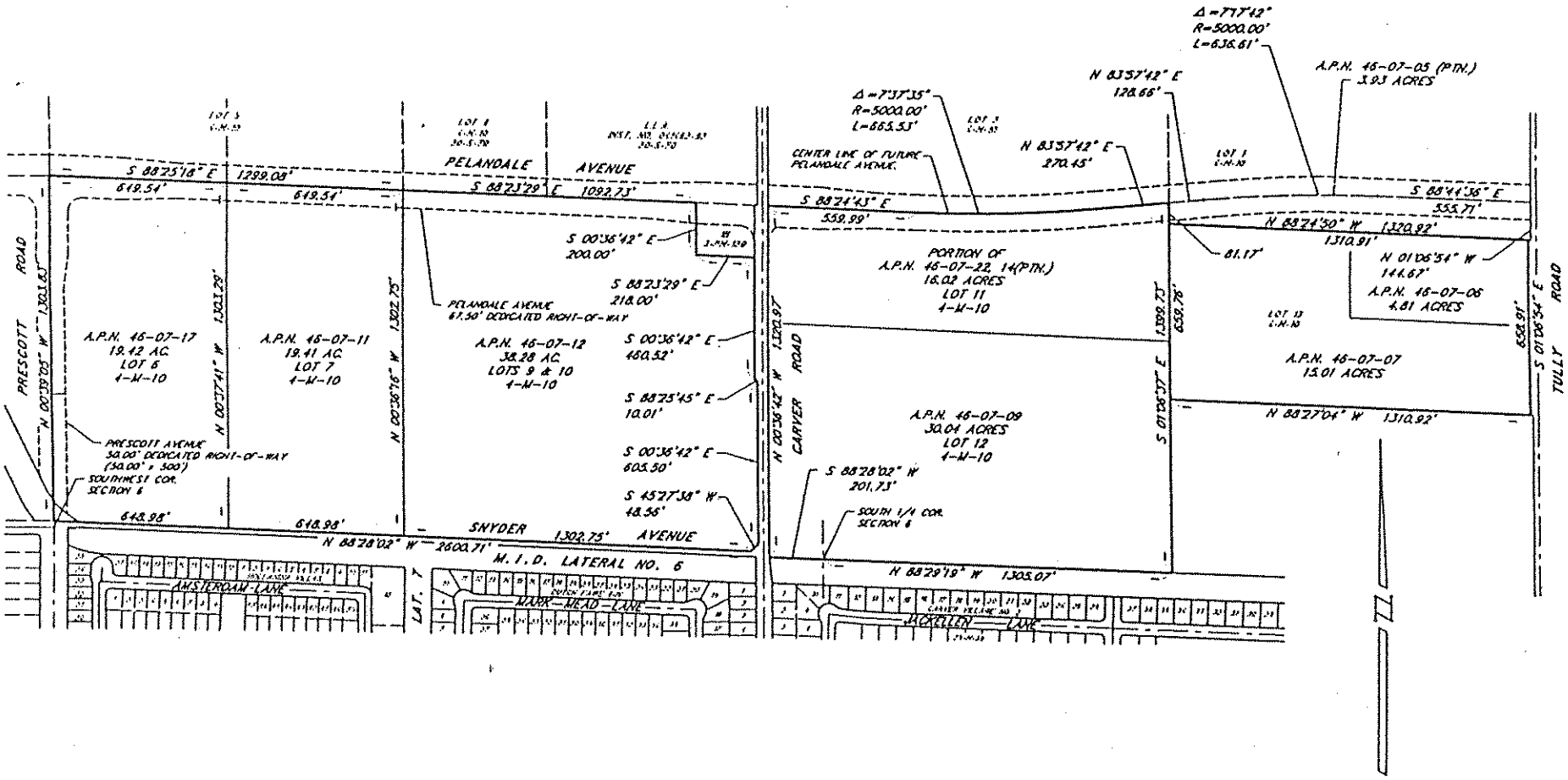
A.	STORM DRAINAGE	$4,389,042 ~~$4,000,232~~
B.	DALE ROAD	$531,075
C.	PRESCOTT ROAD	$628,297
D.	TULLY ROAD	$1,011,016
E.	SNYDER AVENUE	$504,283 ~~$52,743~~
F.	CLASS I BIKE TRAIL	$752,675
G.	FORMATION COSTS	$67,500
	TOTAL CFD COSTS =====>	~~$7,043,538~~ #7,883,888

NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR THE PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE AND ADMINISTRATION COSTS ARE ESTIMATED AT $852 PER NET ACRE.

2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS , STATE OF CALIFORNIA



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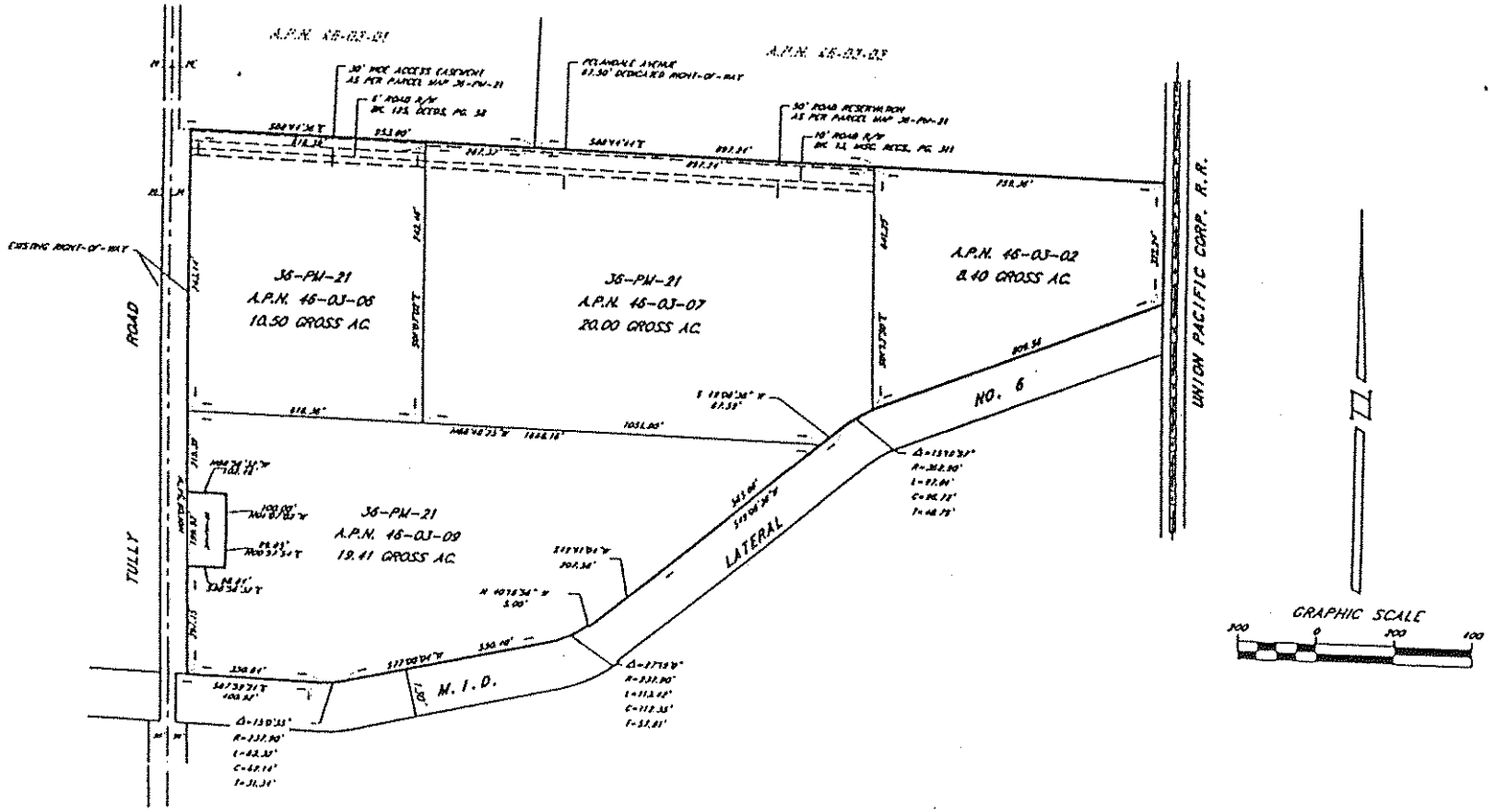
10-332/CFD/CFD1.DWG

SHEET 1 OF 6

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



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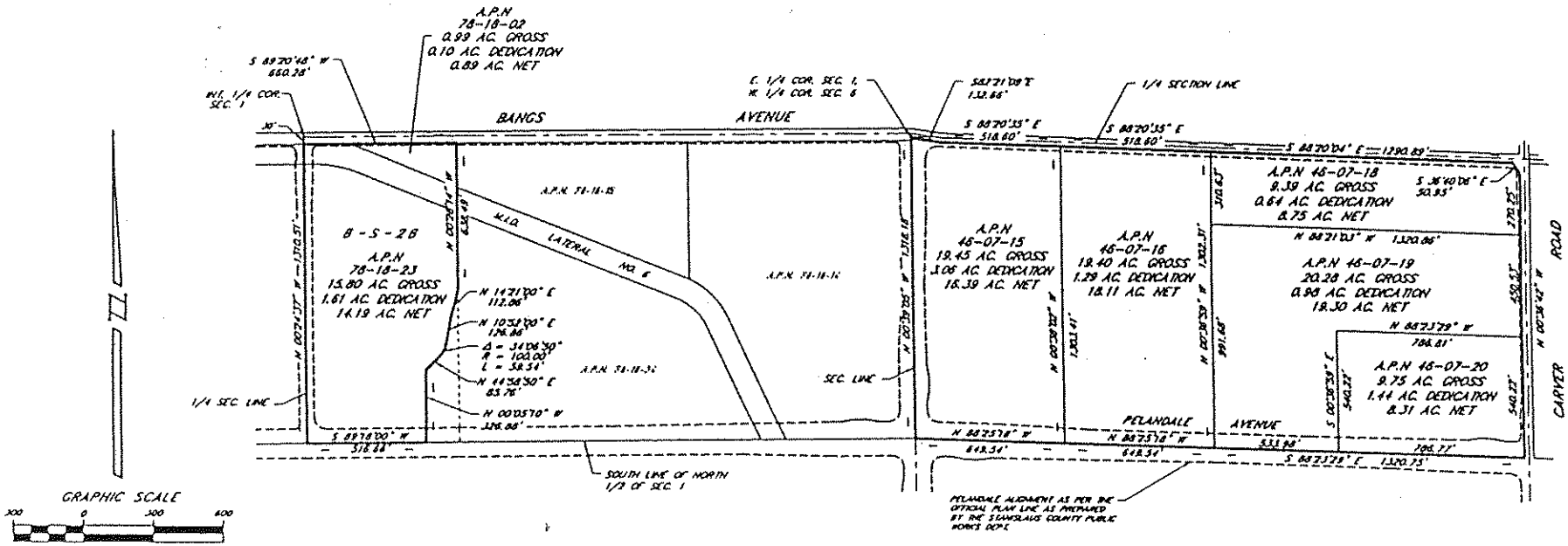
PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



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23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. STORM DRAIN TRUNK LINES					
A. CONSTRUCTION					
1.	36" STORM	400	LF	$121.00	$48,400
2.	42" STORM	1,874	LF	$155.00	$290,470
3.	48" STORM	3,661	LF	$161.00	$589,421
4.	54" STORM	5,242	LF	$182.00	$954,044
5.	PROPORTIONATE SHARE 54" TO BASIN	108	LF	$182.00	$19,656
6.	MANHOLES	29	EA	$5,750.00	$166,750
				SUB-TOTAL STORM DRAIN TRUNK LINES =====>	$2,068,741
				10% CONTINGENCY =====>	$206,874
				TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>	$2,275,615
II. STORM DRAINAGE BASIN FACILITIES					
B. CONSTRUCTION					
1.	STORM DRAIN BASIN EXCAVATION	100,372	CY	$6.00	$602,232
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	$389,555.00	$389,555
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	$21,057.00	$21,057
4.	FENCING	2,890	LF	$16.00	$46,240
5.	LANDSCAPING	13,170	SF	$2.80	$36,876
6.	INLETS	LUMP SUM	LS	$7,019.00	$7,019
6.	CLEARING / DISCING / STRIPPING	LUMP SUM	LS	$7,019.00	$7,019
				SUB-TOTAL	$1,109,998
				10% CONTINGENCY =====>	$111,000
				TOTAL STORM DRAIN BASIN FACILITIES =====>	$1,220,998

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C.	FEES				
1.	ENGINEERING	1	EST	$70,192.00	$70,192
2.	STAKING	1	EST	$34,746.00	$34,746
3.	CONSTRUCTION MANAGEMENT	1	EST	$46,796.00	$46,796
4.	GEOTECHNICAL	1	EST	$12,635.00	$12,635
				TOTAL FEES ====>	$164,369
D.	LAND ACQUISITION				
1.	LAND PURCHASE	70.39% OF TOTAL COST OF $1,030,239 =			$725,185
2.	ADMINISTRATION	LUMP SUM	LS	$2,875.00	$2,875
				TOTAL LAND ACQUISITION ====>	$728,060
				PELANDALE - SNYDER STORM DRAIN FACILITIES TOTAL ====>	**$4,389,042**

NOTES:

1. THE PELANDALE-SNYDER PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCES WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRE THE FORMULA USED FOR CONSTRUCTION AND FEES:

   A. GROSS ACREAGE SUMMARY

PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ====>	509.26

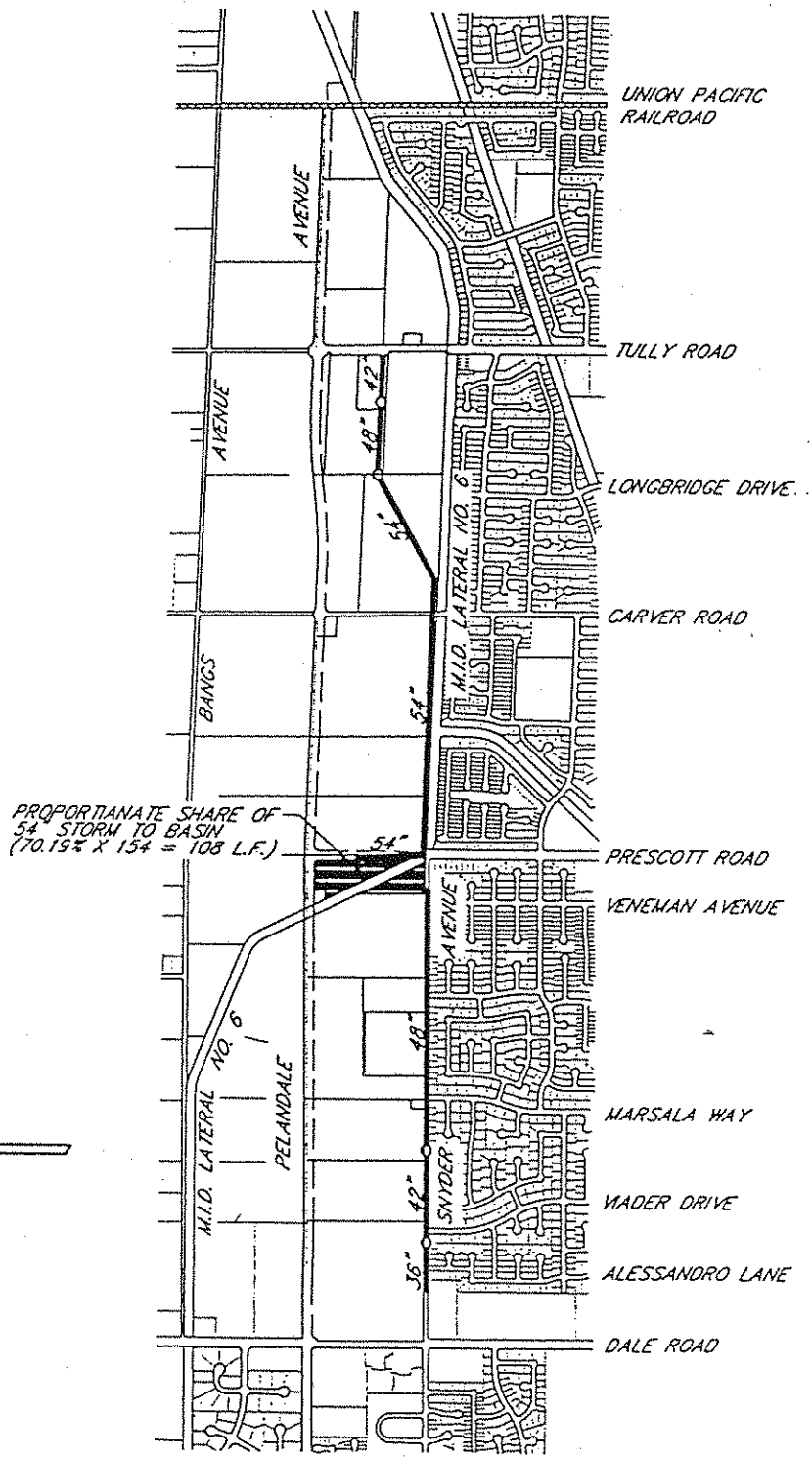
   B. PELANDALE / SNYDER PROPORTIONATE SHARE

357.46 / 509.26 =	70.19%

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER A CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID VALLEY ENGINEERING, INC.

3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE D DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AR GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

BACKBONE STORM DRAIN SYSTEM



Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg	FIG-1

FIGURE 1

PELANDALE SNYDER CFD FORMATION

mid-valley engineering

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23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
DALE ROAD (CENTER 20' C.L. TO C.L.)
AND EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS
SNYDER AVENUE TO PELANDALE AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 2)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DALE ROAD CENTER 20 FEET					
A. CONSTRUCTION					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	26,400	SF	$1.50	$39,600
2.	MEDIAN CURB	2,690	LF	$15.00	$40,350
3.	MEDIAN COVER	17,520	SF	$3.50	$61,320
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10; R.V. = 50)	5,280	SF	$2.00	$10,560
5.	STRIPING	LUMP SUM	LS	$5,000.00	$5,000
				CONSTRUCTION TOTAL =====>	$156,830
				10% CONTINGENCY =====>	$15,683
				TOTAL DALE ROAD CONSTRUCTION =====>	$172,513
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$10,350.78	$10,351
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$5,175.39	$5,175
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$6,900.52	$6,901
				TOTAL FEES =====>	$22,427
				DALE ROAD CENTER 20 FEET GRAND TOTAL =====>	$194,940

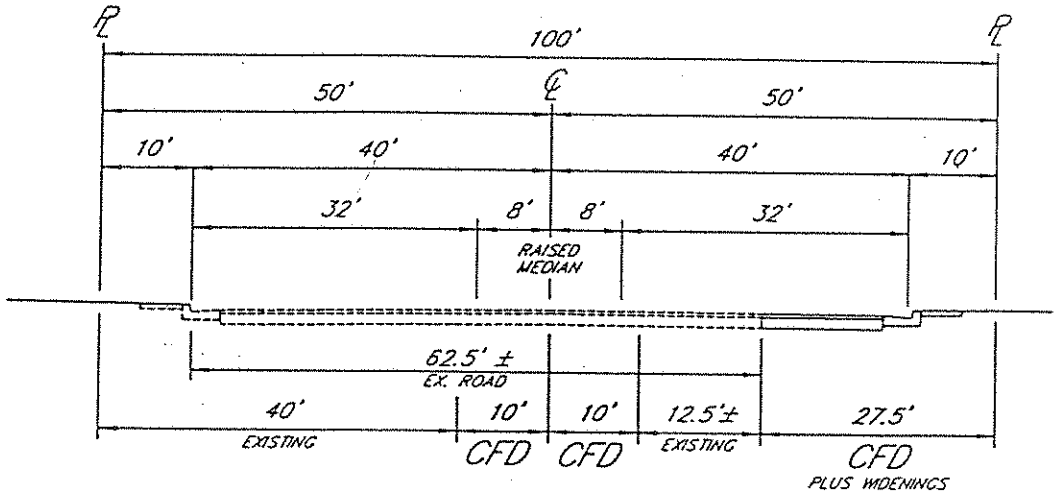
Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS					
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	30,492	SF	$0.60	$18,295
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	22,104	SF	$2.00	$44,208
3.	STORM DRAINAGE				
a.	12" STORM DRAIN	800	LF	$30.00	$24,000
b.	15" STORM DRAIN	420	LF	$37.00	$15,540
c.	CATCH BASINS	2	EA	$1,000.00	$2,000
d.	12" CATCH BASIN RUNS	100	LF	$30.00	$3,000
e.	MANHOLES	2	EA	$2,000.00	$4,000
4.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,300	SF	$3.00	$36,900
5.	6" VERTICAL CURB AND GUTTER	1,230	LF	$9.00	$11,070
6.	RETURN AT PELANDALE AVENUE	1	EA	$1,000.00	$1,000
7.	ELECTROLIERS	3	EA	$3,500.00	$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,760	SF	$2.80	$41,328
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COSTS)	1	EST	$3,125.16	$3,125
10.	TRAFFIC CONTROL	LUMP SUM	LS	$4,500.00	$4,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,230	LF	$10.00	$12,300
12.	PRIMECOAT	22,104	SF	$0.02	$442
				CONSTRUCTION TOTAL =====>	$232,208
				10% CONTINGENCY =====>	$23,221
				TOTAL DALE ROAD CONSTRUCTION =====>	$255,429
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$15,325.76	$15,326
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$7,662.88	$7,663
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$10,217.17	$10,217
				TOTAL FEES =====>	$33,206
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.70	AC	$65,000.00	$45,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$47,500
				DALE ROAD FRONTAGE GRAND TOTAL =====>	$336,135
				DALE ROAD GRAND TOTAL =====>	**$531,075**

NOTE:

1. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

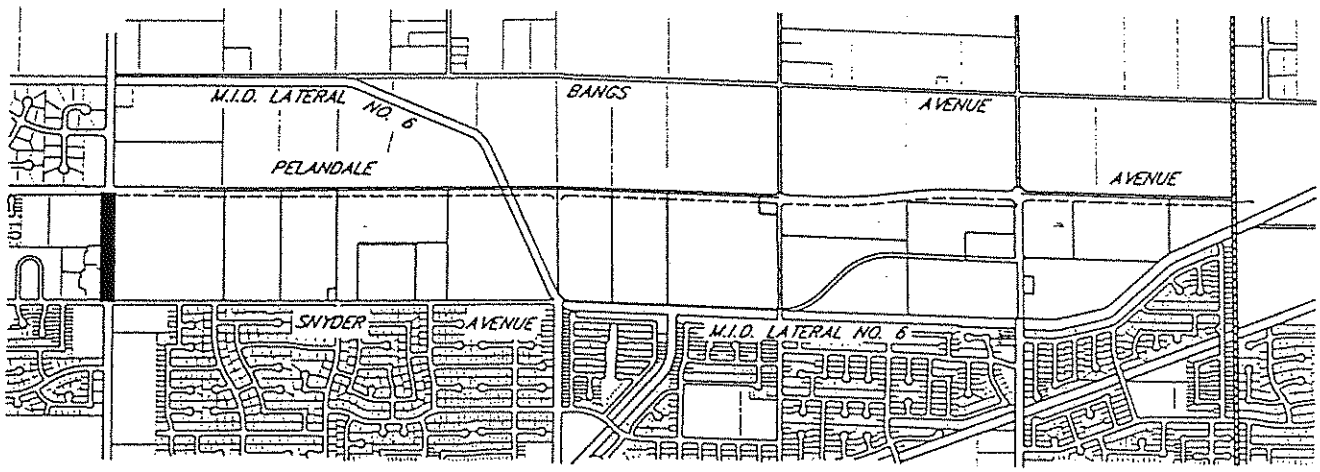
DALE ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS

SNYDER AVENUE TO PELANDALE AVENUE

N



DALE ROAD
ALESSANDRO LANE
VADER DRIVE
MARSALA WAY
VENEMAN AVENUE
PRESCOTT ROAD
CARVER ROAD
LONGBRIDGE DRIVE
TULLY ROAD
UNION PACIFIC RAILROAD

Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg.	FIG-1

FIGURE 2

PELANDALE SNYDER CFD FORMATION

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23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD
WEST SIDE FRONTAGE IMPROVEMENTS ADJACENT
TO STORM DRAIN BASIN
AND EAST SIDE FRONTAGE IMPROVEMENTS
PELANDALE AVENUE TO SNYDER AVENUE (1,316' C.L. TO C.L.)
(REFERENCE FIGURE 3)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I.	**PRESCOTT ROAD WEST SIDE FRONTAGE IMPROVEMENTS (ADJACENT TO STORM DRAIN BASINS)**				
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	37,530	SF	$0.60	$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	18,525	SF	$2.00	$37,050
3.	2" A.C. OVERLAY (EXISTING INTERIM PRESCOTT)	17,100	SF	$0.60	$10,260
4.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	$1,000.00	$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	$30.00	$3,000
c.	MANHOLES	1	EA	$2,000.00	$2,000
5.	6" VERTICAL CURB AND GUTTER	1,200	LF	$9.00	$10,800
6.	10' SIDEWALK	12,000	SF	$3.00	$36,000
7.	RETURNS	2	EA	$1,000.00	$2,000
8.	ELECTROLIERS	4	EA	$3,500.00	$14,000
9.	PRIMECOAT	18,525	SF	$0.02	$371
				CONSTRUCTION TOTAL =====>	$139,999
				10% CONTINGENCY =====>	$14,000
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$153,998
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$9,239.90	$9,240
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$4,619.95	$4,620
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$6,159.93	$6,160
				TOTAL FEES =====>	$20,020
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	1.20	AC	$65,000.00	$78,000
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$80,000
				PRESCOTT ROAD WEST SIDE FRONTAGE TOTAL =====>	$254,018

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II.	**PRESCOTT ROAD EAST SIDE FRONTAGE IMPROVEMENTS**				
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	37,530	SF	$0.60	$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	41,400	SF	$2.00	$82,800
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	$1,000.00	$2,000
b.	12" CATCH BASIN RUNS	100	LF	$30.00	$3,000
c.	MANHOLES	1	EA	$2,000.00	$2,000
4.	6" VERTICAL CURB AND GUTTER	1,200	LF	$9.00	$10,800
5.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,000	SF	$3.00	$36,000
6.	RETURNS	4	EA	$800.00	$3,200
7.	ELECTROLIERS	3	EA	$3,500.00	$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,400	SF	$2.80	$40,320
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	$5,265.90	$5,266
10.	TRAFFIC CONTROL	LUMP SUM	LS	$2,500.00	$2,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,200	LF	$10.00	$12,000
12.	PRIMECOAT	41,400	SF	$0.02	$828
				CONSTRUCTION TOTAL =====>	$233,732
				10% CONTINGENCY =====>	$23,373
				TOTAL PRESCOTT ROAD CONSTRUCTION =====>	$257,105
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$15,426.31	$15,426
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$7,713.15	$7,713
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$10,284.20	$10,284
				TOTAL FEES =====>	$33,424
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	1.25	AC	$65,000.00	$81,250
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,500.00	$2,500
				TOTAL LAND ACQUISITION =====>	$83,750
				PRESCOTT ROAD EAST SIDE FRONTAGE TOTAL =====>	$374,279
				PRESCOTT ROAD GRAND TOTAL =====>	**$628,297**

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

NOTES:

1. THE ABOVE ESTIMATE ASSUMES THE PHASE 1A INTERIM PELANDALE AVENUE WILL BE CONSTRUCTED ON THE WEST SIDE OF PRESCOTT AND A PORTION OF THE IMPROVEMENTS (APPROXIMATELY 650 L.F. FROM THE SNYDER INTERSECTION) WILL BE REMOVED FOR THE ULTIMATE IMPROVEMENTS. THE REMAINING INTERIM SECTION IS ASSUMED TO REMAIN AND BE OVERLAYED WITH 2" A.C.

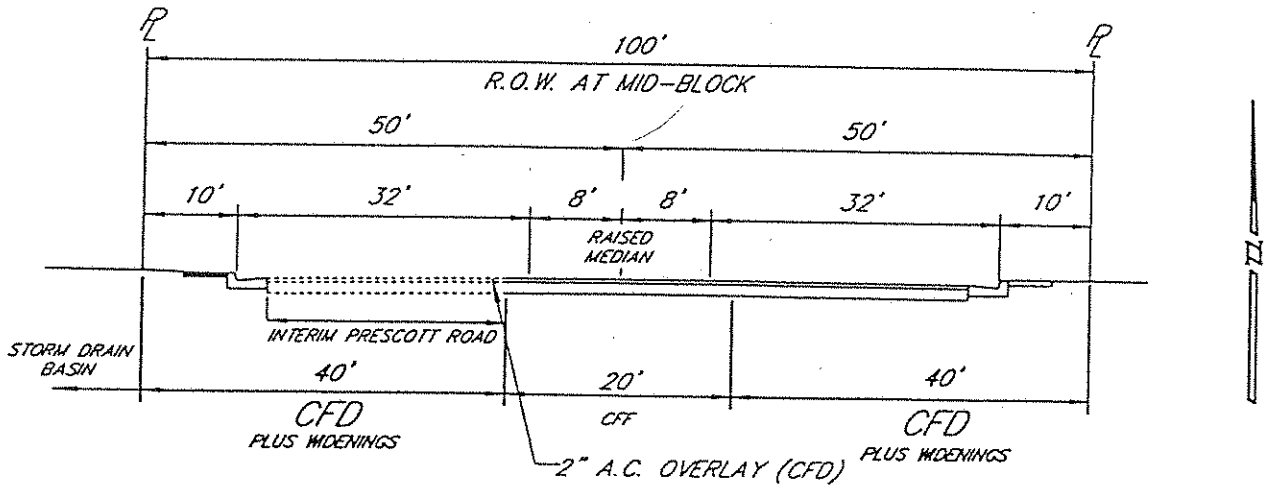
2. THE ABOVE ESTIMATE DOES NOT INCLUDE THE CENTER 20' PORTION OF PRESCOTT ROAD SINCE IT IS INCLUDED IN THE CFF PROGRAM.

3. THE ABOVE ESTIMATE DOES NOT INCLUDE THE MAINLINE STORM DRAIN IMPROVEMENTS SINCE THOSE COSTS ARE INCLUDED WITH THE STORM DRAIN COMPONENT OF THE CFD.

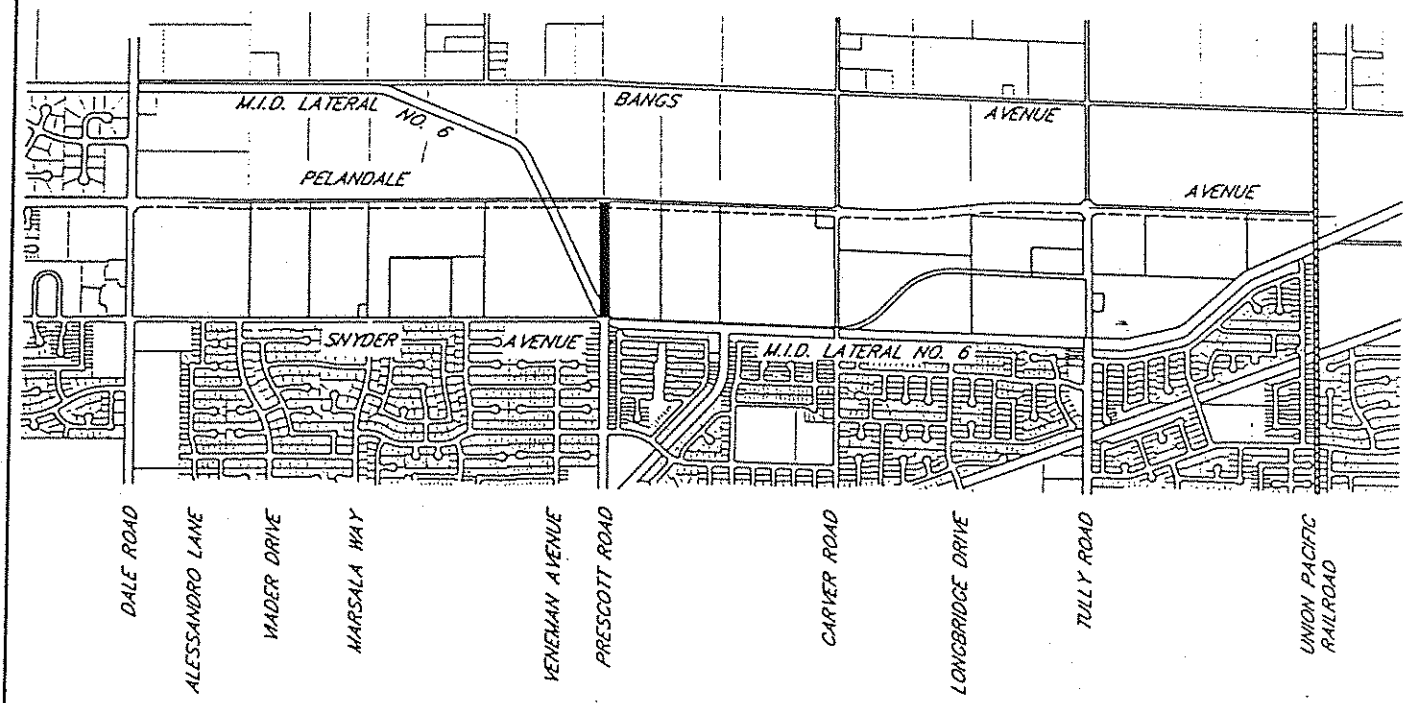
4. THE ABOVE ESTIMATE INCLUDES ALL NECESSARY CATCH BASINS. THIS CATCH BASIN ESTIMATE WAS TAKEN DIRECTLY FROM THE APPROVED "ALMOND VALLEY SUBDIVISION" IMPROVEMENT PLANS.

5. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD



SNYDER AVENUE TO PELANDALE AVENUE



Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg.	FIG-4

FIGURE 3

PELANDALE SNYDER CFD FORMATION

mid-valley engineering

900 H ST. STE. G , MODESTO, CALIFORNIA , 95354

FAX (209) 526-0803

23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES)
FROM EXISTING
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
TO PELANDALE AVENUE (1,450' C.L. TO C.L.)
TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF
AND
TULLY / SNYDER TRAFFIC SIGNAL
(REFERENCE FIGURE 4)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I.	**TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES, 114 FOOT RIGHT-OF-WAY)**				
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	87,245	SF	$0.60	$52,347
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	81,410	SF	$2.00	$162,820
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	$1,000.00	$4,000
b.	12" STORM DRAIN	600	LF	$30.00	$18,000
c.	12" CATCH BASIN RUNS	200	LF	$30.00	$6,000
d.	MANHOLES	3	EA	$2,000.00	$6,000
4.	6" VERTICAL CURB AND GUTTER	2,432	LF	$9.00	$21,888
5.	10' SIDEWALK	24,320	SF	$3.00	$72,960
6.	REMOVE EXISTING CURB, GUTTER AND SIDEWALK ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD	717	LF	$20.00	$14,340
7.	CLEARING, GRADING AND DEMOLITION ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD (LANDSCAPING, IRRIGATION, ETC.)	LUMP SUM	LS	$20,000.00	$20,000
8.	ELECTROLIERS	9	EA	$3,500.00	$31,500
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	$10,758.35	$10,758
10.	TRAFFIC CONTROL	LUMP SUM	LS	$7,000.00	$7,000
11.	TRAFFIC SIGNAL INTERCONNECT (ONE SIDE ONLY)	1,400	LF	$10.00	$14,000
12.	RELOCATE OVERHEAD POWER LINES	4	EA	$7,000.00	$28,000
13.	LANDSCAPING (12' WIDE STRIP BOTH SIDES)	36,996	SF	$2.80	$103,589
14.	PRIMECOAT	81,410	SF	$0.02	$1,628
				CONSTRUCTION TOTAL =====>	$574,830
				15% CONTINGENCY =====>	$86,225
				TOTAL CONSTRUCTION FOR TULLY ROAD FRONTAGE =====>	$661,055

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$39,663.29	$39,663
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$19,831.65	$19,832
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$26,442.20	$26,442
				TOTAL FEES =====>	$85,937
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.776	AC	$65,000.00	$50,440
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,000.00	$2,000
				TOTAL LAND ACQUISITION =====>	$52,440
				TOTAL TULLY ROAD FRONTAGE =====>	**$799,432**
II.	**TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF**				
A.	CONSTRUCTION				
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	27,360	SF	$1.50	$41,040
2.	MEDIAN CURB	3,090	LF	$15.00	$46,350
3.	MEDIAN LANDSCAPING	23,120	SF	$3.50	$80,920
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B.; T.I. = 10, R.V. = 50)	27,360	SF	$2.00	$54,720
5.	STRIPING	LUMP SUM	LS	$6,000.00	$6,000
				CONSTRUCTION TOTAL =====>	$229,030
				10% CONTINGENCY =====>	$22,903
				TOTAL CONSTRUCTION FOR TULLY ROAD CENTER 34' FEET =====>	$251,933
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$15,115.98	$15,116
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$7,557.99	$7,558
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$10,077.32	$10,077
				TOTAL FEES =====>	$32,751
				TOTAL TULLY ROAD CENTER 34 FEET =====>	$284,684
				TOTAL AMOUNT FUNDED BY CFF =====>	$220,000
				TOTAL TULLY ROAD (CENTER 34 FEET) FUNDED BY PELANDALE-SNYDER CFD =====>	**$64,684**
III.	**TRAFFIC SIGNAL AT TULLY ROAD AND SNYDER AVENUE**				
A.	CONSTRUCTION				
1.	TRAFFIC SIGNAL	LUMP SUM	LS	$130,000.00	$130,000
				CONSTRUCTION TOTAL =====>	$130,000

Pelandale-Snyder Specific Plan Area
Community Facilities District
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$7,800.00	$7,800
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$3,900.00	$3,900
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$5,200.00	$5,200
				TOTAL FEES =====>	$16,900
				TOTAL TRAFFIC SIGNAL TULLY AND SNYDER =====>	**$146,900**
				TULLY ROAD GRAND TOTAL =====>	**$1,011,016**

NOTES:

1. THIS ESTIMATE ITEM II IS FOR THE ENTIRE COST OF THE CENTER 34 FEET OF TULLY ROAD IMPROVEMENTS. THE CENTER 34 FEET OF IMPROVEMENTS ON TULLY ROAD ARE FUNDED BY THE CFF PROGRAM, HOWEVER, THE FUNDS ARE NOT AVAILABLE FOR THE ENTIRE PROJECT SO A PORTION OF THE PROJECT NOT FUNDED BY CFF WILL BE FUNDED BY THE PELANDALE-SNYDER CFD.

2. THIS ESTIMATE IS BASED ON THE ASSUMPTION THAT THE CENTER 26+/- FEET OF EXISTING PAVEMENT WILL REMAIN AND ADJACENT DEVELOPMENT WILL BE REQUIRED TO MATCH EXISTING PAVEMENT.

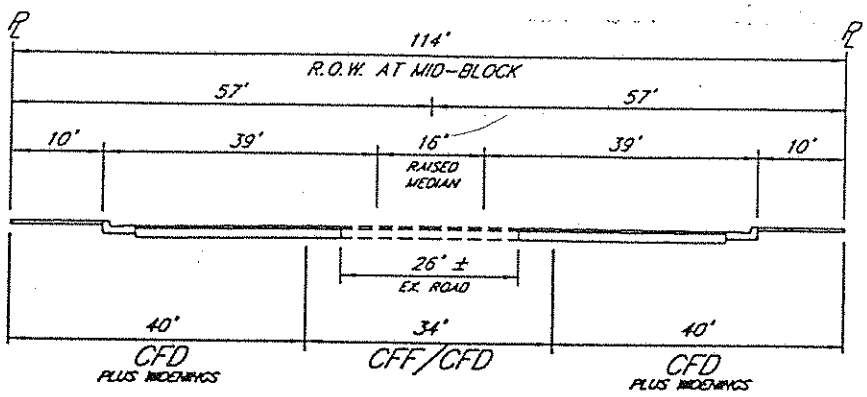
3. THE ABOVE COST ESTIMATE INCLUDES THE COST FOR IMPROVEMENTS FROM THE NORTH SIDE OF THE MODESTO IRRIGATION DISTRICT LATERAL TO PELANDALE AVENUE.

4. THE TULLY ROAD IMPROVEMENTS INCLUDE A COST TO REMOVE AND REPLACE THE EXISTING IMPROVEMENTS ALONG THE BIG VALLEY GRACE COMMUNITY CHURCH FRONTAGE (50' EXISTING TO 57' CITY STANDARD) TO BRING THE CROSS SECTION TO CITY STANDARD. HOWEVER, SPECIFIC DECELERATION OR ACCELERATION LANES WHICH ARE SITE SPECIFIC IMPROVEMENTS ARE NOT INCLUDED IN THE ESTIMATE.

5. THE RIGHT-OF-WAY COSTS ARE THE REQUIRED DEDICATIONS FOR RIGHT-OF-WAY BEYOND THE ALREADY EXISTING DEDICATIONS.

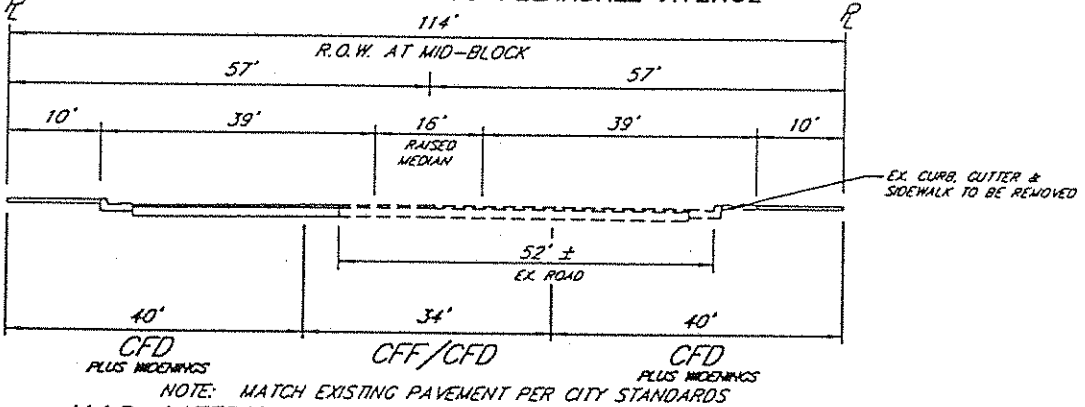
6. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

TULLY ROAD



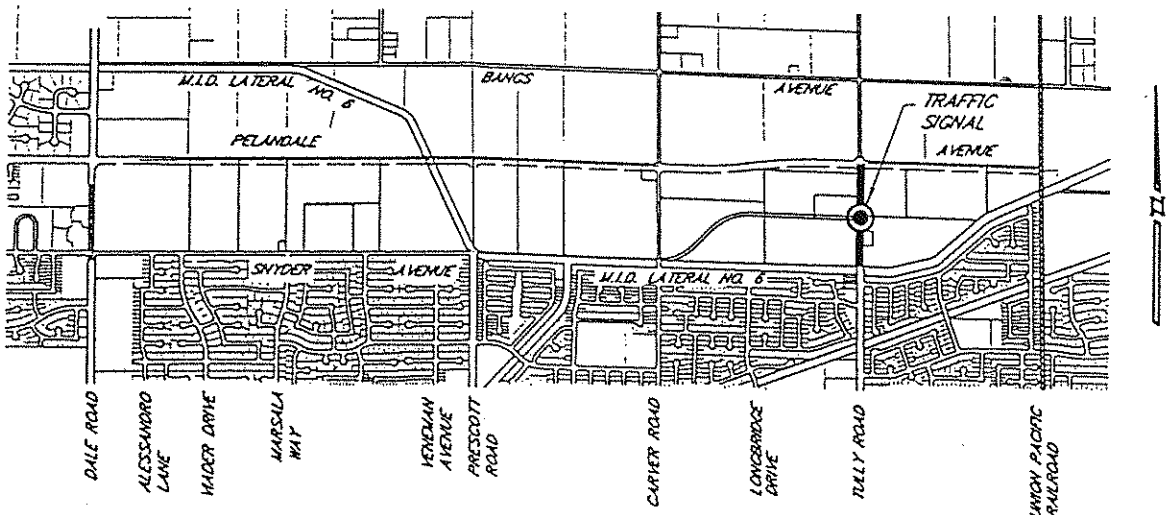
NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS

PROPOSED SYNDER AVENUE TO PELANDALE AVENUE



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS

M.I.D. LATERAL NO. 6 TO PROPOSED SYNDER AVENUE



Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg.	FIG-5

FIGURE 4

PELANDALE SNYDER CFD FORMATION

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23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
SNYDER AVENUE
NORTH SIDE ADJACENT TO STORM DRAIN BASIN,
WEST OF PRESCOTT ROAD (352'), SOUTH SIDE
ADJACENT TO BIKE TRAIL FROM
PRESCOTT ROAD TO CARVER ROAD (2,639' C.L. TO C.L.)
(REFERENCE FIGURES 5, 5A, 5B, AND 5C)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I.	**SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN**				
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	4,960	SF	$0.35	$1,736
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B., T.I. = 8 R.V. = 46)	4,085	SF	$2.00	$8,170
3.	6" VERTICAL CURB AND GUTTER	352	LF	$9.00	$3,168
4.	5' SIDEWALK	1,760	SF	$3.00	$5,280
5.	STORM DRAINAGE				
a.	12" STORM DRAIN	265	LF	$30.00	$7,950
b.	CATCH BASIN	1	EA	$1,000.00	$1,000
c.	STORM MANHOLE	1	EA	$2,500.00	$2,500
6.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	$495.30	$495
7.	TRAFFIC CONTROL	LUMP SUM	LS	$1,000.00	$1,000
8.	IRRIGATION REMOVAL	316	LF	$10.00	$3,160
				CONSTRUCTION TOTAL =====>	$34,459
				10% CONTINGENCY =====>	$3,446
	TOTAL SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN CONSTRUCTION =====>				$37,905
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$2,274.31	$2,274
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$1,137.16	$1,137
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$1,516.21	$1,516
				TOTAL FEES =====>	$4,928
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	0.11	AC	$65,000.00	$7,410
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,500.00	$2,500
				TOTAL LAND ACQUISITION =====>	$9,910
	SNYDER AVENUE ADJACENT TO THE STORM DRAIN BASIN TOTAL =====>				$52,743

Pelandale-Snyder Specific Plan Area
Community Facilities District
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October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II.	**SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL**				
A.	CONSTRUCTION				
1.	CLEARING AND GRADING	51,575	SF	$0.35	$18,051
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B.; T.I. = 8, R.V. = 48)	47,020	SF	$2.00	$94,040
3.	PAVEMENT REMOVAL	59,730	SF	$1.50	$89,595
4.	6" VERTICAL CURB AND GUTTER	2,538	LF	$9.00	$22,842
5.	STORM DRAINAGE				
a.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	250	LF	$30.00	$7,500
b.	CATCH BASINS	5	EA	$1,000.00	$5,000
c.	STORM MANHOLE	5	EA	$2,500.00	$12,500
6.	ELECTROLIERS (660' INTERVALS)	4	EA	$3,500.00	$14,000
7.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	$5,604.56	$5,605
8.	TRAFFIC CONTROL	LUMP SUM	LS	$5,000.00	$5,000
9.	ABANDON EXISTING PUMP STATION NO. 47	LUMP SUM	LS	$4,500.00	$4,500
				CONSTRUCTION TOTAL =====>	$278,633
				10% CONTINGENCY =====>	$27,863
				TOTAL SNYDER AVENUE ADJACENT TO BIKE TRAIL CONSTRUCTION =====>	$306,496
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$18,389.77	$18,390
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$9,194.88	$9,195
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$12,259.84	$12,260
				TOTAL FEES =====>	$39,844
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	1.58	AC	$65,000.00	$102,700
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,500.00	$2,500
				TOTAL LAND ACQUISITION =====>	$105,200
				SNYDER AVENUE ADJACENT TO THE BIKE TRAIL TOTAL =====>	**$451,541**
				SNYDER AVENUE GRAND TOTAL =====>	**$504,283**

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

NOTES:

A. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN

1. THE SNYDER AVENUE IMPROVEMENTS ADJACENT TO THE STORM DRAINAGE BASIN, INCLUDE THE COST FOR IMPROVEMENT FROM THE WEST SIDE OF THE PROPOSED BASIN PROPERTY TO THE RETURN AT PRESCOTT ROAD.

2. THE RIGHT-OF-WAY COSTS IS THE AREA OF DEDICATION REQUIRED ASSUMING AN EXISTING 20 FOOT DEDICATION ON THE NORTH SIDE OF SNYDER AVENUE.

B. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL

1. THE SNYDER AVENUE IMPROVEMENTS INCLUDE THE COSTS FOR ROADWAY IMPROVEMENTS (EXCLUDING BIKE TRAIL) SOUTH OF THE CENTERLINE (20') FROM PRESCOTT ROAD TO CARVER ROAD.

2. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:

   A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.

   B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.

3. NO "MAINLINE" STORM DRAIN IMPROVEMENTS ARE INCLUDED SINCE THOSE COSTS ARE INCLUDED WITHIN THE STORM DRAIN COMPONENT OF THE C.F.D.

4. NO COSTS ARE INCLUDED IN THIS ESTIMATE FOR THE CLASS I BIKE TRAIL ADJACENT TO SNYDER AVENUE.

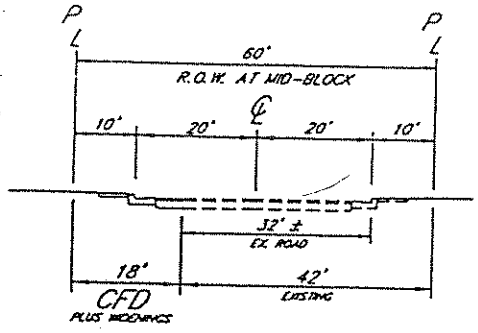
5. THE PAVEMENT REMOVAL QUANTITIES INCLUDES THE COST TO REMOVE THE ENTIRE EXISTING PAVEMENT SECTION FROM PRESCOTT ROAD TO CARVER ROAD.

6. THIS ESTIMATE INCLUDES A COST TO ABANDON EXISTING STORM DRAIN PUMP STATION NO. 47 ASSUMING CONNECTION TO THE POSITIVE STORM DRAIN SYSTEM.

7. NO COST FOR EXISTING POWER POLE RELOCATION IS INCLUDED IN COSTS.

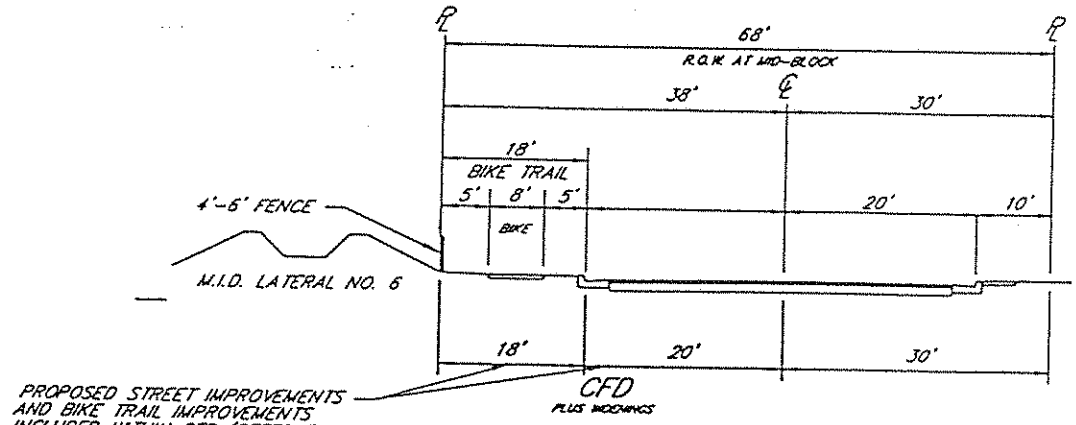
8. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

SNYDER AVENUE



SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN (SEC. A)

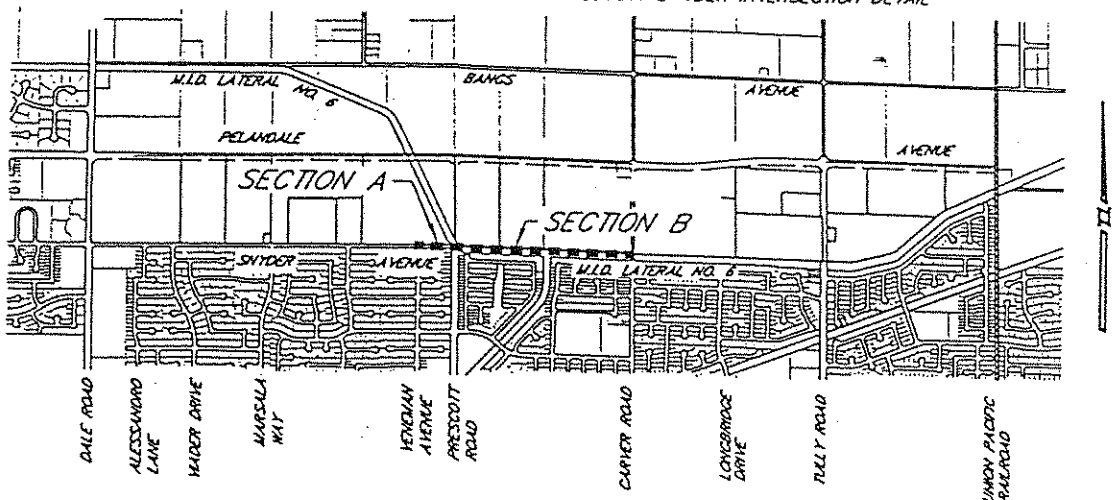
NOTES: 1) MATCH EXISTING PAVEMENT PER CITY STANDARDS



CARVER ROAD TO PRESCOTT ROAD (SEC. B)

NOTES:

1. REFER TO FIGURE 5A FOR A DETAILED CROSS SECTION OF THE PROPOSED NEW SNYDER ALIGNMENT
2. REFER TO FIGURE 5B FOR RIGHT-OF-WAY TAKE SUMMARY
3. REFER TO FIGURE 5C FOR PRESCOTT SNYDER INTERSECTION DETAIL



Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg.	FIG-6

FIGURE 5

PELANDALE SNYDER CFD FORMATION

mid-valley engineering
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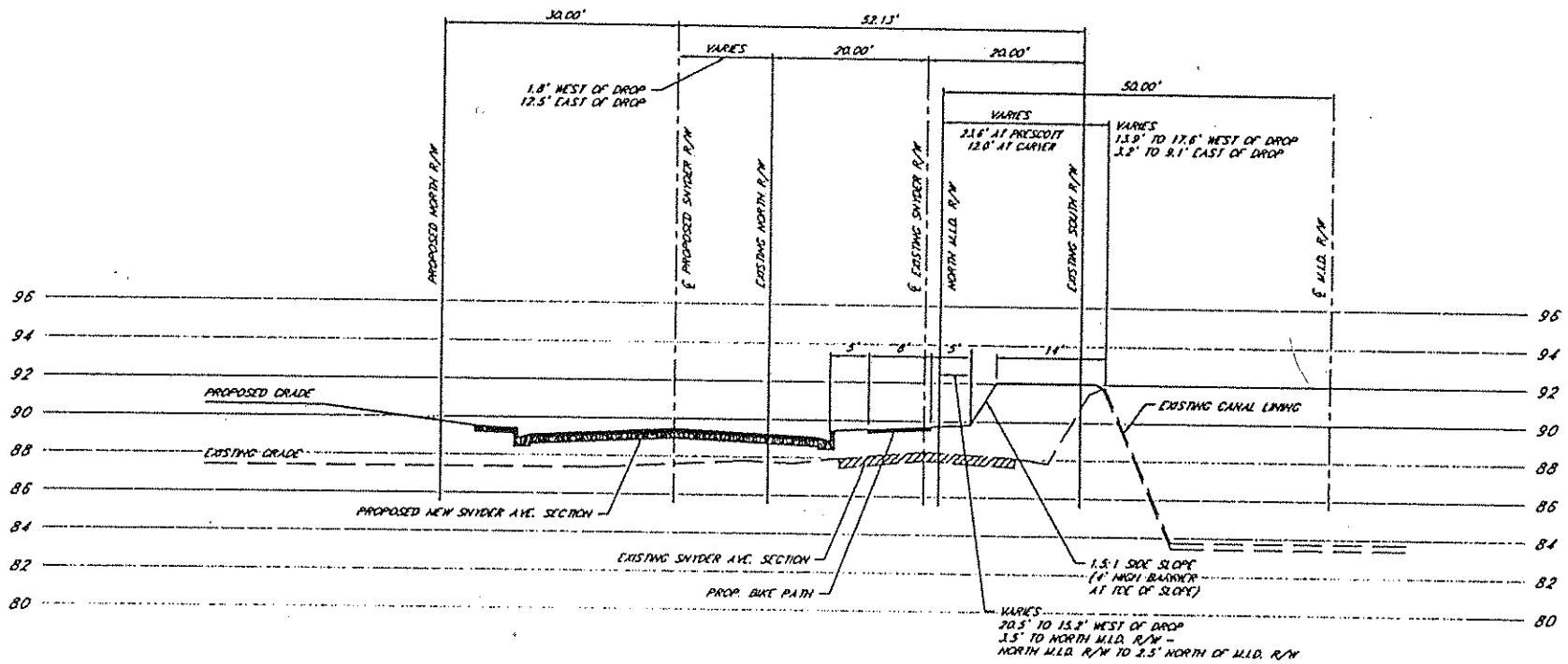
FAX (209) 526-0803

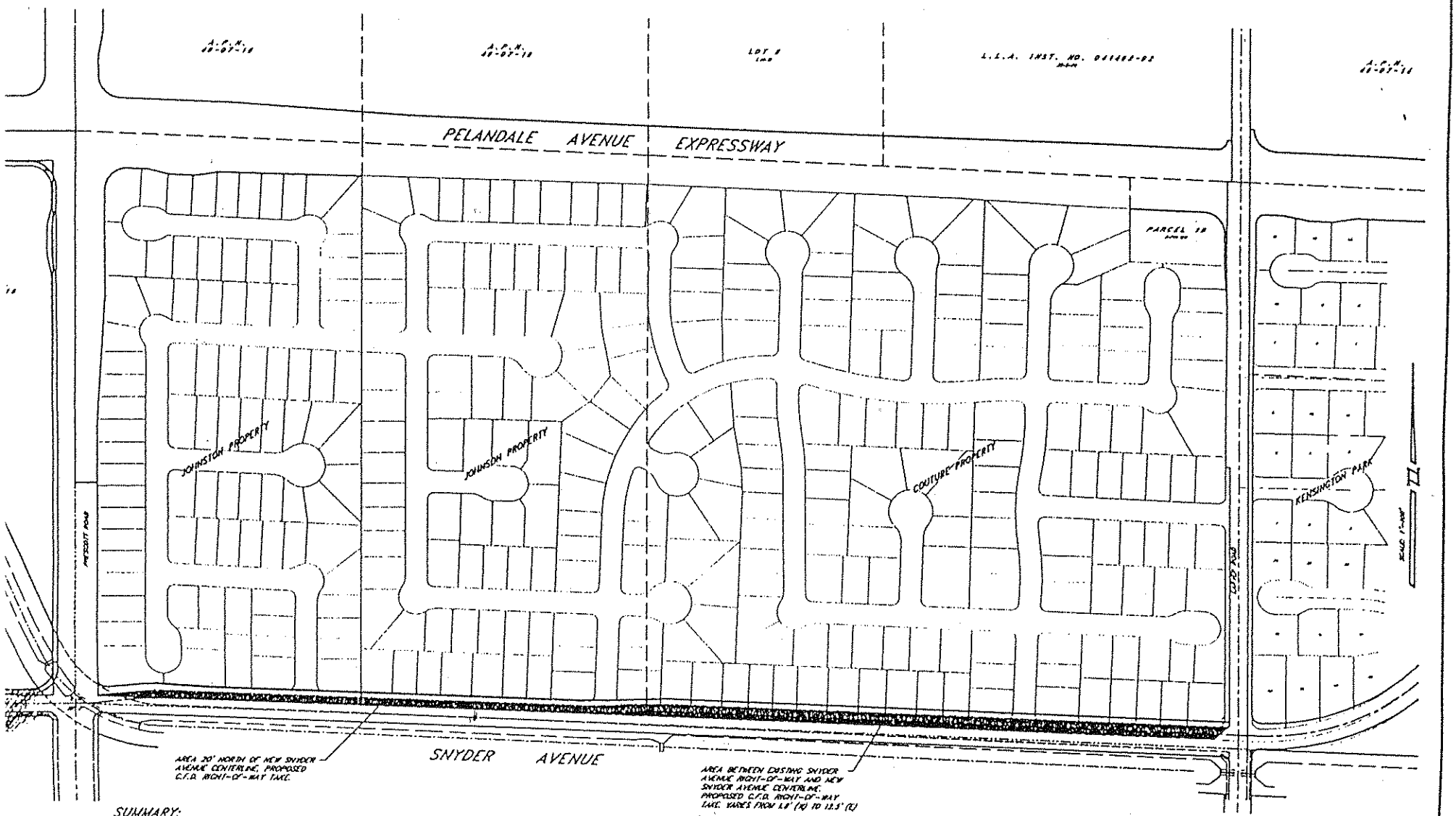


TYPICAL SECTION ALONG THE M.I.D. RIGHT-OF-WAY
BETWEEN
PRESCOTT ROAD AND CARVER ROAD

PROPOSED SNYDER AVENUE

FIGURE 5A

LAND PLANNING | PRELIMINARY ROADWAY SECTION | Drawn M.R.C. | NOT A CALL | R.C.E. 19024 | Date



SUMMARY:

TOTAL AREA OF C.F.D. RIGHT-OF-WAY TAKE: 68952 S.F.

- JOHNSTON PROPERTY (A.P.N. 46-07-17) RIGHT-OF-WAY TAKE: 11816 S.F.
- JOHNSON PROPERTY (A.P.N. 46-07-11) RIGHT-OF-WAY TAKE: 14643 S.F.
- COUTURE PROPERTY (A.P.N. 46-07-12) RIGHT-OF-WAY TAKE: 42398 S.F.

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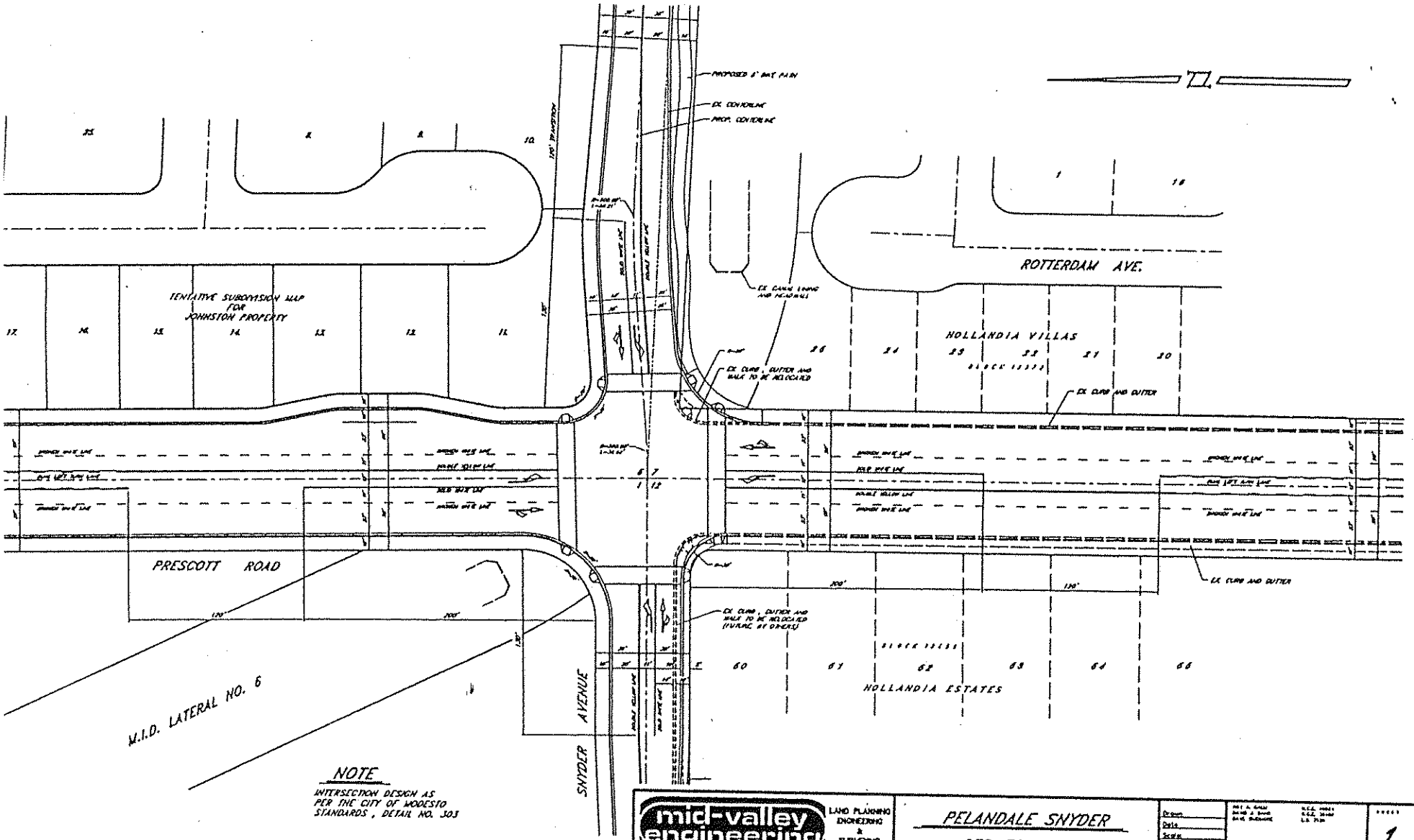
C.F.D. RIGHT-OF-WAY TAKE
SNYDER AVENUE
MODESTO CALIFORNIA

Drawn R.R.C.
Date 6/14/94 S.M.
Scale 1"=100'
Job No. 7153
Checked D.J.B.
Proj. #4.5"
File No.

SHEET 1. OF 1.

PRELIMINARY SNYDER / PRESCOTT INTERSECTION LAYOUT



NOTE

INTERSECTION DESIGN AS PER THE CITY OF MODESTO STANDARDS, DETAIL NO. 303

mid-valley engineering
LAND PLANNING ENGINEERING & SURVEYING
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MODESTO, CALIFORNIA, 95354
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FAX 526-0903

PELANDALE SNYDER

CFD FORMATION

MODESTO CALIFORNIA

1. 1.

23-Oct-98
JOB 71159

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BIKE TRAIL SYSTEM
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I.	**DESIGN PARAMETERS**				
1.	INSTALL 18' BIKE TRAIL SYSTEM (8' PATH, 10' LANDSCAPING, AND 4-6' FENCE) ALONG SNYDER AVENUE FROM PRESCOTT ROAD TO CARVER ROAD.				
2.	INSTALL 25' BIKE TRAIL SYSTEM (8' PATH, 17' LANDSCAPING, AND 4-6' FENCE) ALONG MODESTO IRRIGATION DISTRICT LATERAL NO. 6 FROM CARVER ROAD TO THE UNION PACIFIC RAILROAD.				
3.	TOTAL LENGTH 8276 L.F. OR 1.567 MILES				
	EXISTING CFF PORTION	1.567	MILES	$105,600.00	$165,475
II.	**CLASS I BIKE TRAIL**				
A.	CONSTRUCTION				
1.	8' BIKE PATH WITH 2' GRAVEL SHOULDER (8,276 L.F. x 8')	66,208	SF	$2.00	$132,416
2.	4'-6' FENCE	8,276	LF	$16.00	$132,416
3.	LANDSCAPING (6' AREA FROM PRESCOTT TO CARVER (2,770 L.F.); 13' AREA FROM CARVER TO UNION PACIFIC RAILROAD (5,506 L.F.))	88,198	SF	$2.80	$246,954
				CONSTRUCTION TOTAL =====>	$511,786
				10% CONTINGENCY =====>	$51,179
				TOTAL BIKE PATH =====>	$562,965
B.	FEES				
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	$33,777.90	$33,778
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	$16,888.95	$16,889
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	$22,518.60	$22,519
				TOTAL FEES =====>	$73,185

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C.	LAND ACQUISITION				
1.	RIGHT-OF-WAY DEDICATION	4.30	AC	$65,000.00	$279,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	$2,500.00	$2,500
				TOTAL LAND ACQUISITION =====>	$282,000
				BIKE PATH GRAND TOTAL =====>	$918,150
				CFF PORTION TOTAL =====>	$165,475
				TOTAL PELANDALE-SNYDER CFD PORTION =====>	**$752,675**

NOTES:

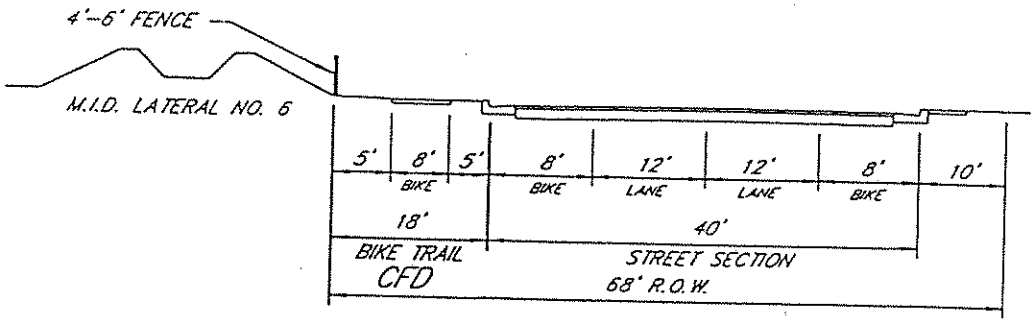
1. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:

   A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.

   B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.

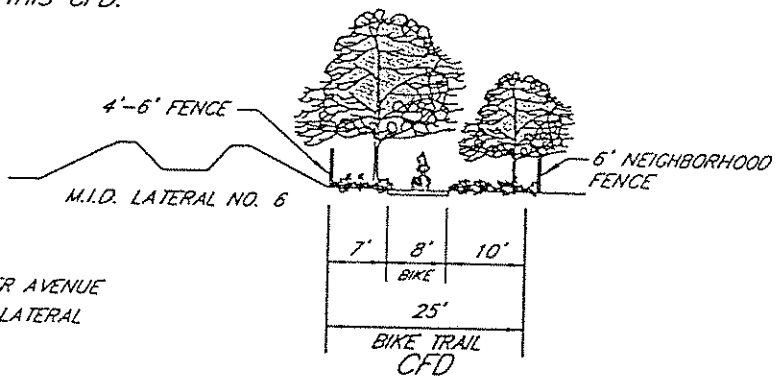
2. THIS ESTIMATE DOES NOT INCLUDE ANY COSTS ASSOCIATED WITH THE SNYDER AVENUE ROAD IMPROVEMENTS.

BIKE TRAIL



BIKE TRAIL ALONG SNYDER AVENUE

NOTE: SEE SNYDER AVENUE CROSS-SECTIONS FIGURE 5A FOR RIGHT-OF-WAY AND STREET IMPROVEMENTS INCLUDED WITHIN THIS CFD.



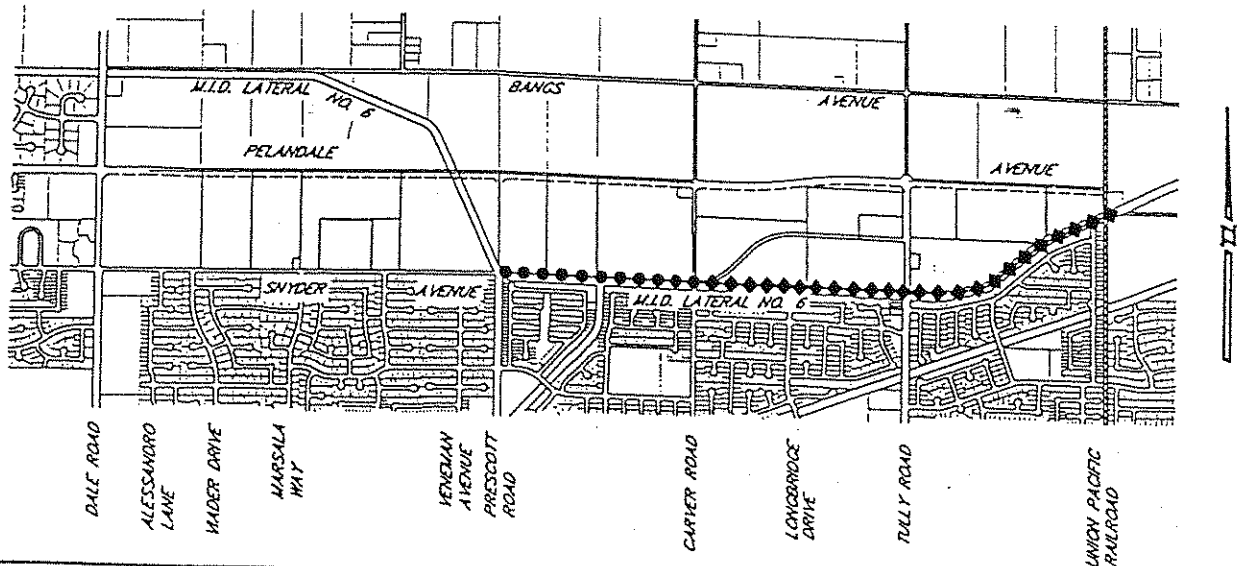
BIKE TRAIL ALONG M.I.D. LATERAL

LEGEND

IMPROVEMENTS:

●●●●● = BIKE TRAIL ALONG SNYDER AVENUE

◆◆◆◆◆ = BIKE TRAIL ALONG M.I.D. LATERAL



Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332
Dwg.	FIG-7

FIGURE 6

PELANDALE SNYDER CFD FORMATION

mid-valley engineering

900 H ST. STE. G , MODESTO, CALIFORNIA , 95354

FAX (209) 526-0803

ORDINANCE NO. 3143 -C.S.

Print

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE.

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

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

CHAPTER 1. ADOPTION OF THE FIRE CODE

ARTICLE 1. FIRE CODE

3-1.101. ADOPTION BY REFERENCE OF "UNIFORM FIRE CODE".

(a) That certain document, three (3) copies of which are on file in the Office of the City Clerk of the City of Modesto, being marked and designated as "Uniform Fire Code, 1997 Edition," together with appendices I-C, II-B, II-D, II-E, II-F, II-I, II-J, III-A, III-D, IV-A, V-A, VI-A, VI-B, VI-C, VI-D, VI-E, VI-F, VI-G VI-H, and VI-I thereto, as adopted and revised from time to time by the International Fire Code Institute, and as compiled and published by the International Conference of Building Officials, the Western Fire Chiefs' Association, and the Association of International Fire Chiefs, which Code prescribes regulations governing conditions hazardous to life and property from fire and explosion, as hereinafter amended, deleted and added to, be and the same is hereby adopted by reference as the Fire Code of the City of Modesto for the protection of the public health and safety.

(b) Article 47 of the Uniform Fire Code, Fumigation and Thermal Insecticidal Fogging, is not adopted by the City of Modesto.

3-1.102. REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Uniform Fire Code as adopted and amended are hereby repealed.

3-1.103. FINDINGS.

Amendment of the 1997 Edition of the Uniform Fire Code is necessary so as to provide more stringent standards for fire extinguishing systems, fire hazard and hazardous materials controls is necessary to serve the public interest by reducing the risk to life and property of the citizens of Modesto because of the following local conditions:

(a) Summer weather conditions are very dry, hot and windy causing ordinary combustibles to be easily ignited and fires to be fast spreading;

(b) Very dense fog conditions occur in winter. Reduced visibility causes delays in fire response;

(c) Fire response is delayed by railroad tracks which:

(1) Divide the City from northeast between Tully Road and McHenry Avenue to the west side of Ninth Street;

(2) Run parallel to Highway 99 through the City, restricting response at locations where overpasses are not provided;

(3) Run parallel to Yosemite Boulevard restricting access to the airport, Tuolumne Regional Park and adjacent areas; and

(4) Restrict access at intersections and streets in the areas of Ninth, Tenth, D and E Streets.

(d) Modesto Irrigation Canal #3 restricts access to the neighborhoods and developments to the north and east of Briggsmore Avenue from Oakdale Road to Claus Road;

(e) Fire Response is delayed by rivers and creeks which:

(1) Divide the southwest area of the City and City contract areas and restrict access to these areas; and

(2) Divide the City from east to southwest along Scenic Drive.

THEREFORE, for the above reasons taken individually and cumulatively and in accordance with the authority granted in Sections 17958.5 and 17958.7 of the California Health and Safety Code, the Council of the City of Modesto expressly finds there are local climatic and topographical conditions that make

the increased fire protection requirements set forth in this article reasonably necessary.

3-1.104. APPEALS.

Section 103.1.4 of the Uniform Fire Code is amended as follows:

> Applicant may appeal the decision of the Chief to the City Council within thirty (30) days from the date of the decision being appealed whenever the Chief:
>
> 1. Disapproves an application for use of alternate materials, methods and/or types of construction,
>
> 2. Disapproves an application for permit or refuses to grant a permit applied for,
>
> 3. When it is claimed that the provisions of the code do not apply, or
>
> 4. That the true intent and meaning of the code have been misconstrued or wrongly interpreted.

3-1.105. COMPLIANCE WITH ORDERS, NOTICES AND TAGS.

Section 103.4.4 of the Uniform Fire Code is amended as follows:

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

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

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

3-1.106. ADMINISTRATIVE REMEDIES.

Title 1, Chapter 6, of this Code established the administrative enforcement of remedies for violations of this Code and applicable state codes. The general remedies include administrative abatement, summary abatement, civil penalties, administrative citations, recordation of notices of violation and mediation. The City of Modesto may pursue any of these administrative remedies for violations of this chapter.

3-1.107. PERMIT REQUIRED FOR CERTAIN OPERATIONS.

Section 105.8 of the Uniform Fire Code is amended as follows:

Subsections a.4, c.2, c.6, f.1, f.5, o.1, m.2 and p.1 are hereby deleted.

3-1.108. FEES.

(a) **Permit Fee.** The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for any permit issued pursuant to the Fire Code.

(b) **Plan Check Fee.** When the valuation of proposed construction exceeds one thousand dollars ($1,000.00), and a plan is required to be submitted, the plan checking fee shall be paid at the time of submitting plans and specifications for checking.

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

3-1.109. AUTOMATIC SPRINKLER SYSTEMS.

Subsections 9 and 10 are hereby added to Section 1003.2 of the Uniform Fire Code:

9. **New Construction.** An approved automatic fire sprinkler system is required in all new buildings and structures constructed on or after the effective date of this ordinance, notwithstanding the use and occupancy thereof, when the total floor area under one roof exceeds five thousand (5,000) square feet. Area separation walls as defined by the current adopted version of the Uniform Building Code considered to create separate buildings for the purposes of eliminating automatic fire sprinkler systems required by this section.

EXCEPTION: Buildings and structures classified as R-3 U-1, and U-3 occupancies.

10. **Existing Buildings and Structures.** An approved automatic fire sprinkler system shall be installed in all existing buildings and structures when additions, alterations, or repairs are made within any twelve-month period that exceed fifty (50) percent of the total value (current county assessed valuation) of an existing building or structure that exceeds five thousand (5,000) square feet or which result in said building or structure exceeding five thousand (5,000) square feet.

EXCEPTION:

1. Buildings and structures classified as R-3 U-1, and U-3 occupancies.

2. Each portion of an existing building or structure separated by one or more area separation walls, constructed in accordance with Section 504.6 of the current adopted edition of the Uniform Building Code, when each portion does not exceed five thousand (5,000) square feet.

3. Existing building(s) or structure(s) and their addition(s) are exempt from automatic sprinklers when the cost of the remodel of the existing building(s) or structure(s) is less than fifty (50) percent of the value (current county assessed valuation for improvements) of the buildings or structures, and sprinklers are permitted to be omitted from the addition(s), due to type of construction, use, or other special situations, by National Fire Protection Association Standard 13.

3-1.110. SPRINKLER SYSTEM SUPERVISION ALARMS.

Section 1003.3 of the Uniform Fire Code is amended as follows:

All valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically supervised when the number of sprinklers are:

(a) Twenty (20) or more in Group I, Division 1.1 and 1.2 Occupancies.

(b) One hundred (100) or more in all other occupancies.

Valve monitoring and water-flow alarm and trouble signals shall be distinctly different and shall be automatically transmitted to a UL LISTED central station or proprietary supervision station as defined by U.F.C. Standard 10-2, or, when approved by the building official with the concurrence of the Chief, shall emit an audible signal at a constantly attended location.

EXCEPTION: Underground key or hub valves in roadway boxes provided by the City or a public utility need not be monitored.

3-1.111. INCINERATORS.

Section 1102.2 of the Uniform Fire Code is amended as follows:

Incinerators. The use of incinerators is prohibited inside the City limits of Modesto. Subsections 1102.2.1, 1102.2.3, 1102.2.4, and 1102.2.5 are deleted.

3-1.112. VEGETATION REMOVAL.

Section 1103.2.4 of the Uniform Fire Code is amended as follows:

Vegetation. Cut or uncut weeds, grass, vines and other seasonal and recurring growth on vacant land shall be deemed a public nuisance and shall be removed by the owner when notified to do so by the Chief. When the Chief determines that total removal of growth is impractical due to the size or environmental factors, approved fuel breaks shall be established. Designated areas shall be cleared of combustible vegetation to establish the fuel breaks.

Abatement of a public nuisance shall be in accordance with Article 6 of Chapter 6 of Title 1 of this Code. The Fire Department may impose a nuisance abatement lien pursuant to Section 1-6.702 of this Code.

The Fire Department may recover, from a property owner, those costs associated with the suppression costs incurred in fighting a fire and for providing rescue or emergency medical services should a fire occur on said property after the owner has been notified to abate such public nuisance and has failed to do so.

3-1.113. OPEN BURNING.

Section 1102.3 of the Uniform Fire Code is amended as follows:

Open burning. No person shall kindle, conduct, or maintain any burning of grass, weeds, agricultural trimmings, or other combustibles or authorize any such fire to be kindled, conducted, or maintained without a permit as required by the San Joaquin Valley Unified Air Pollution Control District and compliance with all safeguards pursuant thereto. Any such permitted burning shall be restricted to agricultural purposes and confined to areas of the City in which agricultural uses are lawful.

3-1.114. TYPE OF LOCK OR LATCH FOR PREMISES WHERE GOLD OR BULLION IS TRADED.

Section 1207 of the Uniform Fire Code is amended to add subsection 8 as follows:

Special Latching Devices. An exit door from a business which has as its primary commercial activity the sale, resale, exchange, or trade of gold or silver coin, bullion, or metal ore may be equipped with a locking mechanism which is not openable from inside without the use of a key or which requires special knowledge or effort so long as all of the following conditions are met during all times that the business is open to the public:

1. The locking mechanism is connected to a smoke detector system in such a manner that activation or malfunction of the smoke detector system results in automatically unlocking the exit door;

2. The locking mechanism is connected to the electrical power supply for the building in such a manner that any loss of

electrical power to the building results in automatically unlocking the exit door;

3. Two (2) employees must be within the area of the premises used for retail purposes, including adjacent service and utility rooms, at all times; and

4. A sign is permanently posted upon the premises so as to be readily seen by any person or persons entering the business stating that ingress and egress are electronically controlled by the management.

3-1.115. FALSE ALARMS.

Section 1302.3 of the Uniform Fire Code is amended as follows:

False alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted. The City Council may adopt by resolution reasonable fees to recover the costs associated with responses to building or structures that have excessive false alarms.

3-1.116. FUELING AND DEFUELING.

Section 2402.8.3 of the Uniform Fire Code is amended as follows:

Transfer Personnel. During fuel transfer operations of any passenger-occupied aircraft, a qualified person shall be in control of each transfer nozzle and another qualified person shall be in immediate control of the fuel-pumping equipment to shut off or otherwise control the flow of fuel from the time fueling operations are begun until they are completed.

EXCEPTION: For underwing refueling, the person stationed at the point of fuel intake is not required.

SEC. 3 -1.117. HOT WORKS.

Section 4901.9 of the Uniform Fire Code is amended as follows:

A minimum 2-A: 20B:C-rated fire extinguisher or a charged water hose equipped with a nozzle shall be located within thirty (30) feet (9144 mm) of the location where hot works is in progress and shall be accessible without climbing stairs. When required by the Chief a minimum 2-A:

20B:C-rated fire extinguisher shall be mounted to each portable welding cart.

3-1.118. PORTABLE UNVENTED HEATING APPLIANCES.

Section 6106.3 of the Uniform Fire Code is amended as follows:

Location. The use of listed portable unvented oil-burning heating appliances is limited to supplemental heating in Group S, Division 4 and U occupancies.

3-1.119. EXPLOSIVE MATERIALS.

Section 7701.1 of the Uniform Fire Code is amended as follows:

Scope. Possession, storage, sale, transportation and use of explosive materials shall be in accordance with Article 77. See Appendix VI-F for excerpts from nationally recognized standards for separation distances for explosives.

3-1.120. PERMITS REQUIRED FOR EXPLOSIVES.

Section 7701.3.1 of the Uniform Fire Code is amended as follows:

Required. When permits are required to be issued by the Chief, the Chief may grant the authority to the agency having enforcement jurisdiction. Permit shall be obtained:

1. To possess store, sell, display or otherwise dispose of explosive materials at any location.

2. To transport explosive materials.

3. To use explosive materials.

4. To operate a terminal for handling explosive materials.

3-1.121. NOTICE OF NEW STORAGE SITES.

Section 7701.1.5 of the Uniform Fire Code is amended as follows:

When a new explosive material storage location, including a temporary job-site, is established, the local law enforcement agency, fire

department and emergency planning committee shall be notified immediately of the type, quantity and location of explosive materials at the site.

3-1.122. EXPLOSIVE MATERIALS PROHIBITED AND LIMITED ACTS.

Subsections 1 and 2 of Section 7701.7 of the Uniform Fire Code are amended to read as follows:

1. **Manufacturing.** Explosive materials shall not be manufactured within the City limits of Modesto.

2. **Limits established by law.** The storage of explosives and blasting agents is restricted to those areas of the City zoned as Heavy Industrial Zone (M-2).

EXCEPTION:

1. Temporary storage for use in connection with approved blasting operations conducted in accordance with all applicable provisions of this article.

2. Wholesale and retail storage and display of ammunition and gunpowder shall be in accordance with Section 7702 of this article.

3-1.123. PERMITS: MANUFACTURE OF FIREWORKS.

Subsection 7801.3.1.1 of the Uniform Fire Code is amended as follows:

Manufacturing. The manufacturing of fireworks is prohibited in the City of Modesto.

3-1.124. PERMITS: DISPLAYS OF FIREWORKS AND APPEAL PROCESS.

Subsections 1, 2 and 3 are added to Section 7801.3.1.2 of the Uniform Fire Code:

1. The Chief may grant the permit as applied for, or with condition thereto, unless he/she finds that to do so would be contrary to the public health, safety, or welfare. The decision of the Chief shall

be in writing and shall be mailed, postage prepaid, to the applicant.

2. The decision of the Chief, in acting on an application for permission to conduct a public display in accordance with the provisions of this section may be appealed to the City Manager. Notice of an appeal of the Chief's decision shall be filed by the applicant with the City Clerk within ten (10) days after the date of the decision. Upon failure to file such notice within the ten (10) day period, the action of the Chief shall be final and conclusive. The applicant may appeal the decision of the City Manager to the City Council by filing a notice of appeal to the City Clerk within ten (10) days after the date of the City Manager's decision. Upon failure to file such notice within the ten (10) day period, the action of the City Manager, or his/her designee, shall be final and conclusive.

3. A nonrefundable fee as established by resolution of the City Council from time to time shall accompany every application for permission to conduct a public display of fireworks. This fee shall be in addition to any other fee or tax imposed by Title 6 of this Code.

3-1.125. SALES OF FIREWORKS.

Subsection 3 is added to Section 7801.3 of the Uniform Fire Code:

3. Sales. It shall be unlawful to engage in the sale of "Safe and Sane" fireworks in the City of Modesto without first having secured a permit to do so.

(1) The total number of sales permits issued in any given year shall be limited to one (1) sales permit for each two thousand five hundred (2,500) population or portion thereof; provided however, any organization applying for a sales permit who had such permit in 1999 and also in each subsequent year shall be issued a permit if otherwise qualified. Sales permits shall be issued only to local nonprofit organizations and existing local for-profit organizations as defined herein, not withstanding the fact that such issuance may increase the number of permits to more than that allowed herein.

(2) Sales permits for the sale of "Safe and Sane" fireworks in the City of Modesto shall be issued only to local nonprofit organizations and existing local for-profit organizations as defined herein.

(A) A "nonprofit organization" shall mean any nonprofit association, club, or corporation organized for veteran, patriotic, welfare, religious, civic betterment, youth or charitable purposes, or affiliated with a public school located within the city limits of Modesto. Except for organizations affiliated with a public school, each organization shall provide the City with a tax exempt certificate issued pursuant to the Revenue and Taxation Code of the State of California or written verification that they are an integral part of a recognized national organization having such a tax exempt status.

(B) A "local nonprofit organization" must have its principal and permanent meeting place in the City of Modesto and must have been organized and established in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit, and must have a bona fide membership of at least ten (10) members who reside in the City of Modesto. In addition, organizations affiliated with a public school shall provide written verification of existence, acceptable to the Fire Chief, such as, but not limited to a current bank statement.

(C) An "existing local for-profit organization" must have a permitted fixed business location in the City of Modesto, have been issued a fireworks sales permit the previous year, have remained under the same management and/or ownership continuously since 1999, and have maintained a delinquent-free business license at all times during the previous year.

(3) Sales permits for retail sales of "Safe and Sane" fireworks in the City of Modesto issued pursuant to provision of this

Code are not transferable by the holder of the permit. The sales permits may be used only by the organization to which it is issued.

(4) All applications for sales permits shall be in writing to the Fire Chief on forms supplied by the City. Applications may only be filed during normal business hours from April 1st of each year up to and including April 30th of the same year, at which time the filing period for that year will close. A separate sales permit shall be required for each proposed location of a fireworks stand.

(A) In the year 2000 each organization may file an application for one (1) sales permit from April 1st of that year up to and including April 15th and may file an application for one (1) additional sales permit from April 16th up to and including April 30th of the same year, at which time the filing period for that year will close.

(B) In the year 2001, and in each subsequent year, each organization may file an application for one (1) sales permit.

(5) Applications shall set forth the proposed location of the fireworks stand including the seven (7) digit parcel number (APN) of the Stanislaus County Assessor and other information as may be required by the Fire Chief. Written permission from the property owner, or his/her designee, to sell fireworks at that location shall accompany the permit application.

(6) Applicants for sales permits shall be notified by June 15th of each year by the Fire Chief of approval or disapproval of such application. All approved applications shall be picked up from the Fire Chief by 4:00 p.m. on June 20th of that year. Sales permits will be issued on the day the applicant begins selling, and after inspection of the stand reveals compliance with all conditions of this ordinance.

(7) Every application shall be accompanied by proof of insurance as specified in Section 3-1.128.

(8) Every application shall be accompanied by a nonrefundable application fee as established by resolution of the City Council from time to time. This application fee shall be in addition to any fees or taxes imposed by Title 6 of this Code.

(9) Any local nonprofit organization as defined herein may make application for a sale permit but pre-approved (continuously permitted since 1999) organizations will have first option for a permit.

(A) When additional sales permits are authorized and all current pre-approved organizations have applied for such permits, a lottery will be held to fill any vacancies.

(B) This lottery will be held after the last day of the filing period specified in paragraph 5 and will include the names of all new local nonprofit organizations that have filed a complete application within the said filing period.

(C) One organization will be drawn for each available vacancy. If the organization whose name is drawn declines the permit, another name will be drawn until each vacancy is filled.

3-1.126. SALES, STORAGE, USE, AND HANDLING OF FIREWORKS.

Section 7802.1 of the Uniform Fire Code is amended as follows:

General. Sales, storage, use, and handling of fireworks shall be in accordance with this division.

1. **Sales.** Retail sale or display with the intent to sell fireworks is limited to State of California Fire Marshal approved and labeled "Safe and Sane" fireworks within the City of Modesto by State of California licensed retailers, provided a permit to sell those fireworks has been approved and obtained from the Chief. Fireworks may be sold or offered for sale from 12:00 noon to 10:00 p.m. on June 28, 9:00 a.m. to 10:00 p.m. on June 29 through July 5, and 9:00 a.m. to 12:00 noon on July 6.

The storage of fireworks within the City of Modesto is limited to State of California Fire Marshal-approved and labeled "Safe and Sane" fireworks by State of California licensed wholesalers and retailers.

(1) **Wholesale Storage**. Wholesalers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 1 through July 31 of each year. Storage facilities shall comply with H1 occupancy classification requirements as defined by the Uniform Building Code.

(2) **Retailers Storage**. Retailers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 22 through July 15 of each year. "Safe and Sane" fireworks that are not being sold or displayed with the intent to sell, shall be stored solely in the following manner:

(A) Within the permitted fireworks stand with a responsible adult on the premises at all times.

(B) In a completely enclosed and locked utility type trailer constructed of one-fourth (1/4) inch plywood or other approved noncombustible material.

(C) In a completely detached garage on residential property with a minimum ten (10) feet clearance from other structures or property lines. There shall be no open-flame or spark producing equipment, or Class 1 flammable liquids stored or used within in the garage.

(D) Fireworks shall not be stored within forty (40) feet of any building classified or used as a public or private school, day care facility, residential care facility, hospital, place of detention, public oil/gas station, or public garage, or any place of public assembly that can accommodate fifty (50) or more persons.

(E) In an approved and permitted fireworks warehouse.

3. **Operator Safety.** Each year, one (1) or more representatives from each organization, that is granted a permit to sell fireworks, shall attend a stand operator safety seminar conducted by the Fire Department and the fireworks industry. Failure to attend the seminar shall result in the revocation of the organization's permit to sell fireworks for that calendar year.

4. **Temporary Fireworks Stands.**

(1) All retail sales of "Safe and Sane" fireworks shall be permitted only from within a temporary fireworks stand and sales from any other building or structure is hereby prohibited.

(2) City Business License, Fire Department Permit and State License shall be displayed in the fireworks stand during hours of operation.

(3) Temporary fireworks stand shall not be set up before application for permit has been approved nor earlier than June 14.

(4) The fireworks stands shall be located at least twenty (20) feet from other structures.

(5) Zoning of property, in which the fireworks stand will be located, shall be in accordance with Section 10-2.2330.

(6) Fireworks shall not be stored, sold, offered for sale, or discharged within one hundred (100) feet of a location where gasoline, LPG, other class 1 flammable liquids or flammable gasses are stored or dispensed.

(7) All unsold stock and accompanying litter shall be removed from the location by 5:00 p.m. on the 6th day of July.

(8) The fireworks stand shall be removed from the temporary location by 12:00 noon on the 12th day of July, and all accompanying litter shall be cleared from said location by said time and date.

(9) A penalty of one hundred dollars ($100.00) per day will be assessed to the permittee of any fireworks stand not removed by 12:00 noon on the 12th day of July.

5. **Safety Precautions.**

(1) No person under the age of eighteen (18) shall sell, or handle for sale, any classification of fireworks.

(2) No person under the age of eighteen (18) shall purchase or be allowed to purchase any classification of fireworks.

(3) Smoking, open-flame, and spark-producing equipment shall be prohibited for a distance of twenty (20) feet around any fireworks stand.

(4) Dry grass, weeds, trash, and other combustible material shall be removed for a distance of twenty (20) feet around any fireworks stand.

(5) Fireworks shall not be discharged within fifty (50) feet of a fireworks stand.

6. **Stand Construction.**

(1) Merchandise may be displayed in approved glass enclosed counters or showcases, or

(2) Merchandise may be displayed in stands constructed in the following manner:

(A) Walls and roof shall be of plywood at least one-fourth (1/4) inches thick or of an approved noncombustible material.

(B) The stand shall be provided with a roof.

(C) Walls shall extend to a minimum height of six (6) feet eight (8) inches, on at least three (3) sides. These three (3) sides shall be without openings, except for an exit door.

(D) An exit door with a minimum size of twenty-four (24) inches in width and six (6) feet in height, shall be provided in each stand. Exits shall be maintained clear and unobstructed at all times.

(E) The front wall of the stand shall provide a physical barrier not less than eighteen (18) inches in height between the public and the merchandise on display.

(F) Approved "NO SMOKING" signs shall be prominently displayed in and on the stand.

(G) Approved "NO SALES TO PERSONS UNDER THE AGE OF 18" signs shall be prominently displayed in the stand.

(H) An approved fire extinguisher having a minimum U.L. classification of 2A shall be located in the stand, near the exit and readily accessible.

(I) Sellers of fireworks shall comply with all rules and regulations of Title 19 of the California Code of Regulations and with the rules and regulations of the Chief.

7. **Operation of Fireworks Stand Only by Permittee.**

(1) It is unlawful for the permittee organization to permit any person other than the permittee organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such fireworks stand.

(2) It is unlawful for a non-profit organization to permit any person other than the individuals who are members of the permittee organization, their spouses or adult children, or volunteers to whom no compensation is paid, to sell or otherwise participate in the sale of fireworks at such fireworks stand.

(3) It is unlawful for a non-profit organization to pay any consideration to any person for selling or otherwise

participating in the sale of fireworks at such fireworks stand, except the hiring of a night watchman or security officer.

3-1.127. REVOCATION OF PERMIT AND SEIZURE OF FIREWORKS.

Subsections 2 and 3 are added to Section 7802.2 of the Uniform Fire Code :

2. The Fire Chief, or his/her designee, may revoke, immediately and without notice or hearing, the "Safe and Sane" fireworks sales permit of any location or organization when any of the provisions of Sections 3-1.124, 3-1.125, or 3-1.126 are violated. The Chief shall inform the permittee that permittee may seek review of the Chief's decision, by the City Manager, on the next business day. At the earliest opportunity on the next business day after revocation, the Chief shall provide the City Manager with written notice that a fireworks sales permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. If requested by the permittee, the City Manager, or his/her designee, shall meet with the permittee and the Chief, or his/her designee, that day to review the Chiefs decision. The decision of the City Manager shall be final.

3. Revocation of any sales permit will be effective for that calendar year.

3-1.128. FIREWORKS DISPLAYS INSURANCE REQUIRED.

Section 7802.4.3 of the Uniform Fire Code is amended as follows:

Insurance.

1. The permittee shall furnish a certificate of insurance for each policy required, executed by the company issuing such policy, and approved as to form by the Risk Manager. Such policies shall contain a provision which holds the City as an additional insured and declaring said insurance to be primary and that no other insurance carried by an insured party shall be called upon for contribution. Notwithstanding any other provision of this section, the failure of the permittee to carry such insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance

policy or policies. A payment of fifty dollars ($50.00) shall be made to the City before any such revoked permit may be reinstated.

2. The permittee/licensee shall carry general liability insurance with a minimum limit of liability per occurrence of one million dollars ($1,000,000.00) for bodily injury and one hundred thousand dollars ($100,000.00) for property damage, or one million dollars ($1,000,000.00) combined single limit. The certificate of insurance shall include the following coverages and indicate the policy aggregate limit applying to: premises and operations, broad form contractual, and, products and completed operation.

3. The permittee/licensee shall agree to hold the City of Modesto, its agents, officers, employees, and volunteers harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities, and from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney fees and all costs and expenses arising directly or indirectly out of any act or omission of permittee arising out of any activity authorized by the permit.

4. The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies with insurance companies approved by the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the City Clerk of the City by registered mail, return receipt requested.

3-1.129. RESTRICTED LOCATIONS OF STATIONARY ABOVEGROUND TANKS.

Section 7902.2.2.1 of the Uniform Fire Code is amended as follows:

The storage of Class I and Class II flammable liquids in aboveground tanks outside of buildings is prohibited, with the exception of protected tanks designed, installed and maintained in accordance with Appendix II-F. The provisions of this Section 7902.2.2.1 shall not apply to facilities for the production, generation, or transmission of electric

energy that provide power to entities furnishing retail electrical services to the general public within the City of Modesto.

3-1.130. OPERATING HEATING, LIGHTING, AND COOKING APPLIANCES PROHIBITED.

Section 7903.2.1.4 of the Uniform Fire Code is amended as follows:

Heating, lighting, or cooking appliance which utilize flammable or combustible liquids shall not be operated within a building or structure.

3-1.131. ABOVEGROUND TANK STORAGE AND DISPENSING OF FLAMMABLE AND COMBUSTIBLE LIQUIDS ON FARMS AND CONSTRUCTION SITES.

Section 7904.2.5.1 of the Uniform Fire Code is amended as follows:

General. The capacity of temporary aboveground tanks containing Class I and II liquids shall not exceed one thousand one hundred (1,100) gallons (4163.9 L). The capacity of permanent aboveground tanks containing Class I and II liquids shall not exceed ten thousand (10,000) gallons (37,854 L). Temporary tanks of single-compartment design shall be constructed in accordance with Section 7902.1.8.2; permanent tanks shall be constructed in accordance with Section Appendix II-F.

3-1.132. LOCATION OF BULK PLANTS FOR STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS.

Section 7904.4.1 of the Uniform Fire Code is amended as follows:

Portions of properties where flammable and combustible liquids are received by tank vessels, pipe lines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessels, pipe lines, tank cars, tank vehicles or containers shall be in accordance with Section 7904.4.

The construction of new bulk plants for storage of flammable or combustible liquids is restricted to areas of the City zoned Heavy Industrial Zones (M-2). All existing nonconforming bulk plants for storage of flammable or combustible liquids which substantially comply with the requirements of this Code may be continued in use if a permit therefor shall be granted by the Chief.

3-1.133. OPERATION OF TANK VEHICLES.

Section 7904.5.3 of the Uniform Fire Code is amended as follows:

Tank vehicles and tank cars shall be unloaded as soon as possible after arrival at point of delivery and shall not be used as storage tanks. Tank cars shall be parked on private property while being unloaded. It shall be unlawful to unload any tank vehicle while it is parked on any street, highway, avenue, alley, or public right-of-way. While a tank vehicle is being unloaded, it shall not be parked in such a manner as to be endangered by other traffic. Unless otherwise approved, a tank car shall not be allowed to remain on a siding at the point of delivery for more than twenty-four (24) hours while connected for transfer operations.

3-1.134. HAZARDOUS MATERIALS PERMITS.

Subsection 4 is added to Section 8001.3 of the Uniform Fire Code:

> **Key Box.** When required by the Chief, an approved key box, sized to contain emergency information, shall be provided.

3-1.135. DEPOSITS OF HAZARDOUS MATERIALS; CLEANUP, ABATEMENT, OR MITIGATION REQUIRED; LIABILITY FOR COSTS.

Section 8001.5.2.5 of the Uniform Fire Code is amended as follows:

> **Responsibility for cleanup.** The person, firm or corporation responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. When deemed necessary by the Chief, cleanup may be initiated by the Fire Department or by an authorized individual or firm. Costs associated with such cleanup shall be born by the owner, operator or other person responsible for the unauthorized discharge. The remedy provided by this section shall be in addition to any other remedies provided by law.
>
> For purposes of this section, costs incurred by the City shall include, but shall not necessarily be limited to, the following: actual labor costs of City personnel, including worker's compensation benefits, fringe benefits, administrative overhead; cost of equipment operation; cost of materials obtained directly by the City; and cost of any contract labor and materials. The authority to recover costs under this section shall not

include actual fire suppression services that are normally or usually provided by the Fire Department.

3-1.136. GENERAL SAFETY PRECAUTIONS.

Subsection B is added to Section 8001.11.3 of the Uniform Fire Code as follows:

Protection from vehicles: Guard posts or other approved means shall be provided to protect storage tanks and connected piping, valves and fittings; dispensing areas; and use areas subject to vehicular damage. When guard posts are installed the posts shall be as follows:

1. Constructed of steel not less than six (6) inches in diameter and concrete filled,

2. Spaced not more than three (3) feet between posts on center,

3. Set not more than three (3) feet (914mm) deep in a concrete footing of not less than a fifteen (15) inch (381 mm) diameter,

4. Set with the top of the post not less than three (3) feet (914 mm) above ground, and

5. Located not less than three (3) feet four (4) inches from the tank.

3-1.137. PARKING AND GARAGING.

Subsection 4 is added to Section 8001.12 of the Uniform Fire Code:

Parking and garaging of transportation vehicles carrying hazardous materials as defined in Section 8002 shall be in accordance with Sections 7904.6.5 and 7904.6.6 of said Fire Code.

3-1.138. OUTSIDE STORAGE AND USE OF LIQUIFIED PETROLEUM GASES.

Section 8201 of the Uniform Fire Code is amended to follows:

The outside storage of liquefied petroleum gas (LP-gas) shall conform to the provisions of City of Modesto zoning ordinances. The outside storage and use of liquefied petroleum gases is restricted as specified in this section.

1. Storage and dispensing of LP-gas for resale purposes, into approved containers and vehicles, is restricted to those areas of the City zoned as Commercial-Light Industrial (C-M), Heavy Industrial (M-2), and, in addition thereto, to other commercially zoned properties used as automotive service stations. Dispensing shall be performed only by qualified persons.

2. Dispensing of LP-gas for private use is restricted to those zones identified in subsection 1, and when approved by the Chief, may be permitted in those areas of the City zoned General Commercial (C-2). Dispensing shall be performed only by qualified persons.

3. For cooking, lighting, or heating in a building, only on a property that does not have natural gas service existing on a boundary line of said property or when prohibition of such storage would cause undue hardship.

4. For temporary use on construction sites, when authorized by the Chief.

5. For use as an alternative fuel supply for an emergency standby generator, when authorized by the Chief.

6. For use with certain mobile vending and certain commercial barbecue equipment when authorized by the Chief.

7. For use by Artisans in pursuit of their trade, when authorized by the Chief.

8 Storage of portable containers awaiting exchange may be permitted in commercially zoned areas of the City, including those zoned Neighborhood Commercial (C-1), when approved by the Chief and stored in accordance with Section 8212. Such storage shall be located a minimum of twenty (20) feet from any fuel dispenser.

3-1.139. PERMITS AND PLANS FOR LIQUIFIED PETROLEUM GASES.

Section 8202.1 of the Uniform Fire Code is amended as follows:

Permits and Plans. A permit is required to store, use, handle or maintain any portable or stationary LP-gas container.

EXCEPTION:

1. Containers not exceeding five (5) gallon water capacity, used for "barbecue" cooking, when used and stored outside of buildings.

2. Approved containers not exceeding sixteen and four-tenths (16.4) ounces when displayed for sale in mercantile occupancies.

Distributors shall not fill an LP-gas container for which a permit is required unless the Chief has issued a permit for the installation for that location. The installer shall submit plans for any stationary LP-gas installation, regardless of size.

3-1.140. USE OF LIQUIFIED PETROLEUM GAS CONTAINERS IN BUILDINGS.

Section 8203.2.1 of the Uniform Fire Code is amended as follows:

Portable LP-gas containers, as defined in U.F.C. Standard 82-1 shall not be used in buildings except as specified in this section.

1. Areas undergoing construction.

   A. Portable containers, not exceeding five (5) gallon water capacity, may be allowed in buildings or areas undergoing construction, when permitted by the Chief.

   B. LP-gas containers shall not be used in a basement, pit, or similar location where heavier-than-air gas might collect. LP-gas containers not exceeding sixteen and four tenths (16.4) ounces may be used in an above-grade underfloor space or basement only when such space is provided with an approved means of ventilation.

2. In educational, business, and institutional occupancies when used for research and experimentation provided the individual capacity of any one container does not exceed sixteen and four-tenths (16.4) ounces and the aggregate capacity of all containers does not exceed two and one-half (2-1/2) gallons water capacity. When more than one such container is present in the same room,

each container shall be separated by a distance of not less than ten (10) feet.

3. At demonstrations and public exhibitions for temporary use provided the individual capacity of any one container does not exceed sixteen and four-tenths (16.4) ounces and when more than one such container is present in the same room, each container shall be separated by a distance of not less than ten (10) feet.

4. With self-contained torch assemblies and similar appliances provided that the individual capacity does not exceed sixteen and four-tenths (16.4) ounces.

Such containers shall not be used for commercial or residential food preparation.

3-1.141. MAXIMUM CAPACITY OF LPG CONTAINERS.

Section 8204.2 of the Uniform Fire Code is amended as follows:

The aggregate capacity of any one installation shall not exceed two thousand (2,000) gallons, except that in particular installations this capacity limit may be altered by the Chief, after consideration of special features such as topographical conditions, nature of occupancy, proximity of buildings, capacity of proposed tanks, degree of private fire protection to be provided, and facilities of the local Fire Department.

EXCEPTION:

1. Storage of LP-gas in accordance with Sections 8201.3, 8201.4 and 8201.5 shall be limited to one container not to exceed two hundred fifty (250) gallons water capacity.

2. The aggregate capacity of containers in storage and use in accordance with Sections 8201.6 and 8201.7 shall not exceed fifteen (15) gallons. Individual containers shall not exceed five (5) gallons water capacity and shall not be manifolded.

3-1.142. STORAGE OF PORTABLE LP-GAS CONTAINERS AWAITING USE, RESALE, OR EXCHANGE.

Section 8212.4 of the Uniform Fire Code is amended as follows:

Separation from exits. Containers stored inside or outside buildings frequented by the public shall be located not less than ten (10) feet from any exit door or building opening, when only one (1) exit is provided from the building or area, and not less than five (5) feet from any exit door or building opening, when two (2) or more exits are provided from the building or area.

Table 8212-A of the Uniform Fire Code is amended as follows:

Quantity of LP-Gas Stored	Distances to a Building or Group of Buildings, Public Way, or Line of Property that can be Built Upon (feet)
720 lb. Or less	0
721 to 250 lb.	10
2501 to 6000 lb.	15
6001 to 10000 lb.	20
Over 10000 lb.	25

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 15th day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3143-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Serpa, moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	Conrad
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3144 -C.S.

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO THE BUILDING CODE.

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

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

CHAPTER 1 - BUILDING CODE

9-1.01. ADOPTION BY REFERENCE OF "UNIFORM BUILDING CODE."

That certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as "Uniform Building Code, 1997 Edition," Volume 1, Volume 2 and Volume 3, published by the International Conference of Building Officials, together with Volume 1 Appendix Chapters 3A, Division I, 4 Division II, 15, 31, Division 111, 33 and 34 referred to therein, which said Code provides for proper regulations for erecting, constructing, enlarging, altering, repairing, removing, conversions, demolition, occupancy, equipment, use, height, and maintenance of buildings or structures in the City and providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof, as hereinafter amended, deleted and added to, be and the same is hereby adopted by reference as the Building Code of the City of Modesto.

9-1.02. TITLE.

That subsections 101.1 and 101.3 of Section 101 of said Building Code by amended to read as follows:

Section 101.1.

This Code shall be known as the "Building Code," may be cited as such, and will be referred to herein as "this Code."

Section 101.3. Scope

The provisions of this Code shall apply to the construction, alteration, moving, demolition, repair, maintenance and use of any building or structure within this jurisdiction, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in this Code, and hydraulic flood control structures.

For additions, alterations, moving and maintenance of buildings and structures, see Chapter 34. For temporary buildings and structures see Section 3103.

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

When ever in this Code reference is made to the appendix, the provisions in the appendix shall not apply unless specifically adopted.

9-1.03. VIOLATIONS.

That Section 103 of said Building Code be amended to read as follows:

Section 103.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this Code.

9-1.04. INTERPRETATION.

That subsection 104.2.1 of Section 104 of said Building Code be amended to read as follows:

Section 104.2.1.

The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code. Such interpretations may be appealed to the Board of Building Appeals.

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

9-1.05. NONRESPONSIBILITY OF CITY.

That subsections 104.2.6 and 104.2.8 of Section 104 of said Building Code be amended to read as follows:

Section 104.2.6.

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

Section 104.2.8.

Alternative materials, alternative design and methods of construction.

The provisions of this Code are not intended to prevent the use of any material, alternative design or method of construction not specifically prescribed by this Code, provided the alternative has been approved and its use authorized by the Chief Building Official.

The Chief Building Official may approve any such alternative, provided the Chief Building Official finds that the proposed design is satisfactory and complies with the provisions of this Code and that the material, method or work offered is, for the purpose intended, at least the

equivalent of that prescribed in this Code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The Chief Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

9-1.06. BOARD OF BUILDING APPEALS.

That Section 105 of said Building Code be amended to read as follows:

Section 105.1.

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

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

Section 105.2.

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the

Chief Building Official with a duplicate copy to the appellant and may recommend to the Council of the City of Modesto such new legislation is consistent therewith.

Section 105.3.

Except as otherwise provided in the Uniform Mechanical Code, the Uniform Plumbing Code, the Uniform Housing Code, the National Electrical Code, Flood Damage Prevention regulation and the Uniform Code for the Abatement of Dangerous Buildings, the Board shall hear appeals in accordance with the procedures set forth herein.

Section 105.4.

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

Section 105.5.

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

Section 105.6

The decision of the Board in granting or denying an appeal shall become final and effective fifteen (15) days after the date of adoption of the decision, unless within such fifteen-day period an appeal is filed by the appellant(s) in writing with the City Council. The filing of such appeal within such time limit shall stay the effective date of the decision of the Board until such time as the Council has acted on the appeal.

Decisions of the Board of Building Appeals shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

The effective date of decisions of the Board of Building Appeals shall be as stated therein.

Upon receipt of a written appeal filed with the Council as provided herein, the Secretary of the Board shall thereupon transmit to the Council the Board's complete record of the case.

Within not to exceed forty (40) days following the receipt of the written appeal, the Council shall hold a hearing thereon. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to the appellant(s) by the City Clerk either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

The Council shall announce its findings and decision by formal resolution not more than forty (40) days following the hearings, and said resolution shall recite, among other things, the facts and reasons which, in the opinion of the City Council, make the granting or denial of the appeal necessary, and shall order that the appeal be granted or denied or modified subject to such conditions or limitations that it may impose.

The action by the Council on such matters shall be by majority vote of the entire Council and shall be final and conclusive.

Not later than ten (10) days following the adoption of a resolution ordering that an appeal be granted or denied, a copy of such resolution shall be mailed to the appellant(s) and one (1) copy of such resolution shall be attached to the Board's file of the case and said file returned to the Secretary of the Board for permanent filing.

9-1.07. EXPIRATION.

That subsection 106.4.4 of Section 106 of said Building Code be amended to read as follows:

Section 106.4.4.

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

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

9-1.08. PERMIT FEES.

That subsection 107.2, 107.3 and Section 107.5.2 of Section 107 of said Building Code be amended to read as follows:

Section 107.2.

Building Permit Fees. A fee for each building permit shall be paid to the Chief Building Official as set forth in a schedule setting forth building fees as adopted from time to time by resolution of the City Council.

The determination of value or valuation under any of the provisions of this Code shall be made by the Chief Building Official. The valuation to be used in computing the permit and plan-check fee shall be the total

value of all construction work for which the permit is issued as well as all finished work, painting, roofing, electrical, plumbing, heating, air conditioning systems and any other permanent work or permanent equipment.

Permit fees for new buildings or additions to buildings of Group R, Division 3 and U occupancies may be determined by the Chief Building Official by multiplying the square foot of floor area of such building or addition by the price per square foot value which results in the total fee for the building permit, the plan checking, the plumbing permit, the mechanical permit, and the electrical permit. The per square foot value shall be determined by the Chief Building Official, and such value when multiplied by the floor areas shall result in a total fee which shall be commensurate with the sum of such fees if individually calculated by otherwise applicable provisions of the Municipal Code.

Section 107.3.

Plan-Checking Fees. When the valuation of the proposed construction exceeds one thousand dollars ($1,000.00), and a plan is required to be submitted by Section 106.3.2, a plan-checking fee shall be paid to the Chief Building Official at the time of submitting plans and specifications for checking.

Said plan-checking fees for buildings of Groups R, Division 3 and U occupancies shall be twenty (20) percent of the building permit fees. Plan-checking fees for buildings of Group R, Division 3 for which Master Plans are approved shall be ten (10) percent of the building permit fees. Plan-checking fees for all other buildings shall be sixty-five (65) percent of the building permit fees as set forth in a schedule setting forth building fees as adopted from time to time by resolution of the City Council.

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

The Chief Building Official may require that the plan-checking fee be paid at the same time the permit fee is paid.

Section 107.5.2.

Investigation Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code. The minimum investigation fee shall be the same as the minimum fee set forth in a schedule setting forth building fees as adopted from time to time by resolution of the City Council.

9-1.09. FEES.

That subsections 107.7 and 107.8 be added to Section 107 of said Building Code to read as follows:

Section 107.7.

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

Section 107.8.

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

9-1.10. CERTIFICATE OF OCCUPANCY.

That subsection 109.4 of Section 109 be amended to read as follows:

Section 109.4.

Temporary Occupancy. If any building or structure including Groups R, Division 3 or U occupancy is to be occupied with the approval of the Chief Building Official prior to the final inspection and/or final corrections, the occupant, owner and contractor shall sign a temporary

certificate of occupancy prior to occupying the building agreeing to make all corrections required and/or listed within thirty (30) days of occupancy. If corrections are not completed within thirty (30) days, the Chief Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility and may file a notice of noncompliance with the County Recorder. The notice of noncompliance shall be removed by the Chief Building Official only after all items requiring correction are completed.

9-1.11. CERTIFICATE OF OCCUPANCY.

That subsection 109.7 be added to Section 109 of said Building Code to read as follows:

Section 109.7.

If any building or structure is occupied prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy as required by Section 109, the Chief Building Official shall have the authority to request the immediate discontinuance of the electrical service and/or the gas service by the appropriate utility.

9-1.12. DEMOLITION OF BUILDINGS: CLEARANCE OF SITE AND SAFETY MEASURES REQUIRED.

That Section 110 be added to said Building Code to read as follows:

Section 110.

Prior to the issuance of a permit to demolish a building, the owner of the property on which the building is to be demolished, or his agent, shall file with the City Clerk a bond in favor of the City of Modesto conditioned as follows:

1. Before any work is started on a building or structure, the permittee or his authorized agent shall notify the appropriate utilities in order that all gas, electrical, sewer, water and oil pipelines that are to be disconnected from the building may be capped and sealed or otherwise secured.

2. Immediately after the demolition of any building or structure, the permittee or his authorized agent shall securely barricade all

basement excavations and other holes or openings, as required by the Chief Building Official.

3. Within ten (10) days after the demolition of any building or structure, the permittee or his authorized agent shall complete the following work:

1.1. Securely close and seal any sanitary piping located on the property.

1.2. Either fill with dirt or sand or remove, at the discretion of the Chief Building Official, any septic tanks or cesspools located on the property.

1.3. Fill any openings, excavations or basements remaining on the land with dirt or sand to street level or the natural level of adjoining property, unless otherwise directed by the Chief Building Official.

1.4. Remove any buried underground tanks formerly used for storage of flammable liquids, as may be required by the Fire Department.

1.5. Remove all refuse, debris and waste materials from the property.

The bond required by this section shall be in an amount equal to the cost of the work proposed to be done, as estimated by the Chief Building Official.

The bond may be in the form of a corporate surety bond, cash deposit, savings and loan certificate, or an instrument of credit.

An extension of time for completion of the work required by this section may be granted in writing by the Chief Building Official when, in his discretion, circumstances justify such an extension; but no such extension shall release any bond or other security furnished pursuant to this section.

9-1.13. DISABLED ACCESS APPEALS BOARD.

That Section 111 be added to said Building Code to read as follows:

Section 111.1.

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

Section 111.2.

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

Section 111.3.

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

Section 111.4.

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

Section 111.5.

The decision of the Board in granting or denying an appeal shall become final and effective fifteen (15) days after the date of adoption of the decision, unless within such fifteen-day period an appeal is filed by the

appellant(s) in writing with the City Council. The filing of such appeal within such time limit shall stay the effective date of the decision of the Board until such time as the Council has acted on the appeal.

Upon receipt of a written appeal filed with the Council as provided herein, the Secretary of the Board shall thereupon transmit to the Council the Board's complete record of the case.

Within not to exceed forty (40) days following the receipt of the written appeal, the Council shall hold a hearing thereon. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to the appellant(s) by the City Clerk either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.

The Council shall announce its findings and decision by formal resolution not more than forty (40) days following the hearings, and said resolution shall recite, among other things, the facts and reasons which, in the opinion of the City Council, support its grant, or denial or modification subject to such conditions or limitations that it may impose.

The action by the Council on such matters shall be by majority vote of the entire Council and shall be final and conclusive.

Not later than ten (10) days following the adoption of a resolution ordering that an appeal be granted or denied, a copy of such resolution shall be mailed to the appellant(s) and one (1) shall be attached to the Board's file of the case and said file returned to the Secretary of the Board for permanent filing.

9-1.14. MINIMUM SLAB THICKNESS.

That Section 1900.4.4 of said Building Code be amended to read as follows:

Section 1900.4.4.

1. The minimum thickness of concrete floor slabs supported directly on the ground shall be not less than three and one-half (3½) inches.

2. Concrete slab floors, when used as a finished floor or as a base for other floor finish in buildings to be used in Groups R,

Divisions 1 and 3, shall be constructed according to the following additional requirements, or as approved by the Chief Building Official:

1.1. Four (4) inches of compacted gravel (three-fourths inch), maximum aggregate size shall be placed so that the surface of the base is not less than two (2) inches above finish grade.

1.2. A membrane water proofing, six (6) mil, or water proofing acceptable to the Chief Building Official shall be placed on the rock base. The membrane shall extend to exterior walls and turn up to top of slab or down to bottom of footing for monolithic pours.

1.3. One-half inch of clean sand shall be placed on the membrane water proofing before placing of concrete.

9-1.15. SECTIONS TO BE DELETED FROM BUILDING CODE.

That Chapters 11, 13, and Sections 413, 414, 415, 416 and 417 of said Building Code are hereby deleted.

SECTION 2. FINDING AND DECLARATION. As required by the Health and Safety Code of the State of California, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to said Health and Safety Code are reasonably necessary because of local conditions in that they adopt the 1997 Edition of the Uniform Building Code in lieu of the 1994 Edition, prescribe local procedures to be used in the administration and enforcement of said Code, provide for local interpretations of said Code, make other changes in said Code consistent with local custom and practice as reflected in the prior local Building Code, and other changes due to local climatic and geographic conditions.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3144-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3145 -C.S.

AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO THE MECHANICAL CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 7 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 7 - MECHANICAL CODE

9-7.01. ADOPTION BY REFERENCE OF "UNIFORM MECHANICAL CODE".

That certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as "Uniform Mechanical Code, 1997 Edition", published by the International Conference of Building Officials, together with Appendices A, B, C, and D thereto, which said Code provides for proper regulations for erecting, installing, altering, repairing, relocating, replacing, adding to, using and maintenance of, any heating, ventilating, comfort cooling or refrigeration systems and incinerators and other miscellaneous heat-producing appliances in the City and providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof, as hereinafter amended, deleted and added to, be and the same is hereby adopted by reference as the Mechanical Code of the City of Modesto.

9-7.02. TITLE.

That Section 101 of said Mechanical Code be amended to read as follows:

Section 101.

This code shall be known as the "Mechanical Code," may be cited as such, and will be referred to herein as "this Code."

9-7.03. INTERPRETATION.

That subsection 108.1 of Section 108 of said Mechanical Code be amended to read as follows:

Section 108.1.

Interpretation. The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes, the Chief Building Official shall have the powers of a law enforcement official.

The Chief Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code. Such interpretations may be appealed to the Board of Building Appeals.

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

The Chief Building Official is hereby authorized to determine the intent and meaning of any provision of this Code. Such determination shall be made in writing and a record kept, which shall be open to the public. Such determination may be appealed to the Board of Building Appeals.

9-7.04. NONRESPONSIBILITY OF CITY.

That subsection 108.8 of Section 108 of said Mechanical Code be amended to read as follows:

Section 108.8.

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

9-7.05. BOARD OF APPEALS.

That Section 110 of said Mechanical Code be amended to read as follows:

Section 110.

The Board of Building Appeals established by Section 105 of the Building Code of the City of Modesto shall determine the suitability of alternate materials and types of construction and provide for reasonable interpretations of the provisions of this Code and hear appeals from decisions of the Chief Building Official regarding the intent and meaning of any provisions of this Code.

9-7.06. PERMIT ISSUANCE.

That subsection 114.4.1 of Section 114 of said Mechanical Code be amended to read as follows:

Section 114.4.1.

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

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

9-7.07. PERMIT FEES.

That subsections 115.2 and 115.3 of Section 115 of said Mechanical Code be amended to read as follows:

Section 115.2.

The fee for each permit shall be as set forth in a schedule established by the Modesto City Council, which may be set or amended from time to time by City Council resolution. No permit fees shall be required for the issuance of mechanical permits to governmental agencies; however governmental agencies which obtain permits may be charged inspection fees to defray the actual cost of inspection services.

Section 115.3.

Plan Review Fees. When a plan or other data are required to be submitted by Section 113.2 a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for mechanical work shall be equal to sixty-five (65) percent of the total permit fee as required in Section 115.2.

Section 115.3.1.

Separate Fee for Plan Review. The plan review fees specified in this section are separate fees from the permit fees specified in Section 115.1 and are in addition to the permit fees.

Section 115.3.2.

Incomplete or Changed Plans. When plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged as required by Section 115.2.

9-7.08. TELEPHONE PERMIT PROCEDURE.

That Section 118 be added to said Mechanical Code to read as follows:

Section 118.

The Chief Building Official is hereby authorized to establish a system for the issuance of routine permits upon telephonic request and to issue such directives and regulations as are deemed necessary to govern the

operation and administration of such system. Said directives and regulations shall have the force and effect of law and a violation thereof shall constitute a violation of this Code. Such a system may provide for the payment of permit fees on permits issued by telephone on an accounts receivable basis.

SECTION 2. FINDING AND DECLARATION. As required by the Health and Safety Code of the State of California, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to said Health and Safety Code are reasonably necessary because of local conditions in that they adopt the 1997 Edition of the Uniform Mechanical Code in lieu of the 1994 Edition, prescribe local procedures to be used in the administration and enforcement of said Code, provide for local interpretations of said Code, make other changes in said Code consistent with local custom and practice as reflected in the prior local Mechanical Code, and other changes due to local climatic and geographic conditions.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3145-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3146 -C.S.

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO THE PLUMBING CODE.

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

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

CHAPTER 2 - PLUMBING CODE

9-2.01. ADOPTION OF "UNIFORM PLUMBING CODE."

That certain document three (3) copies of which are on file in the office of the City Clerk being marked and designated as the "Uniform Plumbing Code, 1997 Edition," adopted by the International Association of Plumbing and Mechanical Officials, together with Appendices A, B, F, and H thereto, which said Code provides for the protection of the public health and safety, requires a permit for the installation or alteration of plumbing and drainage systems, defines certain terms, establishes minimum regulations for the installation, alteration or repair of plumbing and drainage systems and the inspection thereof, and provides penalties for the violation thereof, as amended, deleted and added to, be and the same is hereby adopted by reference as the Plumbing Code of the City of Modesto.

9-2.02. TITLE.

That Section 101.1 of said Plumbing Code be amended to read as follows:

Section 101.1.

This Code shall be known as the "Plumbing Code" and will be referred to as "this Code" herein.

9-2.03. PURPOSE.

That Section 101.2 of said Plumbing Code be amended to read as follows:

Section 101.2.

The purpose of this Code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance of plumbing and drainage systems and any part or components thereof, and appliances connected thereto.

9-2.04. AUTHORITY TO ABATE.

That subsections 101.6.1, 101.6.2, 101.6.3 and 101.6.4 be added to Section 101 of said Plumbing Code to read as follows:

Section 101.6.1.

Any portion of a plumbing system found by the Chief Building Official to be insanitary as defined herein is hereby declared to be a nuisance.

Section 101.6.2.

Whenever it is brought to the attention of the Chief Building Official that any insanitary conditions exist or that any construction or work regulated by this Code is dangerous, unsafe, unsanitary, a nuisance or a menace to life, health or property or otherwise is in violation of this Code, the Chief Building Official, upon determining such information to be fact, shall order any person, firm or corporation using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use or maintenance thereof or to repair, alter, change, remove or demolish the same as he may consider necessary for the proper protection of life, health or property and in the case of any gas piping or gas appliance may order any person, firm or corporation, supplying gas to such piping or appliance to discontinue supplying gas thereto until such piping or appliance is made safe to life, health or property.

Every such order shall be in writing, addressed to the owner, agent or person responsible for the premises in which such condition exists and shall specify the date or time for compliance with such order.

Section 101.6.3.

Refusal, failure or neglect to comply with any such notice or order shall be considered a violation of this Code.

Section 101.6.4.

When any plumbing system is maintained in violation of this Code and in violation of any notice issued pursuant to the provisions of this section or where a nuisance exists in any building or on a lot on which a building is situated, the Chief Building Official shall institute any appropriate action or proceeding in any court of competent jurisdiction to prevent, restrain, correct or abate the violation or nuisance.

9-2.05. ADMINISTRATIVE AUTHORITY.

That subsection 102.1 of Section 102 of said Plumbing Code be amended to read as follows:

Section 102.1. Administrative Authority.

The Administrative Authority is the Chief Building Official, or his duly authorized representative who is hereby charged with the administration and enforcement of this Code. The Chief Building Official is hereby authorized and directed to enforce all provisions of this Code. For such purposes he shall have the powers of a law enforcement officer.

9-2.06. DUTIES AND POWERS OF THE ADMINISTRATIVE AUTHORITY.

That subsection 102.2.6 of Section 102 of said Plumbing Code be amended to read as follows:

Section 102.2.6.

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

9-2.07. VIOLATIONS.

That Section 102.3 of said Plumbing Code be amended to read as follows:

Section 102.3.

It shall be unlawful for any person, firm or corporation to erect, install, alter, repair, relocate, add to, replace, use or maintain plumbing or drainage systems or parts thereof or appliances connected thereto in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this Code. Maintenance of equipment which was unlawful at the time it was installed and which would be unlawful under this Code if installed after the effective date of this Code shall constitute a continuing violation of this Code.

9-2.08. PERMIT ISSUANCE.

That subsections 103.3.3 and 103.3.4 of Section 103.3 of said Plumbing Code be amended to read as follows:

Section 103.3.3.

Validity. The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorizes is lawful.

Section 103.3.4.

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

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

9-2.09. FEES.

That subsections 103.4.1 and 103.4.2 of Section 103.4 of said Plumbing Code be amended to read as follows:

Section 103.4.1.

Plumbing Permit Fees. A fee for each plumbing permit shall be paid to the Chief Building Official as set forth in a schedule setting forth plumbing fees as adopted from time to time by resolution of the City Council.

No permit fees shall be required for the issuance of plumbing permits to governmental agencies; however, governmental agencies which obtain permits may be charged inspection fees to defray the actual cost of inspection services.

Section 103.4.2.

Plan Review Fees. When a plan or other data is required to be submitted by Section 103.2.2, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fee for plumbing work shall be equal to sixty-five (65) percent of the total fee as required by Section 103.4.1. When plans are incomplete or changed so as to require additional review, a fee shall be charged at the rate as required by Section 103.4.1.

9-2.10. REINSPECTIONS.

That subsection 103.5.6 of Section 103.5 of said Plumbing Code be amended to read as follows:

Section 103.5.6.

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

This provision is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspections before the job is ready for inspection or reinspection.

Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection is requested, or for deviating from plans requiring the approval of the Administrative Authority.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Section 103.4.1.

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

9-2.11. BOARD OF APPEALS.

That Section 103.9 be added to said Plumbing Code to read as follows:

Section 103.9.

The Board of Building Appeals established by Section 105 of the Building Code of the City of Modesto shall determine the suitability of alternate materials and types of construction and provide for reasonable interpretations of the provisions of this Code and hear appeals from decisions of the Chief Building Official regarding the intent and meaning of any provision of this Code.

9-2.12. INTERPRETATION.

That Section 103.10 be added to said Plumbing Code to read as follows:

Section 103.10. Interpretation.

The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code. Such interpretations may be appealed to the Board of Building Appeals.

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

9-2.13. TELEPHONE PERMIT PROCEDURE.

That Section 103.11 be added to said Plumbing Code to read as follows:

Section 103.11.

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

9-2.14. TEMPORARY USE OF GAS.

That Section 1208 of said Plumbing Code be amended to read as follows:

Section 1208.

A structure or building shall pass final inspection as per Section 108.5.6 of the Building Code prior to connection of the gas service by the gas supplier. Temporary gas connection to the gas source for a period not to exceed thirty (30) days may be granted prior to the final inspection if, in the opinion of the Chief Building Official, the gas distributing line pipes and fittings are safe. If after thirty (30) days the structure or building

has not passed final inspection, the Chief Building Official shall have the authority to request the gas supplier to discontinue the service.

SECTION 2. FINDING AND DECLARATION. As required by the Health and Safety Code of the State of California, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to said Health and Safety Code are reasonably necessary because of local conditions in that they adopt the 1997 Edition of the Uniform Plumbing Code in lieu of the 1994 Edition, prescribe local procedures to be used in the administration and enforcement of said Code, provide for local interpretations of said Code, make other changes in said Code consistent with local custom and practice as reflected in the prior local Plumbing Code, and other changes due to local climatic and geographic conditions.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3146-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3147 -C.S.

AN ORDINANCE AMENDING CHAPTER 8 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO THE DANGEROUS BUILDING CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 8 of Title 9 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 8 - DANGEROUS BUILDINGS CODE

9-8.01. ADOPTION BY REFERENCE OF "DANGEROUS BUILDINGS CODE."

That certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as "Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition" published by the International Conference of Building Officials, which said Code provides for a just, equitable and practicable method, to be cumulative and in addition to any other remedy available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished, and providing procedures for processing appeals on decisions made by the Chief Building Official, and providing for enforcement of orders, performance or work, repair or demolition, and for recovery of costs of repair or demolition, as hereinafter amended, deleted and added to, is hereby adopted by reference as the Dangerous Buildings Code of the City of Modesto.

9-8.02. TITLE.

That Section 101 of said Dangerous Buildings Code be amended to read as follows:

Section 101.

This Code shall be known as the "Dangerous Buildings Code," may be cited as such, and will be referred to herein as "this Code."

9-8.03. BOARD OF APPEALS.

That Section 205 of said Dangerous Buildings Code be amended to read as follows:

Section 205.

The Board of Building Appeals established by Section 105 of the Building Code of the City of Modesto shall hear appeals provided for hereunder and provide for interpretations of the provisions of this Code. Appeals to the Board shall be processed in accordance with the provisions contained in Section 501 of this Code.

9-8.04. DANGEROUS BUILDINGS.

That Section 302 of said Dangerous Buildings Code be amended to read as follows:

Section 302.1.

For the purpose of this Code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, unless the owner, or any other person entitled to service under Section 401.3, shall establish to the satisfaction of the Chief Building Official or the Board of Building Appeals, as the case may be, that such conditions do not exist to the extent that the life, health, property, or safety of the public or its occupants are endangered.

(a) Whenever any door, aisle, passageway, stairway or other means of exit does not comply with the minimum requirements of the Building Code of the City of Modesto or is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(b) Whenever the stress in any materials, members or portions thereof, due to all dead loads, live loads, and lateral loads, is more than one and one-half (1½) times the working stress of stresses allowed in the Building Code of the City of Modesto, for new buildings of similar structure, purpose or location.

(c) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is less than it was

before such catastrophe and is less than the minimum requirements of the Building Code of the City of Modesto, for new buildings of similar structure, purpose or location.

(d) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(e) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code of the City of Modesto for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code of the City of Modesto for such buildings.

(f) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have less resistance to winds or earthquakes than is required in the case of similar new construction.

(g) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

(h) Whenever, for any reason, the building or structure, or any portion thereof, is unsafe for the purpose for which it is being used.

(i) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(j) Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent

damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

(k) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(l) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Building Code of the City of Modesto, Housing Code of the City of Modesto, or any other law or ordinance of this State or City relating to the condition, location, or structure of buildings.

(m) Whenever any building or structure, whether or not erected in accordance with all applicable law and ordinances, has in any nonsupporting part, member or portion, less than fifty (50) percent or in any supporting part, member, or portion less than sixty-six (66) percent of the (i) strength, (ii) fire-resisting qualities or characteristics or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(n) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Officer, in the exercise of his discretion, to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(o) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief, in the exercise of his discretion, to be a fire hazard.

(p) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(r) Whenever any other conditions or defects exist to the extent that the life, heath, property, or safety of the public or its occupants are endangered.

Section 302.2.

No building shall be determined to be a fire hazard pursuant to subsection 302.1(a) hereof solely due to a lack of a Standard Automatic Fire Extinguishing System in the basement thereof, provided the entire basement is equipped with an Automatic Fire Detection and Alarm System which is installed and maintained in conformance with the Modesto Fire Code standards 10-2 and 10-3 and other nationally recognized standards. Such Automatic Fire Detection and Alarm System installation and maintenance shall include all of the following:

(a) The System shall be directly connected to a central station or commercial alarm organization acceptable to the Fire Chief.

(b) All System components shall be UL listed.

(c) All System components; communication, maintenance, and testing contracts; and other related items shall be installed and maintained in conformance with Section 1007.3.1 of the Uniform Fire Code of the City of Modesto and nationally recognized standards.

(d) Maintenance and testing contracts shall include, at a minimum, such annual inspection and testing as is required by the Modesto Fire Code standard 10-4 and nationally recognized standards and shall be performed by a commercial alarm organization acceptable to the Fire Chief.

(e) A current copy of the contract between the owner or lessee of the basement and the commercial alarm organization shall be kept on file with the Fire Chief at all times.

Section 302.3.

Nothing in this section shall be construed as providing an alternate method of construction for those buildings required to install a Standard Automatic Fire Extinguishing System pursuant to Section 904 of the Building Code of the City of Modesto, nor as permitting less frequent inspection or testing of systems required to be tested quarterly pursuant to Title 19 of the California Code of Regulations.

9-8.05. NOTICE AND ORDER.

That subsection 401.2.5 of Section 401 of said Dangerous Buildings Code be amended to read as follows:

Section 401.2.5.

Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Chief Building Official to the Board of Building Appeals, provided the appeal is made in writing as provided in this Code, and filed with the Chief Building Official within thirty (30) days from the date of service of such notice and order; (ii) that any appellant may further appeal any decision of the Board of Building Appeals to the City Council, provided the appeal is made in writing as provided in this Code and filed with the City Clerk within fifteen (15) days from the date of the decision of the Board of Building Appeals; and (iii) that failure to file such appeals will constitute a waiver of all right to administrative hearings and determination of the matter.

9-8.06. RECORDATION OF NOTICE AND ORDER.

That Section 402 of said Dangerous Buildings Code be amended to read as follows:

Section 402.

1. Upon issuing a notice and order, the Chief Building Official may, in the exercise of his discretion, file in the office of the County Recorder a certificate describing the property and certifying (i)

that the building is a substandard building and (ii) that the owner has been so notified. Whenever the correction ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, or an appeal has been granted declaring the building to not be substandard, the Chief Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished, that all required corrections have been made, or that an appeal has been granted so that the building is no longer substandard, whichever is appropriate.

2. When the Chief Building Official has not, in the exercise of his discretion, recorded a certificate under the provisions of subsection (a) of this section, if compliance is not had within the time specified in the notice and order, and if (1) no appeal has been properly and timely field or (2) an appeal has been heard and denied, the Chief Building Official shall at that time file a certificate in the Office of the County Recorder, in accordance with and subject to the provisions set forth in subsection (a) of this section.

9-8.07. GENERAL.

That subsections 501.1 and 501.2 of Section 501 of said Dangerous Buildings Code be amended to read as follows:

Section 501.1.

Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order or any action of the Chief Building Official under this Code by filing at the office of the Chief Building Official within thirty (30) days from the date of the service of such order, a written appeal containing:

1. A heading in the words: "Before the Board of Building Appeals of the City of Modesto."

2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

4. A brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

6. The signatures of all parties named as appellants, and their official mailing addresses.

Section 501.2.

Procedure for Appeal. Except as otherwise provided in this Code, appeals shall be processed pursuant to the procedure of the Board of Building Appeals as set forth in Section 105 of the Building Code.

9-8.08. SCHEDULING AND NOTICING APPEAL FOR HEARING.

That subsection 501.3 of Section 501 of said Dangerous Buildings Code is hereby deleted.

9-8.09. DUTIES AND RESPONSIBILITIES OF THE BOARD OF BUILDING APPEALS.

That Section 601 of said Dangerous Buildings Code is hereby deleted.

9-8.10. FORM OF NOTICE OF HEARING.

That Section 602 of said Dangerous Buildings Code is hereby deleted.

9-8.11. BOARD OF BUILDING APPEALS MAY REQUEST REPORTS.

That Section 603 of said Dangerous Buildings Code be amended to read as follows:

Section 603.

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

9-8.12. FORM OF DECISION.

That Section 604 of said Dangerous Buildings Code be amended to read as follows:

Section 604.

Decisions of the Board of Dangerous Building Appeals shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of this decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

9-8.13. EFFECTIVE DATE OF DECISION.

That Section 605 of said Dangerous Buildings Code be amended to read as follows:

Section 605.

The effective date of decisions of the Board of Building Appeals shall be as stated therein.

9-8.14. COMPLIANCE.

That subsections 701.1 and 701.2 of Section 701 of said Dangerous Buildings Code be amended to read as follows:

Section 701.1.

General. After any order of the Chief Building Official, the Board of Building Appeals, or the City Council made pursuant to this Code shall have become final, no person to whom any such order is directed shall

fail, neglect or refuse to obey any such order. It shall be unlawful for any person to so fail, neglect or refuse to obey any such order.

Section 701.2.

Failure To Obey Order. If, after any order of the Chief Building Official, the Board of Building Appeals, or the City Council made pursuant to this Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Chief Building Official may (i) cause such person to be prosecuted under subsection 701.1 of this section or (ii) institute any appropriate action to abate such building as a public nuisance.

9-8.15. COSTS.

That subsection 801.2 of Section 801 of said Dangerous Buildings Code be amended to read as follows:

Section 801.2.

Costs. Initially, the cost of such work shall be paid from the General Fund of the City. Such costs may be recovered by a special assessment against the property involved, or may be made a personal obligation of the property owner or both, whichever the City Council may determine appropriate. Such recovered costs shall be deposited in the General Fund of the City. Any money received by the City for the sale of buildings or structures shall be credited against such costs, and any excess over and above such costs shall be refunded to the property owner.

9-8.16. REPAIR AND DEMOLITION FUND.

That Section 802 of said Dangerous Buildings Code is hereby deleted.

9-8.17. REPAYMENT OF COSTS.

That Section 912 of said Dangerous Buildings Code is hereby amended to read as follows:

Section 912.

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the City Treasurer, who shall credit the same to the General Fund.

SECTION 2. FINDING AND DECLARATION. As required by the Health and Safety Code of the State of California, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to said Health and Safety Code are reasonably necessary because of local conditions in that they adopt the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings Code in lieu of the 1994 Edition, prescribe local procedures to be used in the administration and enforcement of said Code, provide for local interpretations of said Code, make other changes in said Code consistent with local custom and practice as reflected in the prior local Dangerous Building Code, and other changes due to local climatic and geographic conditions.

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

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for

such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Richard A. Lang
RICHARD A. LANG, Mayor

ATTEST:

By Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney

Ord. No. 3147-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3148 -C.S.

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO THE ELECTRICAL CODE.

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

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

CHAPTER 3 - ELECTRICAL CODE

ARTICLE 1. GENERAL PROVISIONS

SEC. 9-3.101. ADOPTION BY REFERENCE OF "NATIONAL ELECTRICAL CODE".

That certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as "National Electrical Code 1996 Edition", published by the National Fire Protection Association, which said Code provides for the protection of the public health and safety, provides for the design, construction, installation, alteration, and repair of electrical work, as hereinafter amended, deleted and added to, be and the same is hereby adopted by reference as the Electrical Code of the City of Modesto.

SEC. 9-3.102. ENFORCEMENT.

That Article 90.4 of said Electrical Code be amended to read as follows:

Article 90.4.

(a) **General.** The Chief Building Official is hereby authorized and directed to enforce, all the provisions of this Code. For such purpose he shall have the powers of a law enforcement officer. The Chief Building Official may waive specific requirements in this Code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(b) **Deputies.** In accordance with the procedure and with the approval of the chief appointing authority of the City, the Chief

Building Official may appoint such number of officers, inspectors and assistants, and other employees as shall be authorized from time to time. He may deputize such employees as may be necessary to carry out the functions of the Chief Building Official.

(c) **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Chief Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in Section 102 of the Building Code, the Chief Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Chief Building Official by this Code; provided that if such building or premises be occupied, he shall first present proper credentials and request entry, and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Chief Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Chief Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the Chief Building Official or his authorized representative for the purpose of inspection and examination pursuant to this Code. Any person violating this subsection shall be guilty of a misdemeanor.

(d) **Stop Orders.** Whenever any work is being done contrary to the provisions of this Code, the Chief Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done; and any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

(e) **Authority To Condemn Equipment.** Whenever the Chief Building Official learns or ascertains that any equipment, as defined in this Code, has become hazardous to life, health or property, he shall order, in writing, that such equipment be restored to a condition of safety or be dismantled and removed from its present location. The written notice shall fix a time limit for compliance with such order. No person shall use or maintain the defective equipment after receiving such notice.

(f) **Interpretation.** The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions.

Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code. Such interpretations may be appealed to the Board of Building Appeals.

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

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

The Chief Building Official is hereby authorized to determine the intent and meaning of any provisions of this Code.

SEC. 9-3.103. FORMAL INTERPRETATIONS.

That Article 90.6 of said Electrical Code is hereby deleted.

SEC. 9-3.104. VIOLATIONS.

That Article 90.10 be added to said Electrical Code to read as follows:

Article 90.10.

It shall be unlawful for any person, firm or corporation to erect, install, alter, repair, relocate, add to, replace, use or maintain electrical systems or parts thereof or cause the same to be done contrary to or in violation of this Code. Maintenance of equipment which was unlawful at the time it was installed and which would be unlawful under this Code, if installed after the effective date of this Code, shall constitute a continuing violation of this Code.

SEC. 9-3.105. EXISTING EQUIPMENT.

That Article 90.11 be added to said Electrical Code to read as follows:

Article 90.11.

Electrical systems, parts or components thereof, and other miscellaneous appliances connected thereto lawfully installed prior to the effective date of this Code, may have their existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and is not a hazard to life, health, or property.

All electrical systems, parts or components thereof, and other miscellaneous appliances connected thereto, both existing and new, and all parts thereof, shall be maintained in a safe condition. The owner or his designated representative shall be responsible for maintenance of the electrical system.

SEC. 9-3.106. PERMIT REQUIRED.

That Article 90.12 be added to said Electrical Code to read as follows:

Article 90.12.

(a) No electrical wiring, devices, appliances, apparatus or equipment shall be installed within or on any building, structure or premises, nor shall any alteration or addition be made in any such existing electrical wiring, devices, appliances, apparatus or

equipment without first securing a permit therefor from the Chief Building Official .

(b) A separate permit shall be obtained for each building or structure.

SEC. 9-3.107. WORK NOT REQUIRING A PERMIT.

That Article 90.13 be added to said Electrical Code to read as follows:

Article 90.13.

Exempt Work. An electrical permit shall not be required for the following:

(a) Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by this Code.

(b) Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.

(c) Temporary decorative lighting.

(d) Repair or replacement of current-carrying parts of any switch, contractor or control device.

(e) Reinstallation of attachment plug receptacles, but not the outlets therefor.

(f) Repair or replacement of an overcurrent device of the required capacity in the same location.

(g) Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube system.

(h) Taping joints.

(i) Removal of electrical wiring.

(j) Temporary wiring for experimental purposes in suitable experimental laboratories.

(k) The wiring for temporary theater, motion picture or television stage sets.

(l) Electrical wiring, devices, appliances, apparatus or equipment operating at less than twenty-five (25) volts and not capable of supplying more than fifty (50) watts of energy.

(m) Low-energy power, control and signal circuits of Classes II and III as defined in this Code.

(n) A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this Code or any other laws or ordinances of this jurisdiction.

SEC. 9-3.108. APPLICATION FOR PERMIT.

That Article 90.14 be added to said Electrical Code to read as follows:

Article 90.14.

Any person legally entitled to apply for and receive a permit shall make such application on forms provided for that purpose. He shall give a description of the character of the work proposed to be done, and the location, ownership, occupancy and use of the premises in connection therewith. The Chief Building Official may require plans, specifications or drawings and such other information as he may deem necessary.

If the Chief Building Official determines that the plans, specifications, draftings, descriptions or information furnished by the applicant is in compliance with this Code, he shall issue the permit applied for upon payment of the required fee as hereinafter fixed.

Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire by limitation, and plans submitted for checking may thereafter be returned to the applicant or destroyed by the Chief Building Official .

SEC. 9-3.109. TELEPHONE PERMIT PROCEDURE.

That Article 90.15 be added to said Electrical Code to read as follows:

Article 90.15.

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

SEC. 9-3.110. VALIDITY AND LENGTH OF PERMIT.

That Article 90.16 be added to said Electrical Code to read as follows:

Article 90.16.

(a) **Validity.** The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for or an approval of any violation of any of the provisions of this Code or of any ordinance. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Chief Building Official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Code or of any other ordinance.

(b) **Expiration.** Every permit issued by the Chief Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such

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

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

(c) **Suspension or Revocation.** The Chief Building Official may, in writing, suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Code.

SEC. 9-3.111. COST OF PERMIT.

That Article 90.17 be added to said Electrical Code to read as follows:

Article 90.17.

(a) **Permit Fee.** Every applicant for a permit to do work regulated by this Code shall state in writing on the application form provided for that purpose the character of work proposed to be done and the amount and kind in connection therewith, together with such information, pertinent thereto as may be required.

Such applicant shall pay for each permit issued at the time of issuance a fee in accordance with a schedule established by the Modesto City Council, which may be set or amended from time to time by City Council resolution.

(b) **Investigation Fee.** Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code. The minimum investigation fee shall be the same as the minimum fee established by 90.17(a). The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any penalty prescribed by law.

This provision shall not apply to emergency work when it shall be provided to the satisfaction of the Chief Building Official that such work was urgently necessary and that it was not practical to obtain a permit therefor before the commencement of the work.

(c) **Plan Review Fees.** When a plan or other data is required by Section 90.14, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fee for electrical work shall be equal to sixty-five (65) percent of the total fee as required by Section 90.17(a). When plans are incomplete or changed so as to require additional review, a fee shall be charged at the rate as required by Section 90.17(a).

(d) No permit fees shall be required for the issuance of electrical permits to governmental agencies; however, governmental agencies which obtain permits may be charged inspection fees to defray the actual cost of inspection services.

SEC. 9-3.112. INSPECTION.

That Article 90.18 be added to said Electrical Code to read as follows:

Article 90.18.

All work for which a permit is obtained under this Code shall be inspected by the Chief Building Official .

That portion of any work intended to be concealed shall not be concealed until inspected and approved.

When the work is complete, a second or final inspection shall be made.

A final inspection approval may, upon written notice, be revoked by the Chief Building Official if he finds that the work fails in any respect to comply with the requirements of this Code, or that the installation is unsafe, dangerous, or a hazard to life or property.

SEC. 9-3.113. REQUEST FOR INSPECTION.

That Article 90.19 be added to said Electrical Code to read as follows:

Article 90.19.

The Chief Building Official may require that every request for inspection be filed at least one (1) day before such inspection is desired.

It shall be the duty of the person requesting inspection of any work regulated by this Code to provide access to and means for proper inspection of such work.

The Chief Building Official shall not be liable for any expense entailed in the removal or replacement of any material required to allow the inspection.

SEC. 9-3.114. DANGEROUS AND UNSAFE CONSTRUCTION.

That Article 90.20 be added to said Electrical Code to read as follows:

Article 90.20.

(a) Any portion of an electrical system found by the Chief Building Official to be unsafe as defined herein is hereby declared to be a nuisance.

(b) Whenever it is brought to the attention of the Chief Building Official that any unsafe equipment or conditions exist or that any construction or work regulated by this Code is dangerous, a nuisance or a menace to life, health or property or otherwise in violation of this Code, the Chief Building Official , upon determining such information to be fact, shall order any person, firm or corporation using or maintaining any such equipment or condition or responsible for the use or maintenance thereof to discontinue the use or maintenance thereof or to repair, alter, change, remove or demolish the same as he may consider necessary for the proper protection of life, health or property. The Chief Building Official may order any person, firm or corporation supplying electricity to such equipment or system to discontinue supplying electricity thereto until such equipment or system is made safe to life, health or property.

Every such order shall be in writing, addressed to the permit holder and/or the owner, agent or person responsible for the premises in which such equipment or condition exists and shall specify the date or time for compliance with such order.

(c) Refusal, failure or neglect to comply with any such notice or order shall be considered a violation of this Code.

(d) When any electrical system is maintained in violation of this Code and in violation of any notice issued pursuant to the provisions of this section or where a nuisance exists in any building or on a lot on which a building is situated, the Chief Building Official shall institute any appropriate action or proceedings in any court of competent jurisdiction to prevent, restrain, correct or abate the violation or nuisance.

SEC. 9-3.115. CONNECTION TO SERVICE.

That Article 90.21 be added to said Electrical Code to read as follows:

Article 90.21.

It shall be unlawful for any person, firm or corporation to make connection from a source of electrical energy to supply electrical service to any electrical wiring, devices, appliances, apparatus or equipment for the installation of which a permit is required unless such person, firm or corporation shall have obtained satisfactory evidence that such electrical

wiring, devices, appliances, apparatus or equipment are in all respects in conformity with all applicable legal provisions.

In addition, the structure or building shall pass final inspection as per Section 108.5.6 of the Building Code prior to connection to the electrical source. Temporary electrical connection to the electrical source for a period not to exceed thirty (30) days may be granted prior to the final inspection if in the opinion of the Chief Building Official the electrical service is safe. If after thirty (30) days the structure or building has not passed final inspection, the Chief Building Official shall have the authority to request the serving utility to disconnect the service.

It shall be unlawful for any person, firm or corporation to make connections from a source of electrical energy or to supply electrical service to any electrical wiring, devices, appliances, apparatus or equipment which has been disconnected or ordered to be disconnected by the Chief Building Official or the use of which has been ordered by the Chief Building Official to be disconnected until a certificate of approval has been issued by him authorizing the reconnection and use of such electrical wiring, devices, appliances, apparatus or equipment.

SEC. 9-3.116. SPECIFIC REQUIREMENTS.

That Article 90.22 be added to said Electrical Code to read as follows:

Article 90.22.

(a) All installations, materials, devices, appliances, apparatus and equipment installed or used shall be in conformity with the provisions of this Code and with approved standards for safety of life and property.

(b) Listing or labeling, as conforming to the Standards of the Underwriters' Laboratories, Inc., the National Bureau of Standards, the United States Bureau of Mines, or other nationally recognized laboratories shall be prima facie evidence of conformity with the approved standards for safety to life and property.

(c) Previously used material shall be relisted or labeled as per item (b) above and shall not be reused in any work without the written approval obtained in advance from the Chief Building Official .

(d) The maker's name, trademark or other identification symbol shall be placed on all electrical materials, signs, devices, appliances and equipment used or installed under the provisions of this Code.

(e) Not more than ten (10) outlets shall be permitted on any residential lighting circuit on No. 14 AWG wire and not more than thirteen (13) outlets on any residential lighting circuit on No. 12 AWG wire.

(f) Where the service conduit is extended to furnish a support for the service drop wires, only rigid metal conduit of not less than one and one-fourth (1¼) inch trade size may be used and shall not extend more than thirty (30) inches beyond the last support.

(g) Substandard service equipment shall be brought up to standard on any and all remodeling jobs or in any case where additional wiring is installed.

(h) Conduits and equipment installed in metal suspension ceiling systems (T-bar).

(1) Sizes three-fourths (3/4) and larger inch conduit(s) shall be supported by an approved trapeze method or equivalent means. Wire supports shall not be used to support conduits or any equipment.

(2) Conduits smaller than three-fourths (3/4) shall be permitted to be supported by support wires except that multiple runs of conduits shall be supported by the methods described in the larger than three-fourths (3/4) inch size conduits. Conduits or raceways supported by wires shall be secured laterally in each direction.

(i) Automatic dishwashers, refrigerated coolers or any fixed motors rated over one-third horsepower or any fixed appliance or device rated over one thousand (1,000) watts shall be installed on a separate circuit with not less than No. 12 AWG wire.

(j) Residential electrical ranges shall be wired with not less than No. 8 AWG copper or No. 6 AWG aluminum wire. Built-in cooking tops and ovens may have a smaller circuit run separately to each and shall not be smaller than No. 10 AWG copper.

(k) Type NM and NMC nonmetallic sheath cable shall not be used in A, B, E, F, H, I, M, and S occupancies. Occupancies are defined in the Building Code.

EXCEPTION: Type NM and NMC nonmetallic sheath cable, may be used when R-3 occupancies are converted to E-3 day care occupancies with less than twenty (20) children.

(l) In A, B, E, F, H, I, M, S, and U occupancies, a maximum of four (4) convenience outlets per circuit for No. 14 AWG wire and a maximum of six (6) convenience outlets per circuit for No. 12 AWG wire is allowed.

(m) Aluminum wiring shall not be used except as follows: Stranded aluminum wiring shall be allowed in No. 8 or larger sizes only.

(n) Electrical, telephone, communication and data system wiring penetrations of fire-resistive separations:

(1) For penetrations of one-hour walls, the following is required: A length of EMT extends through the wall for a distance of at least thirty (30) inches from each face of the wall. The ends of the EMT are to be securely fastened. The ends of the EMT shall terminate in approved connectors, and the EMT must be of a size permitted by the National Electrical Code. Ends are to be packed with rock wool or equal. Where the EMT penetrates gypsum wallboard, the void between the EMT and the wallboard must be solidly packed on both sides with wallboard compound to the thickness of the wallboard.

(2) For penetrations of two-hour walls, the following is required: Same as (n)(1) except EMT extends sixty (60) inches from each face of the wall.

(o) Nonmetallic sheath cable shall be protected to eight (8) feet, zero (0) inches above the floor with half-inch gypsum board covering two (2) studs minimum or equal. Board runners to be run the entire length of all nonmetallic sheath cable in exposed garage areas above eight (8) feet.

(p) Residential occupancies as used in this Code means any R occupancy as defined in the Building Code.

(q) Dishwasher shall be cord connected.

(r) A concrete encased grounding electrode conductor shall be required in industrial, commercial and residential occupancies. This shall be limited to new construction only. Service changes in existing occupancies shall comply with other applicable code sections.

(s) All electrical wiring and neon tubing shall be totally enclosed within an approved material or barrier to prevent physical contact up to a height of eight (8) feet above finished grade or floor level.

(t) Buildings in R-1 Zones shall be served by one electrical service. Additional buildings and structures on the premises shall not have an additional service installed unless evidence is submitted that demonstrates that the building or structure meets all applicable zoning and building codes and that permits have been obtained and all applicable fees have been paid.

SEC. 9-3.117. BOARD OF APPEALS.

That Article 90.23 be added to said Electrical Code to read as follows:

Article 90.23.

The Board of Building Appeals established by Section 105 of the Building Code of the City of Modesto shall determine the suitability of alternate materials and types of construction and provide for reasonable interpretations of the provisions of this Code and hear appeals from decisions of the Chief Building Official regarding the intent and meaning of any provisions of this Code.

SECTION 2. FINDING AND DECLARATION. As required by the Health and Safety Code of the State of California, the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to said Health and Safety Code are reasonably necessary because of local conditions

in that they adopt the 1996 Edition of the National Electrical Code in lieu of the 1993 Edition, prescribe local procedures to be used in the administration and enforcement of said Code, provide for local interpretations of said Code, make other changes in said Code consistent with local custom and practice as reflected in the prior local electrical code, and other changes due to local climatic and geographic conditions.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3148-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999

Print

ORDINANCE NO. 3149

AN ORDINANCE AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1 TO PLANNED DEVELOPMENT ZONE, P-D(535), PROPERTY LOCATED ON THE EAST SIDE OF COFFEE ROAD SOUTH OF EAST COOLIDGE AVENUE. (MID-VALLEY ENGINEERING/OCAT)

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

SECTION 1. ZONING CHANGE. Section 22-3-9 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(535):

R-1 to P-D(535)

ALL that certain real property situate in the City of Modesto, County of Stanislaus, State of California, and lying within a portion of the Northwest quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

LOTS 2, 3, and 4 in Block 1179 of GARDEN ACRES TRACT, as per the Map thereof recorded November 18, 1940 in Volume 14 of Maps at Page 9, Stanislaus County Records.

EXCEPTING THEREFROM said Lot 4, the South 55 feet of the west half and South 55 feet of the East 95 feet thereof,

Including also the East half of Coffee Road and the West half of Water Street all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(535) 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. Fast food restaurants.

2. Off-street parking area.

SECTION 3. ZONING MAP. Section Map 22-3-9 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 22nd day of June, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3149-C.S.

FINAL ADOPTION CLAUSE

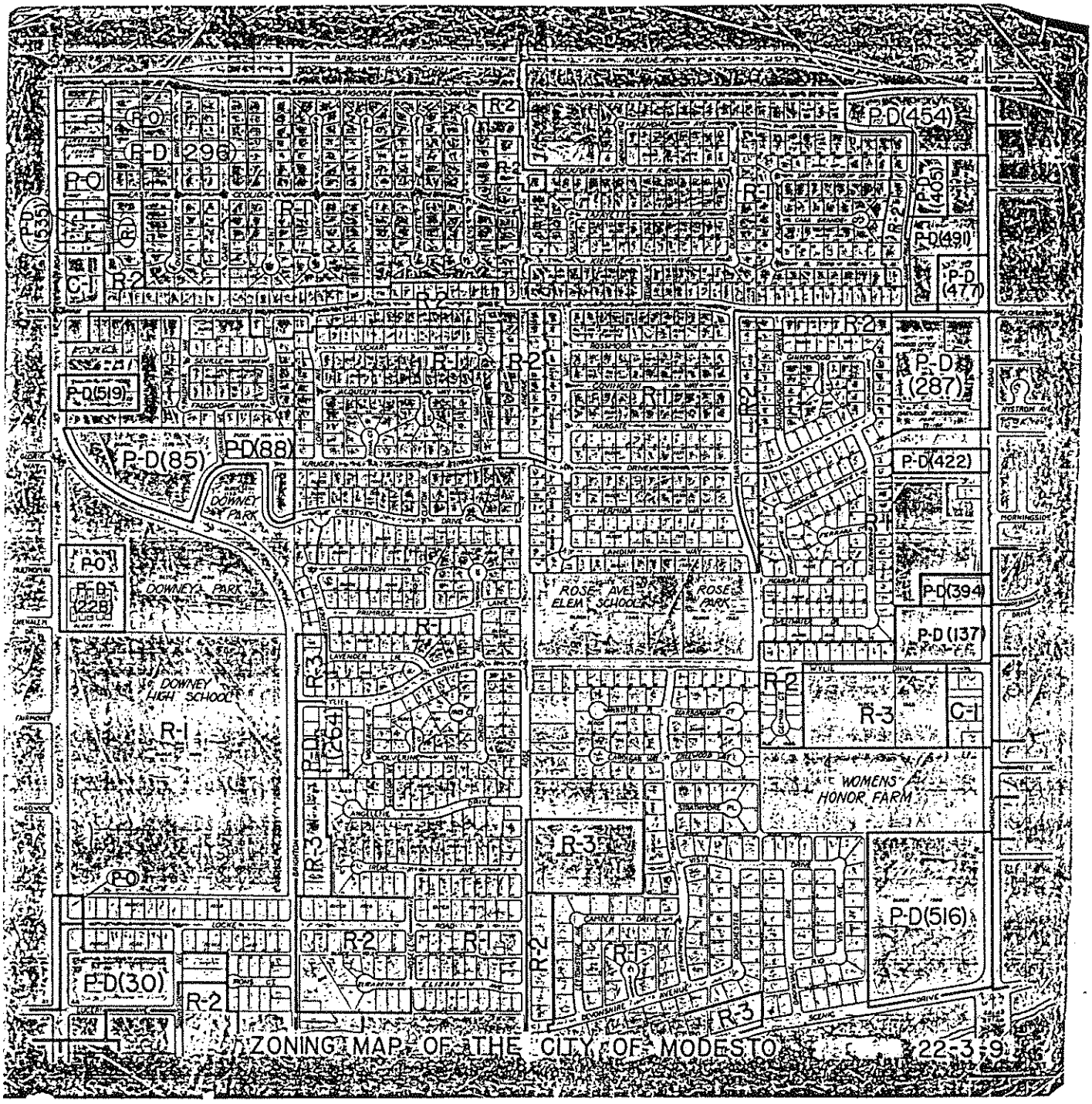
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Dobbs, moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Smith, Mayor Lang
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999


R-O
R-D 29
R-2
P-D(454)
P-D(491)
P-D(47)
C-1
P-D(519)
P-D(85)
P-D(88)
P-D(287)
P-D(422)
P-D(394)
P-D(137)
P-D(228)
DOWNEY PARK
ROSE AVE. ELEM. SCHOOL
ROSE PARK
DOWNEY HIGH SCHOOL
R-1
R-3
WOMENS HONOR FARM
P-D(516)
P-D(30)
ZONING MAP OF THE CITY OF MODESTO
22-3-9

Print

ORDINANCE NO. 3150

AN ORDINANCE AMENDING SECTION 29-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL ZONE, C-2 TO PLANNED DEVELOPMENT ZONE, P-D(536), PROPERTY LOCATED ON THE NORTHEAST SIDE OF 13TH STREET SOUTH OF NEEDHAM STREET AT 1222 13TH STREET. (ROBERT DEGRASSE, AIA)

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 General Commercial Zone, C-2, to Planned Development Zone, P-D(536):

C-2 to P-D(536)

All that portion of Lots 4, 5, 6, 7, 27, and 28 in Block 109, as shown on that certain map filed in the office of the Recorder of Stanislaus County, State of California, on December 21, 1942 in Volume 15 of Maps, lying within a portion of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Northeastern corner of Lot 9 in Block 109 as shown on that certain map filed in the office of the Recorder of Stanislaus County, State of California, on December 21, 1942 in Volume 15 of Maps; thence along the Northern line of Lot 9, North 88° 47' 30" West, 61.46 feet; thence South 46° 30' 30" West, 7.11 feet, to a point on the Southerly line of Needham Street, being the True Point of Beginning; thence South 46° 11' 26" West, 89.56 feet, to a point on the Northeasterly line of the alley running through said Block 109, distant Northwesterly 237.52 feet from the point of intersection of said alley and the Northeasterly line of L Street; thence along said Northeasterly line of said alley, North 43° 29' 49" West, 64.70 feet; thence North 1° 11' 18" East, 17.33 feet, to a point on the Southerly line of Needham Street; thence along said Southerly line of Needham Street, South 88° 48' 42" East, 108.82, to the True Point of Beginning;

including also Lots 27 and 28 of Block 109;

including also the Southerly half of Needham Street and the Northeasterly half and Southwesterly half of the alley in Block 109 and the Northeasterly half of 13th Street, all being immediately adjacent to the above described properties.

SECTION 2. USES. The following uses shall be permitted in said P-D(536) 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 building to house and maintain communication equipment; no other use of the property shall be permitted without an amendment to this ordinance.

2. Off-street parking area.

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 22nd day of June, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3150-C.S.

FINAL ADOPTION CLAUSE

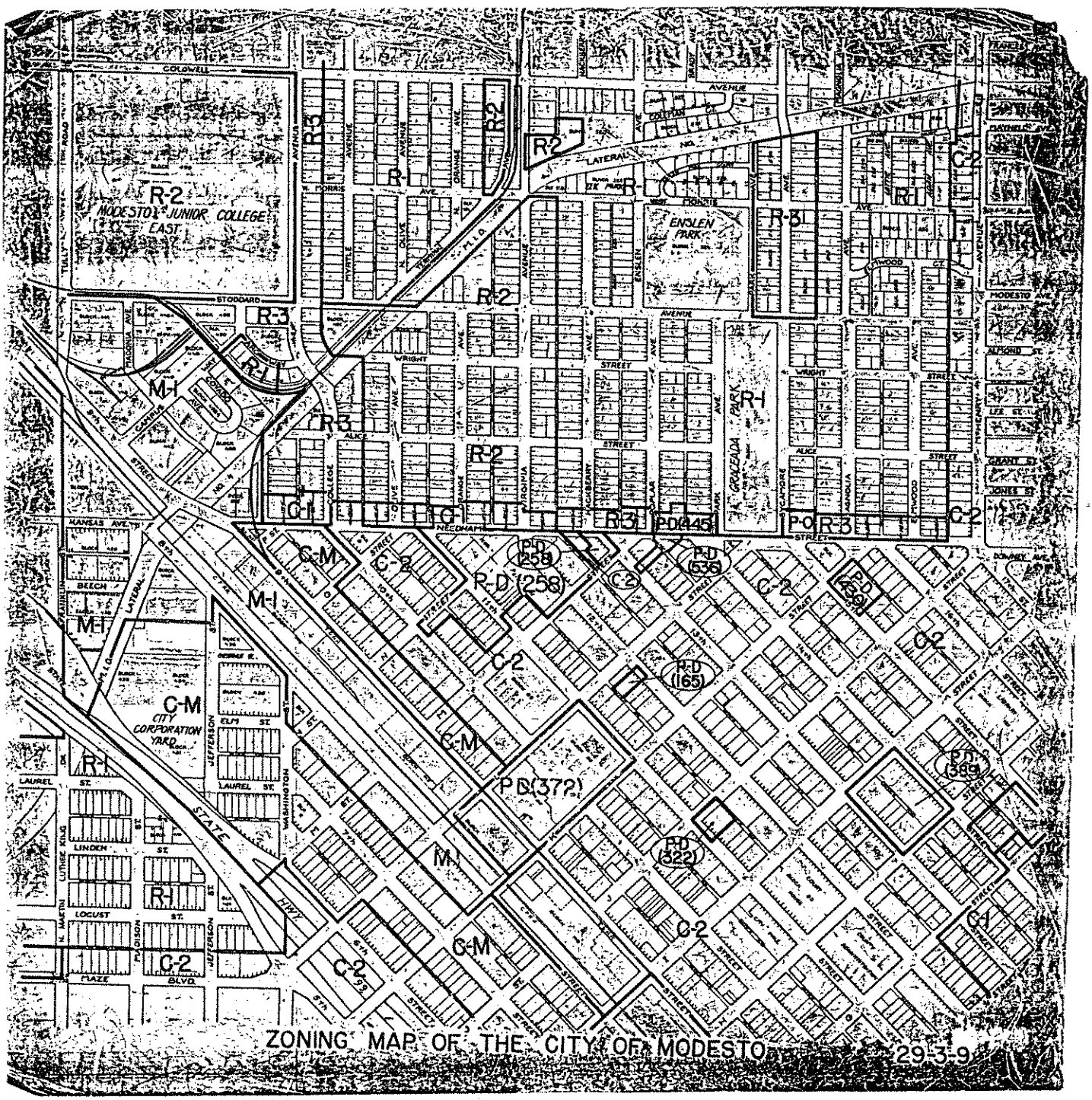
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JUDY C. HALL, Acting City Clerk

Effective Date: August 5, 1999


R-2
MODESTO JUNIOR COLLEGE EAST
R-3
R-1
R-2
ENSLEN PARK
R-3
R-1
C-2
R-2
R-3
R-1
M-1
R-3
R-2
R-1
C-1
C-1
R-3
PD(445)
P-D
R-3
C-2
C-M
C-2
R-D (258)
PD (258)
P-D (536)
C-2
P-D (439)
M-1
M-1
C-2
C-M
CITY CORPORATION YARD
R-D (165)
C-2
C-M
PD(372)
P-D (389)
R-1
M-1
P-D (322)
C-2
C-M
C-2
C-2
C-2
C-2
ZONING MAP OF THE CITY OF MODESTO
29-3-9

ORDINANCE NO. 3151 -C.S.

Print

AN ORDINANCE ADOPTING THE 1999-2000 OPERATING BUDGET AND FIRST YEAR OF THE FISCAL YEAR 1999-2000 THROUGH 2008-09 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 2000, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed Operating Budget and Capital Improvement Program (CIP) for the 1999-2000 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 duly noticed public hearing was held relating to the adoption of the proposed Budget, 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. ADOPTION OF BUDGET. That the "City of Modesto Proposed Annual Budget 1999-2000", presented by the City Manager to the City Council at its meeting held on June 22, 1999, 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, 2000, and the several amounts stated therein as proposed expenditures.

SECTION 2. ENCUMBRANCES. That the funds of the City of Modesto encumbered on June 30, 2000, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the Budget for the fiscal year 1999-2000, adopted hereby.

SECTION 3. CAPITAL PROJECTS. That Capital Projects carried over from fiscal year 1998-99 are hereby re-appropriated as a part of the Budget for the fiscal year 1999-2000, adopted hereby.

SECTION 4. CITY COUNCIL APPROVAL REQUIRED. That the City Council is authorized by resolution to:

a. Approve appropriation of reserves.

b. Approve transfers between funds.

c. Approve appropriation of any non-departmental revenues.

d. Approve inter-fund loans.

e. Approve the creation of new CIP projects and appropriation increases in existing CIP projects.

f. Approve the transfer and authorize the expenditure of funds from the Reserved Fund Balances for specific purposes.

SECTION 5. CITY MANAGER AUTHORITY. That the City Manager is authorized to transfer funds between budgeted activities or departments within a fund and to appropriate unbudgeted departmental revenues, and the City Manager may delegate this authority to the Deputy City Manager.

SECTION 6. DEPARTMENT HEAD AUTHORITY. That City Department Heads are authorized to allocate departmental appropriation to line item level.

SECTION 6. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go in effect and be in full force and operation immediately upon adoption.

SECTION 7. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 1999, by Councilmember Smith, who moved its adoption and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Conrad, Serpa

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

ORDINANCE NO. 3152-C.S.

AN ORDINANCE AMENDING SECTION 2-3-8 OF THE ZONING MAP TO REZONE A PORTION OF PLANNED DEVELOPMENT ZONE, P-D(532), TO PLANNED DEVELOPMENT ZONE, P-D(537), PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE EAST OF SISK ROAD. (COSTA LIMITED PARTNERS)

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

SECTION 1. ZONING CHANGE. Section 2-3-8 of the Zoning Map is hereby amended to reclassify the following described property from a portion of Planned Development Zone, P-D(532), to Planned Development Zone, P-D(537):

P-D(532) to P-D(537)

ALL that certain real property being a portion of the Northwest quarter of the Southwest quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING for reference at the West quarter corner of said Section 2; thence South 00° 14 '29" East along the West line of said section, a distance of 90.10 feet to a point on the South line of the 100-foot-wide right-of-way for Modesto Irrigation District's Lateral No. 6, and the TRUE POINT OF BEGINNING; thence North 89° 38' 18" East along last said line, a distance of 1321.46 feet; thence leaving last said line and proceeding South 00° 13' 01" East, a distance of 1223.89 feet to a point on the North right-of-way line of a county road know as Pelandale Avenue; thence along last said right-of-way line, South 89° 29' 39" West, a distance of 1320.94 feet to a point on the above mentioned West line of said Section 2; thence North 00° 14' 29" West along last said line, a distance of 1227.22 feet to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM:

COMMENCING for reference at the West quarter corner of said Section 2; thence South 00° 14' 29" East along the West line of said section, a distance of 90.01 feet to a point on the South line of the 100-foot-wide right-of-way for Modesto Irrigation District's Lateral No. 6; thence North 89° 38' 18" East along last said right-of-way line, a distance of 641.49 feet to the TRUE POINT

OF BEGINNING of this exception description; thence continuing along last said right-of-way line, North 89°38'18" East, a distance of 626.97 feet; thence leaving last said line and proceeding South 00° 13' 01" East, a distance of 563.99 feet; thence South 00° 55' 43" West, a distance of 142.95 feet to a point of curvature, concave Northwesterly, having a radius of 30.00 feet of which radius bears North 89° 04' 17" West; thence along the arc of said curve, through a central angle of 88° 42' 34", an arc distance of 28.88 feet; thence South 89° 38' 18" West, a distance of 95.96 feet to a point of curvature, concave to the South, having a radius of 100.00 feet, of which radius bears South 00° 21' 42" East; thence along the arc of said curve, through a central angle of 6° 50' 34", an arc distance of 11.94 feet; thence South 82° 47' 44" West, a distance of 145.10 feet; thence South 89° 38' 18" West, a distance of 315.74 feet to a point of curvature, concave Northeasterly, having a radius of 30.00 feet of which radius bears North 00° 21' 42" West; thence along the arc of said curve, through a central angle of 90° 00' 00", an arc distance of 47.12 feet; thence North 00° 21' 42" West, a distance of 709.00 feet to the Point of Beginning of this exception description.

Including, also, that portion of Pelandale Avenue north of the centerline of original 40-foot Pelandale Avenue, all immediately adjacent to the above-described land.

SECTION 2. USES. The following uses shall be permitted in said P-D(537) 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. Commercial uses as allowed in the Highway Commercial C-3 Zone.

SECTION 3. ZONING MAP. Section Map 2-3-8 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 6th day of July, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED:
RICHARD A. LANG, Mayor

ATTEST:

By
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By
Community Development Department
Development Services

Ord. No. 3152-C.S.

FINAL ADOPTION CLAUSE

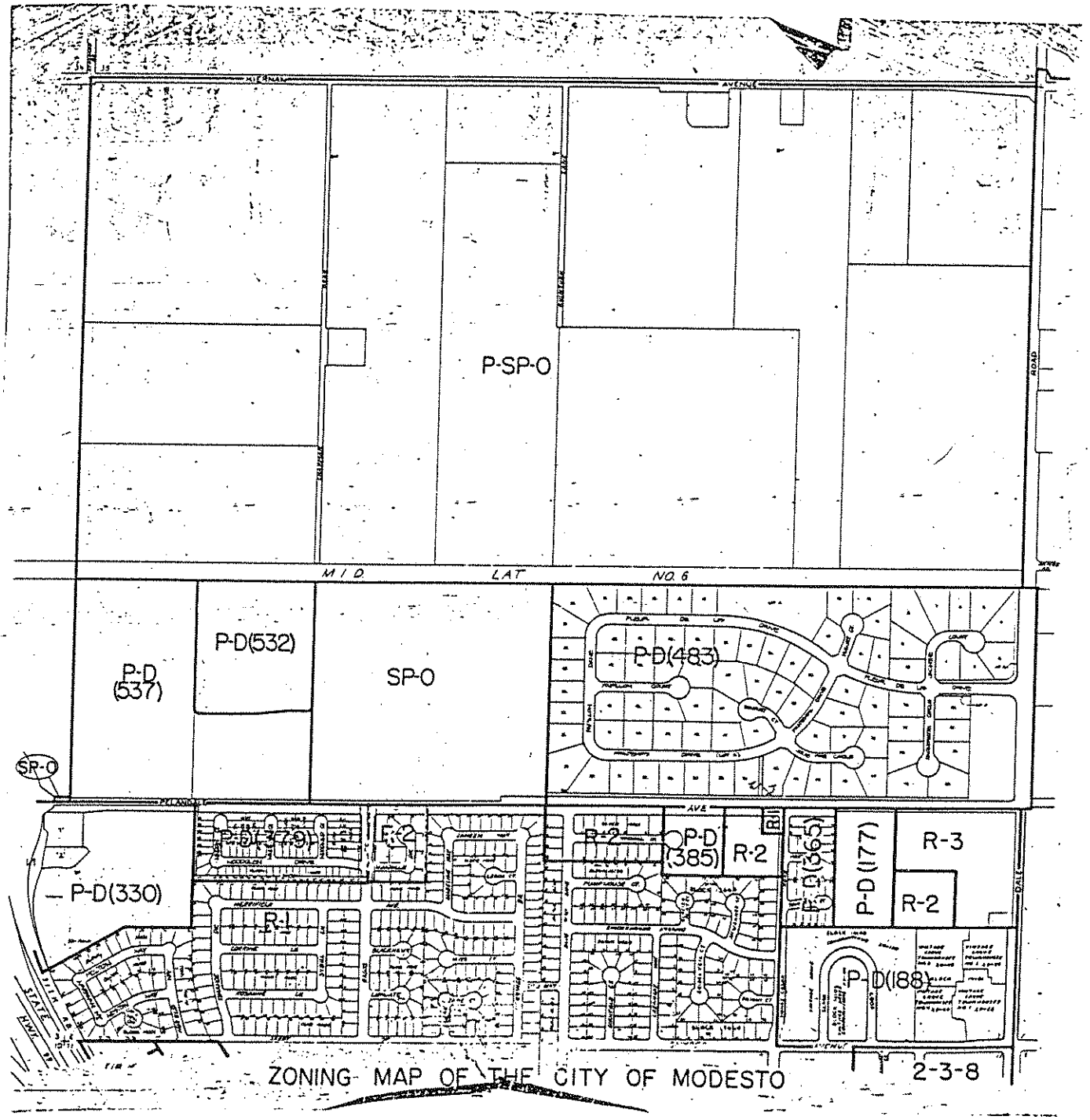
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: August 19, 1999


P-SP-O
MID LAT NO. 6
P-D (537)
P-D(532)
SP-O
P-D(483)
SR-O
P-D(330)
R-1
R-2
P-D (385)
R-3
P-D(188)
ZONING MAP OF THE CITY OF MODESTO
2-3-8

Clerk

ORDINANCE NO. 3153-C.S.

Print

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND COSTA LIMITED PARTNERS RELATING TO A RETAIL COMMERCIAL CENTER ON PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE, EAST OF SISK ROAD.

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, Ordinance No. 3100-C.S., which became effective on November 5, 1998, approved a Development Agreement between the City of Modesto and Costa Limited Partners and Westar Cinemas, Inc. relating to a large retail center to include a 16-screen theatre, hotel, and other related uses, which agreement was amended, and

WHEREAS, the original Development Agreement referred to above remains in full force and effect as to that portion of the original site plan which is not included in the following proposed project, and

WHEREAS, in conjunction with a proposed rezoning from a portion of Planned Development Zone, P-D(532), to Planned Development Zone, P-D(537), for a retail commercial center, a new Development Agreement has been negotiated between representatives of the City of Modesto and Costa Limited Partners, which does not include theater operator provisions, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on June 28, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, for the purpose of making a recommendation to the City Council concerning the proposed Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 99-47, adopted on June 28, 1999, recommended to the City Council approval by ordinance of the proposed Development Agreement between the City of Modesto and Costa Limited Partners, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 7:00 p.m., on July 6, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of considering the requested application of Costa Limited Partners for an amendment to Section 2-3-8 of the Zoning Map to rezone a portion of P-D(532) to a new P-D for a retail commercial center, property located on the north side of Pelandale Avenue, east of Sisk Road, and also to consider a new Development Agreement with Costa Limited Partners, and

WHEREAS, Section 65867.5 of the Government Code provides that a Development Agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. That the newly negotiated Development Agreement between the City of Modesto and Costa Limited Partners is in accordance with the community's objectives as set forth in the General Plan, because it will not conflict with the General Plan Economic Development Goal I-D(2), to "provide more employment opportunities", and it will ensure that the appropriate infrastructure for development will be in place in a timely manner as called for by the General Plan Community Growth Policies in Chapter II.

2. The proposed Development Agreement is consistent with the Kiernan Business Park Specific Plan because it proposes uses consistent with the Regional Commercial designation of the Specific Plan.

3. The proposed Development Agreement is consistent with the specific content and other requirements of City Council Resolution No. 97-492, which establishes procedures and requirements for the consideration of development agreements; the City's zoning provisions of the Modesto Municipal Code; and Government Code Section 65864 et seq.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The newly negotiated Development Agreement between the City of Modesto and Costa Limited Partners

which is identical to the Development Agreement approved by Council effective November 5, 1998, except for the elimination of the theater provisions contained in Section VI thereof.

EXECUTION BY CITY. The City Manager, or his authorized designee, is hereby authorized to execute said Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3153-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 July, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: August 19, 1999

ORDINANCE NO. 3154-C.S.

Print

AN ORDINANCE AMENDING SECTION 32-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3 TO PLANNED DEVELOPMENT ZONE, P-D(538), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF SIERRA DRIVE AND CALAVERAS AVENUE. (JAMES J. LOBELLO)

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

SECTION 1. ZONING CHANGE. Section 32-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(538):

R-3 to P-D(538)

All that certain real property situate in a portion of the southeast quarter of Section 32, 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 7, 8, 9, 10, and 11 of Block 305 of the City of Modesto as shown on the map filed in Volume 15 of Maps in the office of the Recorder of Stanislaus County, California;

Including the westerly and northerly half of the 20 foot alley, the easterly half of 70 foot Calaveras Avenue, and the southerly half of 100 foot Sierra Drive, all being immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(538) 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/warehouse development.

2. Off-street parking areas.

SECTION 3. ZONING MAP. Section Map 32-3-9 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 10th day of August, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:
RICHARD A. LANG, Mayor

ATTEST:

By
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By
Community Development Department
Development Services

Ord. No. 3154-C.S.

FINAL ADOPTION CLAUSE

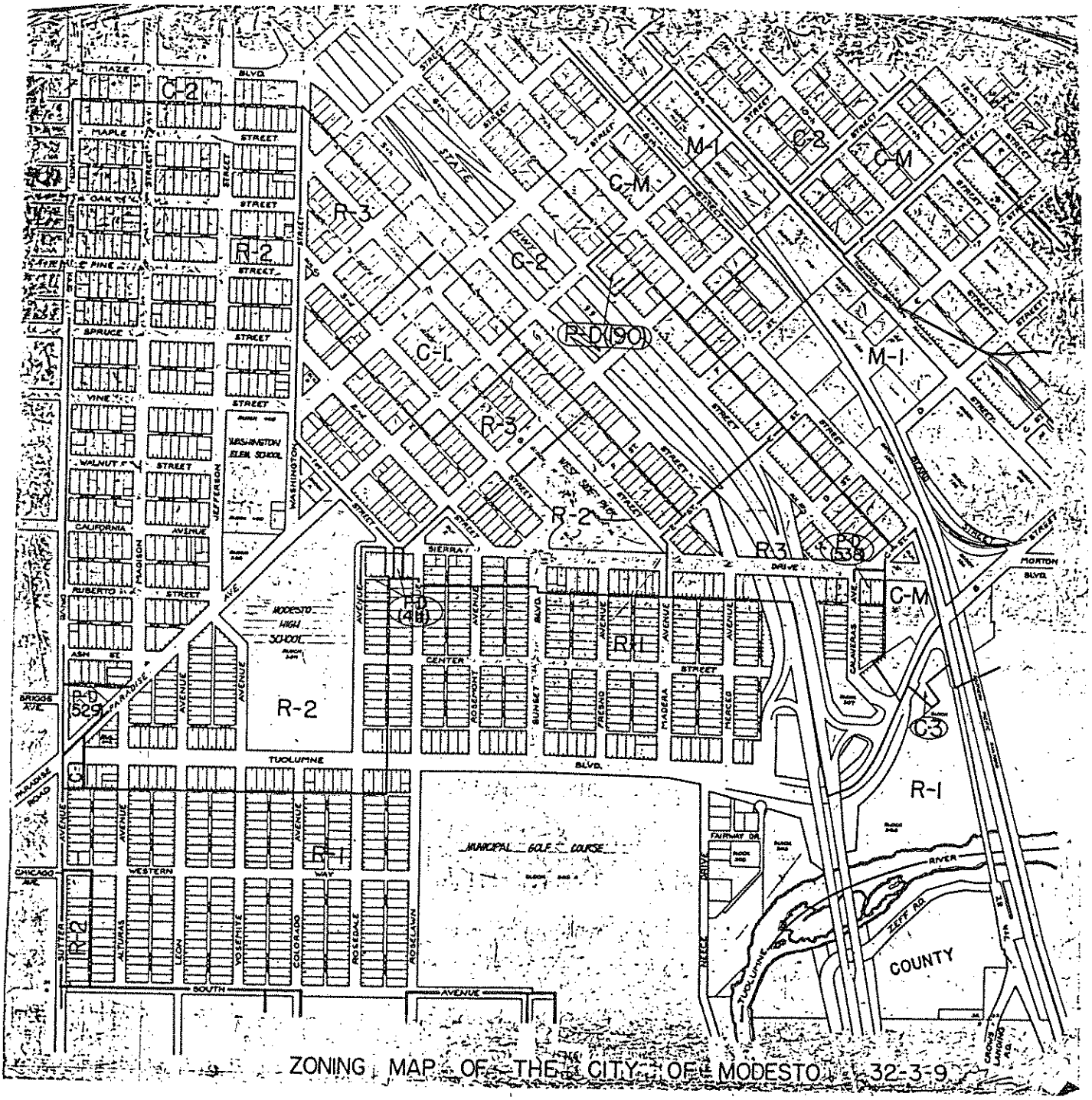
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of August, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Friedman, Fisher, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: September 16, 1999



ZONING MAP OF THE CITY OF MODESTO 32-3-9

Amended 9/7/99

ORDINANCE NO. 3155-C.S.

Print

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA NO. 20, SUB-AREA C OF THE VILLAGE ONE SPECIFIC PLAN, RELATING TO PROPERTY LOCATED ON THE SOUTH SIDE OF FLOYD AVENUE EAST OF ROSELLE AVENUE. (MARVENE HILKEY/BILL ZOSLOCKI)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that precise plans be adopted prior to any development in the Village One area, and

WHEREAS, an application has been filed by Marvene Hilkey and Bill Zoslocki for a Precise Plan for Area No. 20, Sub-Area C, property located on the south side of Floyd Avenue east of Roselle Avenue, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on June 21, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 99-43, recommended to the City Council approval of a Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on August 17, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, the Council declared that said Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 20, Sub-Area C is consistent with the Village One Specific Plan.

2. The proposed Precise Plan for Area No. 20, Sub-Area C is consistent with the Modesto Urban Area General Plan.

and

WHEREAS, the Council introduced Ordinance No. 3155-C.S. on August 17, 1999, and at the time of final adoption on September 7, 1999, the Council amended this ordinance to delete condition number 2 relating to subsidized housing because the condition was determined to be illegal by the City Attorney,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, a copy of which is on file in the City Clerk's Office, subject to the following conditions:

1. Allowable land uses for the buildings in the Mixed Use area of the Village Center that front on Belharbour Drive shall be limited to uses allowed in the Professional Office (P-O) Zone and the following additional uses:

   a. Barbershop and beauty shop.
   b. Interior decorating service.

c. Travel agency.

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 7th day of September, 1999, by Councilmember Smith, who moved its introduction and passage to print, which motion being duly seconded by Mayor Lang, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3155-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 14th day of September, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Fisher, Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: October 14, 1999

ORDINANCE NO. 3155 -C.S.

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA NO. 20, SUB-AREA C OF THE VILLAGE ONE SPECIFIC PLAN, RELATING TO PROPERTY LOCATED ON THE SOUTH SIDE OF FLOYD AVENUE EAST OF ROSELLE AVENUE. (MARVENE HILKEY/BILL ZOSLOCKI)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that precise plans be adopted prior to any development in the Village One area, and

WHEREAS, an application has been filed by Marvene Hilkey and Bill Zoslocki for a Precise Plan for Area No. 20, Sub-Area C, property located on the south side of Floyd Avenue east of Roselle Avenue, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on June 21, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 99-43, recommended to the City Council approval of a Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on August 17, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, the Council declares that said Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 20, Sub-Area C is consistent with the Village One Specific Plan.

2. The proposed Precise Plan for Area No. 20, Sub-Area C is consistent with the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 20, Sub-Area C of the Village One Specific Plan as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, a copy of which is on file in the City Clerk's Office, subject to the following conditions:

1. Allowable land uses for the buildings in the Mixed Use area of the Village Center that front on Belharbour Drive shall be limited to uses allowed in the Professional Office (P-O) Zone and the following additional uses:

   a. Barbershop and beauty shop.
   b. Interior decorating service.
   c. Travel agency.

2. No subsidized housing will be allowed within the area covered by this Precise Plan.

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 17th day of August, 1999, by Councilmember Smith, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED:_____
RICHARD A. LANG, Mayor

ATTEST:

By_____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
MICHAEL D. MILICH, City Attorney

Clerk (10)

Print

ORDINANCE NO. 3156-C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE SOUTH SIDE OF FLOYD AVENUE EAST OF ROSELLE AVENUE. (PRECISE PLAN FOR AREA NO. 20, SUB-AREA C- MARVENE HILKEY/BILL ZOSLOCKI)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned to Specific Plan-Overlay Zone, SP-O, as set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, an application has been filed by Marvene Hilkey and Bill Zoslocki for a Precise Plan for Area No. 20, Sub-Area C, property located on the south side of Floyd Avenue east of Roselle Avenue, and

WHEREAS, the application package also seeks rezoning from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on June 21, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after a public hearing held on June 21, 1999, 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. 99-43, adopted June 21, 1999, the Planning Commission recommended that the application of Marvene Hilkey and Bill Zoslocki to rezone Village One property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, for property located on the south side of Floyd Avenue east of Roselle Avenue be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 17, 1999, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. After a public hearing held on August 17, 1999, in the 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 rezoning to Specific Plan-Overlay Zone is a necessary prerequisite to development in the Village One Specific Plan.

2. Adequate infrastructure exists to serve the proposed development.

SECTION 2. ZONING CHANGE. Section 13-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from a Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay Zone, SP-O:

SP-H to SP-O, PPA 20

All that certain real property situate in a portion of the west half of Section 13, 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 northwest corner of the southwest quarter of the northwest quarter of said Section 13; thence North 89° 48' 06" East along the north line of said southwest quarter of the northwest quarter of Section 13, a distance of 1314.26 feet to the northeast corner of said southwest quarter of the northwest quarter of Section 13, said point being on the northerly extension of the east line of Parcel "B" as shown on map filed for record in Book 22 of Parcel Maps, Page 91, Stanislaus County Records; thence South 0° 29' 46" East along said east line of Parcel "B" and northerly extension thereof, a distance of 1323.73 feet to the southeast corner of said Parcel "B"; thence South 89° 51' 39" West along the south line of said Parcel "B" a distance of 51.88 feet; thence westerly along the centerline of future Belharbour Drive the following 4 courses:

1. Westerly 132.80 feet along a tangent curve, concave to the north, having a radius of 300.00 feet and a central angle of 25° 21' 46",

2. North 64° 46' 35" West 220.42 feet,

3. Westerly 262.43 feet along a tangent curve, concave to the south, having a radius of 450.00 feet and a central angle of 33° 24' 49" to a point of compound curve, and

4. Westerly 25.38 feet along said compound curve, concave to the south, having a radius of 1000.00 feet and a angle of 1° 27' 15" to the west line of said Parcel "B"; thence continuing westerly along the centerline of said Belharbour Drive the following two courses:

    1. continuing Westerly 204.75 along said compound curve, concave to the south, having a radius of 1000.00 feet and a central angle of 11° 43' 52" to a point of reverse curve, and

2. Westerly 467.79 feet along said reverse curve, concave to the north, having a radius of 1400.00 feet and a central angle of 19° 08' 40" to the west line of said Section 13; thence North 0° 31' 57" West along said west line of Section 13 a distance of 1312.29 feet to the point of beginning.

Containing 37.45 Acres.

SECTION 3. ZONING MAP. Section 13-3-9 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 17th day of August, 1999, by Councilmember Smith, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3156-C.S.

FINAL ADOPTION CLAUSE

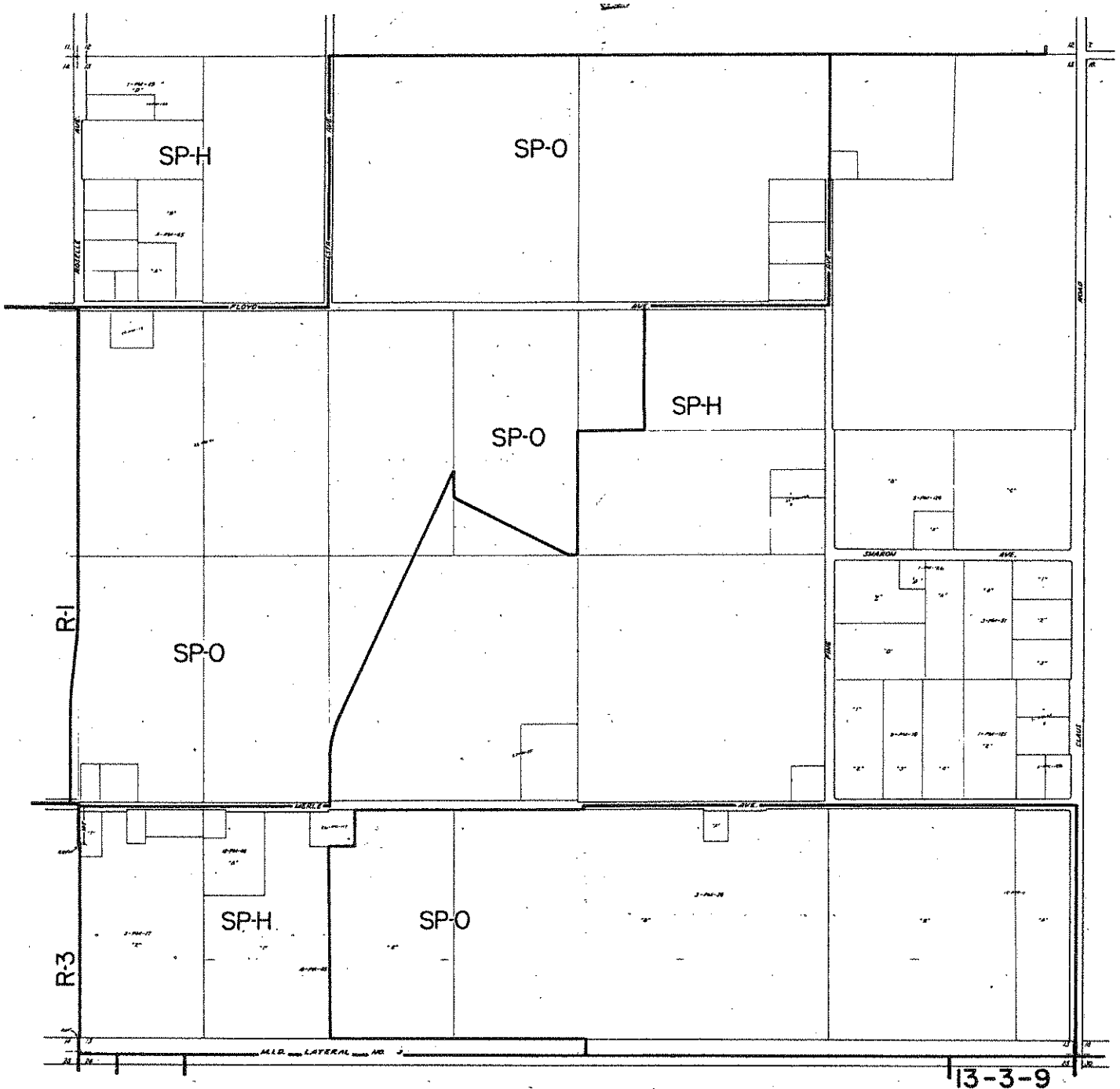
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of September, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Friedman, Smith, Mayor Lang
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	Fisher

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: October 7, 1999



ZONING MAP OF THE CITY OF MODESTO

ORDINANCE NO. 3157 -C.S.

Print

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

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

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.

NAME OF STREET OR PORTION AFFECTED	DECLARED PRIMA FACIE SPEED LIMIT	DATE SURVEYED
BLUE GUM AVENUE, between Morse Road and Carpenter Road	40 miles per hour	February 29, 1996
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	January 13, 1999
BRIGGSMORE AVENUE, eastbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, westbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, westbound between Coffee Road and McHenry Avenue	45 miles per hour	December 21, 1998

BRIGGSMORE AVENUE, eastbound between McHenry Avenue and 1,000 feet west of Coffee Road	45 miles per hour	December 21, 1998
BRIGGSMORE AVENUE, eastbound between a point 1,000 feet west of Coffee Road and Coffee Road	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles her hour	May 14, 1998
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road	50 miles per hour	January 13, 1999
BRIGHTON AVENUE, between Coffee Road and Locke Road	35 miles per hour	June 18, 1997
CALIFORNIA AVENUE, between Carpenter Road and North Martin Luther King Drive	35 miles per hour	June 15, 1999
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue	40 miles per hour	May 28, 1998
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard	40 miles per hour	November 15, 1995
CARPENTER ROAD, between Maze Boulevard and Paradise Road	50 miles per hour	June 15, 1999
CARVER ROAD, between M.I.D. Lateral #6 and Brixton Lane	40 miles per hour	June 18, 1991
CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	May 8, 1997
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	35 miles per hour	May 8, 1997

CARVER ROAD, between Orangeburg Avenue and 9th Street	35 miles per hour	May 8, 1997
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	June 18, 1997
CLAUS ROAD, between Sylvan Avenue and Briggsmore Avenue	50 miles per hour	February 29, 1996
CLAUS ROAD, between Briggsmore Avenue and Scenic Drive	45 miles per hour	May 8, 1997
CLAUS ROAD, between Scenic Drive and Yosemite Boulevard	50 miles per hour	February 29, 1996
COFFEE ROAD, between Claratina Avenue and Sylvan Avenue	45 miles per hour	August 30, 1995
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue	40 miles per hour	May 28, 1998
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	January 11, 1999
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	May 14, 1998
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	May 14, 1998
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	June 16, 1998
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	35 miles per hour	March 17, 1999
CROWS LANDING ROAD, between Blankenburg Avenue to School Avenue	40 miles per hour	February 29, 1996
CROWS LANDING ROAD, between Hatch Road and Whitmore Avenue	35 miles per hour	April 29, 1997

CROWS LANDING ROAD, between 7th Street and Hatch Road	40 miles per hour	June 18, 1997
DALE ROAD, between Pelandale Avenue and Snyder Avenue	40 miles per hour	May 8, 1997
DALE ROAD, between Snyder Avenue and Veneman Avenue	40 miles per hour	May 8, 1997
DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	May 8, 1997
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	August 17, 1994
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	40 miles per hour	December 22, 1998
EMERALD AVENUE, between Maze Boulevard and California Avenue	30 miles per hour	June 17, 1997
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	30 miles per hour	June 19, 1997
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	January 11, 1999
FLOYD AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 14, 1999
FLOYD AVENUE, between Oakdale Road and Roselle Avenue	40 miles per hour	June 14, 1999
GRANGER AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	December 21, 1998
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	December 21, 1998

HATCH ROAD, between Crows Landing Road and Carpenter Road	45 miles per hour	February 29, 1996
KANSAS AVENUE, between Carpenter Road and Emerald Avenue	35 miles per hour	January 13, 1999
KANSAS AVENUE, between Emerald Avenue and Ninth Street	35 miles per hour	January 13, 1999
KANSAS AVENUE, between Morse Road and Rosemore Avenue	40 miles per hour	June 8, 1998
KANSAS AVENUE, between Rosemore Avenue and Carpenter Road	40 miles per hour	June 8, 1998
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	March 16, 1999
LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	July 13, 1994
LA LOMA AVENUE, between H Street and Santa Rosa Avenue	35 miles per hour	March 16, 1999
LAKEWOOD AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	June 18, 1997
LINCOLN AVENUE, between 650 feet north of M.I.D. Lateral #2 and Yosemite Boulevard	40 miles per hour	July 19, 1994
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 28, 1996
MERLE AVENUE, between Oakdale Road and Roselle Avenue	30 miles per hour	June 28, 1996
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	March 16, 1999

MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	April 28, 1997
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	March 12, 1992
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue	40 miles per hour	June 16, 1997
MT. VERNON DRIVE, between Prescott Road and College Avenue	30 miles per hour	June 23, 1999
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	June 19, 1997
NEEDHAM STREET, between 9th Street and L Street	35 miles per hour	June 18, 1997
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	March 13, 1992
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and Paradise Road	30 miles per hour	April 29, 1997
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	January 11, 1999
OAKDALE ROAD, between 1300 feet north of Mable Avenue and Sylvan Avenue	45 miles per hour	June 28, 1996
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	45 miles per hour	February 29, 1996
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	December 22, 1998
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	December 22, 1998

ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	35 miles per hour	June 19, 1997
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	June 19, 1997
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	June 19, 1997
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 19, 1997
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	June 18, 1997
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	June 19, 1997
PARADISE ROAD, between Vernon Avenue and North Martin Luther King Drive	40 miles per hour	June 26, 1994
PARADISE ROAD, between North Martin Luther King Drive and Washington Street	35 miles per hour	February 9, 1999
PARADISE ROAD, between Carpenter Road and Martin Luther King Drive	35 miles per hour	February 9, 1999
PARKER ROAD, between Claus Road and Atchinson, Topeka and Santa Fe Railroad Tracks	45 miles per hour	April 28, 1997
PELANDALE AVENUE, between Sisk Road and Dale Road	45 miles per hour	March 18, 1997
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	40 miles per hour	June 16, 1997

PRESCOTT ROAD, between Standiford Avenue and Rumble Road	40 miles per hour	June 16, 1997
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	June 16, 1997
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	30 miles per hour	July 19, 1994
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	December 21, 1998
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	December 21, 1998
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	May 8, 1997
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	April 29, 1997
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	January 8, 1993
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	December 6, 1995
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue	35 miles per hour	June 28, 1996
ROUSE AVENUE, between Neece Drive and Colorado Avenue	30 miles per hour	April 29, 1997
RUMBLE ROAD, between Sisk Road and Conant Avenue	35 miles per hour	June 16, 1997
RUMBLE ROAD, between Conant Avenue and Tully Road	35 miles per hour	June 16, 1997

RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	June 28, 1996
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	May 28, 1998
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive	30 miles per hour	July 19, 1994
SCENIC DRIVE, between Burney Street and Coffee Road	35 miles per hour	June 18, 1997
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	April 28, 1997
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	40 miles per hour	April 28, 1997
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	40 miles per hour	April 28, 1997
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	April 30, 1998
SCENIC DRIVE, between Coffee Road and Bodem Street	35 miles per hour	March 16, 1999
SHARON AVENUE, between Fine Avenue and Claus Road	40 miles per hour	December 7, 1992
SIERRA DRIVE, between G Street and South 7th Street	30 miles per hour	June 19, 1997
SISK ROAD, between Vintage Drive and Standiford Avenue	45 miles per hour	June 14, 1999
SISK ROAD, between Pelandale Avenue and Vintage Drive	45 miles per hour	June 14, 1999
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	45 miles per hour	June 28, 1996

SNYDER AVENUE, between Dale Road and Prescott Road	40 miles per hour	September 1, 1997
SNYDER AVENUE, between Prescott Road and Carver Road	45 miles per hour	September 1, 1997
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	40 miles per hour	December 22, 1998
STANDIFORD AVENUE, between Prescott Road and Tully Road	40 miles per hour	June 23, 1994
STANDIFORD AVENUE, between Sisk Road and Prescott Road	45 miles per hour	January 12, 1999
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	35 miles per hour	December 21, 1998
SUNRISE AVENUE, between Lucern Avenue and Floyd Avenue	35 miles per hour	June 26, 1994
SUTTER AVENUE, between Paradise Road and Robertson Road	30 miles per hour	February 9, 1999
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	June 28, 1996
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 22, 1998
SYLVAN AVENUE, between Coffee Road and Oakdale Road	40 miles per hour	June 23, 1994
SYLVAN AVENUE, between Oakdale Road and Roselle Avenue	45 miles per hour	August 30, 1995
SYLVAN AVENUE, between Claus Road and Roselle Avenue	50 miles per hour	April 28, 1997
TENAYA DRIVE, between Santa Cruz Avenue and Mitchell Road	30 miles per hour	February 1, 1996

TULLY ROAD, between M.I.D. Lateral #6 and Standiford Avenue	45 miles per hour	June 14, 1999
TULLY ROAD, between Briggsmore Avenue and Coldwell Avenue	35 miles per hour	March 18, 1997
TULLY ROAD, between Briggsmore Avenue and Standiford Avenue	35 miles per hour	March 18, 1997
TULLY ROAD, between Standiford Avenue and 1500' south of Bangs Avenue	45 miles per hour	March 18, 1997
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	July 19, 1994
UNION AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	November 6, 1995
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	March 21, 1999
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	June 19, 1997
WHITMORE AVENUE, between Crows Landing Road and Morgan Road	40 miles per hour	June 28, 1996
WHITMORE AVENUE, between Ustick Road and Crows Landing Road	45 miles per hour	February 29, 1996
WOODLAND AVENUE, between Morse Road and Carpenter Road	35 miles per hour	August 10, 1995
WOODLAND AVENUE, between Carpenter Road and 9th Street	35 miles per hour	May 9, 1997
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 19, 1997

5TH STREET, between L Street and Sierra Drive	25 miles per hour	July 17, 1996
6TH STREET, between D Street and L Street	30 miles per hour	July 17, 1996
7TH STREET BRIDGE, between B Street and River Road (Reduced speed due to condition of bridge)	25 miles per hour	February 29, 1996
9TH STREET, between Carpenter Road and Tully Road	45 miles per hour	May 9, 1997
9TH STREET, between D Street and Morton Boulevard	30 miles per hour	June 28, 1996
9TH STREET, between P Street and L Street	35 miles per hour	January 13, 1999
9TH STREET, between L Street and Tully Road	35 miles per hour	May 9, 1997

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 14th day of September, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3157-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 September, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: October 21, 1999

Print

ORDINANCE NO. 3158 -C.S.

AN ORDINANCE AMENDING ARTICLE 7 OF CHAPTER 3 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE TO CHANGE THE TITLE OF THE COMMUNITY SERVICES AND NEIGHBORHOOD CONNECTIONS DEPARTMENT TO THE RECREATION AND NEIGHBORHOODS DEPARTMENT.

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

SECTION 1. AMENDMENT OF CODE. Article 7 of Chapter 3 of Title 2 of the Modesto Municipal Code is hereby amended to read as follows:

ARTICLE 7. RECREATION AND NEIGHBORHOODS DEPARTMENT

2-3.701. CREATION AND FUNCTIONS.

A Recreation and Neighborhoods Department is hereby established. The functions of the Recreation and Neighborhoods Department shall include:

(a) Plan and operate a broad program of public recreation for all age groups, designed to encourage and maintain interest and participation by individuals and by organizations, both public and private.

(b) Plan, develop and improve park and recreation areas and facilities.

(c) Plan and establish relationships with community and neighborhood groups in order to initiate and promote improvement of the quality of life in the City of Modesto.

(d) Perform such other functions as the City Manager may direct.

2-3.702. ORGANIZATION AND DIRECTION.

There shall be a Recreation and Neighborhoods Director appointed by the City Manager and subject to the City Manager's general administrative direction. The Recreation and Neighborhoods Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the Department as in the Director's judgment the operations may require, and shall be responsible for the direction and control of all functions assigned to the Department.

2-3.703. ACTING RECREATION AND NEIGHBORHOODS DIRECTOR.

In the case of absence or disability of the Recreation and Neighborhoods Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Recreation and Neighborhoods Director.

2-3.704. 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 titles Parks and Recreation Director or Community Services and Neighborhood Connections Director it shall be deemed to refer to the Recreation and Neighborhoods Director of the City of Modesto in relation to any matter under the jurisdiction of that Director.

(b) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the name Parks and Recreation Department or Community Services and Neighborhood Connections Department, it shall be deemed to refer to the Recreation and Neighborhoods Department of the City of Modesto in relation to any matter under the jurisdiction of that Department.

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 14th day of September, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:
RICHARD A. LANG, Mayor

ATTEST:

By
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney

Ord. No. 3158-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 September, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: October 21, 1999

CORRECTED 2/9/01

ORDINANCE NO. 3159 -C.S.

Print

AN ORDINANCE AMENDING SECTION 2-1.01 OF CHAPTER 1 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE RELATING TO CITY COUNCIL REGULAR MEETINGS.

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

SECTION 1. AMENDMENT OF CODE. Section 2-1.01 of Chapter 1 of Title 2 of the Modesto Municipal Code is hereby amended to read as follows:

2-1.01. REGULAR MEETINGS.

(a) **Time**. Regular meetings of the City Council shall be held on the first, second, third and fourth Tuesday of each month, except for the month of December when meetings shall be held on the first and second Tuesdays only. The meetings held on the first and third Tuesday shall commence at the hour of 4:00 p.m., and the meetings held on the second and fourth Tuesday shall commence at the hour of 7:00 p.m. Whenever the day fixed for any regular meeting of the Council falls upon a day designated by the City of Modesto as a holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.

(b) **Place**. All regular meetings of the Council shall be held in the Council Chambers at 1010 10th Street, Modesto, California. If, due to an emergency it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor.

(c) **Public**. All meetings of the Council shall be open to the public; provided, however, the City Council may hold executive sessions as provided by the laws of the State of California.

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

ORDINANCE NO. 3159 -C.S.

AN ORDINANCE AMENDING SECTION 2-1.01 OF CHAPTER 1 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE RELATING TO CITY COUNCIL REGULAR MEETINGS.

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

SECTION 1. AMENDMENT OF CODE. Section 2-1.01 of Chapter 1 of Title 2 of the Modesto Municipal Code is hereby amended to read as follows:

2-1.01. REGULAR MEETINGS.

(a) **Time**. Regular meetings of the City Council shall be held on the first, second, third and fourth Tuesday of each month. The meetings held on the first and third Tuesday shall commence at the hour of 4:00 p.m., and the meetings held on the second and fourth Tuesday shall commence at the hour of 7:00 p.m. Whenever the day fixed for any regular meeting of the Council falls upon a day designated by the City of Modesto as a holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.

(b) **Place**. All regular meetings of the Council shall be held in the Council Chambers at 1010 10th Street, Modesto, California. If, due to an emergency it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor.

(c) **Public**. All meetings of the Council shall be open to the public; provided, however, the City Council may hold executive sessions as provided by the laws of the State of California.

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 28th day of September, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Smith

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3159-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 Octoer, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: November 4, 1999

Clerk

Print

ORDINANCE NO. 3160-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO AMENDING ORDINANCE NO. 3111-C.S. AS PREVIOUSLY AMENDED (CARVER-BANGS/PELANDALE-SNYDER), AND AMENDING ORDINANCE NO. 3005-C.S., AS PREVIOUSLY AMENDED (VILLAGE ONE COMMUNITY FACILITIES DISTRICT).

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

WHEREAS, Ordinance No. 3111-C.S. became effective on January 14, 1999, and was amended by Ordinance No. 3142-C.S. which became effective on August 5, 1999, and the City Council now wishes to further amend said ordinance to modify the Community Facilities District tax credit procedure set forth in that ordinance as modified, and

WHEREAS, Ordinance No. 3005-C.S. became effective on November 14, 1996, and was amended by Ordinance No. 3047-C.S. which became effective on August 5, 1997, and the City Council now wishes to further amend said ordinance to modify the Community Facilities District tax credit procedure set forth in that ordinance as modified,

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

SECTION 1. This Council finds and determines that the above recitals are all true and correct.

SECTION 2. Ordinance No. 3005-C.S., as previously amended by Ordinance No. 3047-C.S., is hereby further amended to delete its existing Section 7, and add a new Section 7 as set forth in Section 4 below.

SECTION 3. Ordinance No. 3111-C.S., as previously amended by Ordinance No. 3142-C.S. is hereby further amended to delete its existing Section 7, and add a new Section 7 as set forth in Section 4 below.

SECTION 4. Section 8 of Ordinance No. 3047-C.S. is hereby rescinded. The new, added Section 7 described in Sections 2 and 3 above is as follows:

"SECTION 7.

DEFINITIONS:

1. Certificate of Completion: A written document provided to a facility provider by the District Engineer stating that the facility is complete and in good working order, and that the requirements of the facility acquisition agreement have been met.

2. CFD: A Community Facilities District created for the purpose of financing the costs of certain public facilities and services pursuant to the provisions of Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code.

3. Credit: An offset against tax owed, or cash reimbursement for tax paid, as appropriate, calculated by subtracting from the Facility Cost Estimate any non-prepaid costs or incidental costs as defined in the Mello Roos Act, Section 53317(c) and (e), by means of a cash administrative cost offset. The administrative offset may be specified in the public report.

4. District Engineer: A California registered professional engineer employed by the City of Modesto, or a City of Modesto CFD, who is responsible for making final engineering determinations on behalf of that CFD.

5. Facility: Any public works-type infrastructure for which tax is to be collected pursuant to the public report, which could be eligible for tax credit and is located within a CFD.

6. Facility Cost Estimate: The facility (or facility segment) cost estimate, including contingency cost estimates relating to that facility (or segment) which are included in the tax stated directly, or by reference, in the

public report, as that report may be amended or adjusted for inflation from time to time.

7. Facility Provider: Any person or entity constructing a facility.

8. Oversubscription: Oversubscription is the furnishing of land or facilities whose total value as set forth in the public report exceeds the total taxes attributable to a facility provider's entire development within a CFD.

9. Public Report: All exhibits and attachments to the resolution of formation of a CFD, and documents included therein by reference..

10. Tax: Any facilities special tax specified in the public report for the CFD.

A. Facility providers may be permitted credits against taxes owed, or cash credits, as appropriate, and as set forth herein.

B. In the case of oversubscription, cash up to the amount of the oversubscription may be paid to a facility provider as cash becomes available to the CFD through tax collection.

C. Taxes shall be payable at the time specified in the public report. Until January 1, 2000, the tax payable shall at least equal the administrative offset specified in the public report or otherwise.

D. The district shall also be compensated from available tax monies for money and services advanced by it for the acquisition, construction, improvement or control of any or all of the facilities set forth in the public report, all in accordance with and subject to the Mello Roos Act (including, without limitation, Section 53314.9 of the Act), the resolution of formation of the CFD, the policies and procedures for administration of the CFD, the public report and other applicable law.

E. In no event shall cash advances, dedications, or construction of facilities become either a debt of the City, or a debt in excess of actual tax receipts, of the CFD.

F. All tax credits shall be made by the District Administrator pursuant to a valid, executed facility acquisition agreement in a form approved by the District Administrator.

G. Prior to January 1, 2000, with the approval of the District Administrator, credits may be furnished to a facility provider to offset taxes otherwise due if the facility provider has furnished or is furnishing facilities which have not yet received a notice of completion. Notwithstanding the foregoing, such discretionary credit shall be fully reimbursable to the CFD in cash by the facility provider in the event that a facility acquisition agreement is not executed by the facility provider, or if that facility provider does not receive a notice of completion from the District Engineer.

H. On and after January 1, 2000:

(1) The District Administrator shall ensure that the full tax is collected as it becomes due from each provider of facilities or facility segments to the CFD until (a) a valid facility acquisition agreement exists between the CFD and the facility provider and, (b) the facility has been completed, and (c) a certificate of completion has been issued to the facility provider. The District Administrator shall then provide facility special tax credits or cash reimbursement, as appropriate, to that facility provider.

(2) All facility providers shall be denied tax credit for any portion of an otherwise credit-eligible facility constructed prior to execution by that provider of a facility acquisition agreement suitable to the District Administrator. Credit shall not be denied for

planning or engineering costs included in a Facility Cost Estimate incurred prior to execution of that agreement.

(3) Credits shall be expended by the District Administrator in date order of the certificate of completion of the facility for which credits are requested, and each such facility shall be completely credited before the district administrator shall grant credits to a facility receiving a certificate of completion later in time.

I. Where apportionment is required, as with respect to a total facilities cost stated in the public report including two or more sub-facilities, or where more than one person or entity participates in the construction or furnishing of a facility, the determination of such apportionment and credit by the District Administrator or their designee shall be conclusive evidence of the amount of the credit derived thereby."

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 5th day of October, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3160-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 October, 1999, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: November 11, 1999

Corrected 12/2/99

ORDINANCE NO. 3161-C.S.

Print

AN ORDINANCE AMENDING SECTION 28-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(539), PROPERTY LOCATED ON THE NORTH SIDE OF SCENIC DRIVE WEST OF COFFEE ROAD. (RAY LINDSEY)

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(539):

C-1 to P-D(539)

Commencing at a point on the North line of Scenic Drive running Southwest, bearing from the Southeast corner of the Northeast quarter of the Northeast quarter of Section 28, Township 3 South, Range 9 East M.D.B & M., North 89° 18' West, distant 38 links; thence along the North line of said County Road, South 67° 33' West, 7.24 chains to the point of beginning; thence North 0° 4' West, 5.9965 chains to a point, thence North 89° 10' West, 221 feet to a point, thence South 0° 4' East to a point in the North line of said Scenic Drive, thence North 67° 33' East along the North line of said Scenic Drive, to the point of beginning, subject to reservations and restrictions of record.

Also including the southerly half of the alley immediately adjacent to the above-described property and that portion of Scenic Drive between the southerly line of the above described property and the centerline of Scenic Drive.

SECTION 2. USES. The following uses shall be permitted in said P-D(539) 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. Mini-warehouse facility.

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 16th day of Nove mber, 1999, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Development Services

Ord. No. 3161-C.S.

FINAL ADOPTION CLAUSE

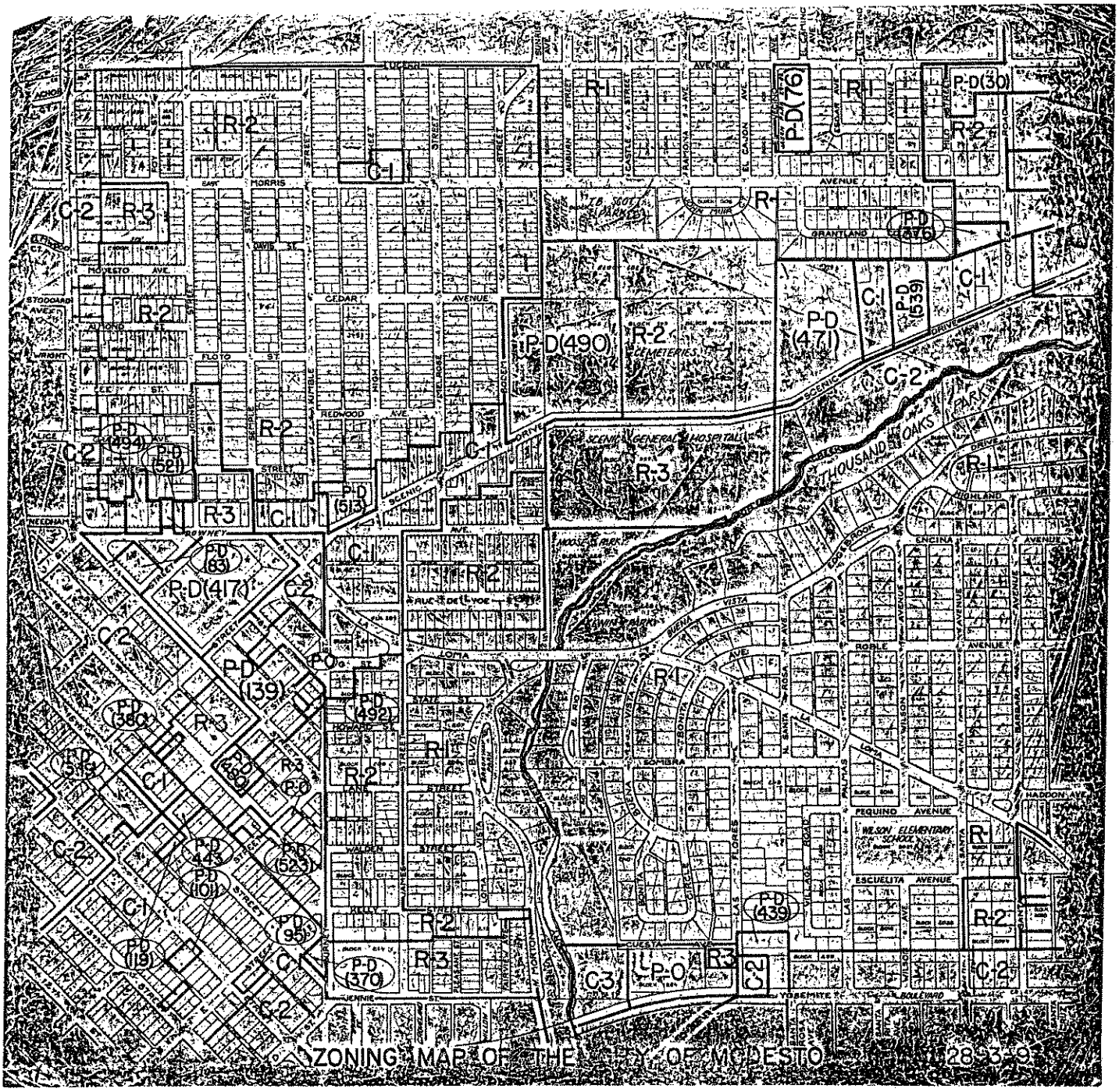
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of December, 1999, Councilmember Dobbs, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: January 6, 2000


ZONING MAP OF THE CITY OF MODESTO
R-1
R-2
R-3
C-1
C-2
C-3
P-O
P-D(76)
P-D(301)
P-D(376)
P-D(539)
P-D(471)
P-D(490)
P-D(494)
P-D(521)
P-D(513)
P-D(83)
P-D(417)
P-D(139)
P-D(492)
P-D(380)
P-D(543)
P-D(480)
P-D(523)
P-D(445)
P-D(101)
P-D(95)
P-D(119)
P-D(370)
P-D(439)
CEMETERIES
GENERAL HOSPITAL
WILSON ELEMENTARY SCHOOL
THOUSAND OAKS PARK
SCENIC DRIVE
YOSEMITE BOULEVARD
ESCUELITA AVENUE
PEQUINO AVENUE
ENCINA AVENUE
ROBLE AVENUE
HIGHLAND DRIVE
CEDAR AVENUE
MORRIS AVENUE
DAVIS STREET
REDWOOD AVENUE
NEEDHAM STREET
ROWNEY AVENUE
JOHNSON PARK
LAUREL PARK
28-3-9

Print

ORDINANCE NO. 3162 -C.S.

AN ORDINANCE AMENDING ORDINANCE NO. 2293-C.S. ENTITLED "AN ORDINANCE GRANTING CAPITAL CITIES CABLE, INC., A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE COMMUNICATION SYSTEM WITHIN THE CITY OF MODESTO" TO EXTEND THE TERM.

WHEREAS, the City Council adopted Ordinance No. 2293-C.S., which became effective on or after December 1, 1984, 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", and

WHEREAS, said Ordinance No. 2293-C.S. was amended by Ordinance No. 2496-C.S. to change the title to read "An Ordinance Granting To Post-Newsweek Cable, Inc., A Nonexclusive Franchise To Construct, Operate And Maintain A Cable Communication System Within The City Of Modesto, and

WHEREAS, said Ordinance No 2293-C.S., was also amended by Ordinance No. 2620-C.S. to extend the time period that franchise fee payments are due after the end of each quarter, and

WHEREAS, the City Council is aware that negotiations have been on-going in good faith for several months with Cable One for a renewal of the franchise, however, said negotiations have not yet been completed, and

WHEREAS, the term of the current franchise will expire on December 1, 1999, therefore, the Council proposes to extend the franchise for a six-month period in order to allow completion of the negotiations,

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

SECTION 1. AMENDMENT OF ORDINANCE NO. 2293-C.S. Section 4 of Ordinance No. 2293-C.S. is hereby amended to read as follows:

SECTION 4. GRANT OF FRANCHISE.

Pursuant to the provisions of Chapter 4 of Title XI of the Modesto Municipal Code, as amended by Ordinance No. 2292-C.S. or as it may hereafter be amended, a nonexclusive franchise to construct, operate and maintain a cable communications system within the City of Modesto, for a term of fifteen (15) years commencing on the effective date of this ordinance, is hereby granted to Grantee with all the rights and privileges and subject to each and all of the terms, conditions, and limitations as set forth in the Franchise Documents.

The area included within the nonexclusive franchise granted hereby includes all areas within the city limits of the City of Modesto, and also includes all territory hereafter annexed, except that the City Council reserves the right to exclude such additional territory from the franchise area at the time it is annexed to the City.

<u>The termination date of this franchise is extended from December 1, 1999, to May 31, 2000.</u>

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 16th day of November, 1999, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Smith, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Serpa

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3162-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 7th day of December, 1999, Councilmember Dobbs, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Dobbs, Fisher, Friedman, Serpa, Smith, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST: _____
JEAN ZAHR, City Clerk

Effective Date: January 6, 2000

Clerk

Print

ORDINANCE NO. 3163 -C.S.

AN ORDINANCE AMENDING SECTION 2-3-8 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN-OVERLAY ZONE, SP-0 TO PLANNED DEVELOPMENT ZONE, P-D(537), AS AN ADDITION TO P-D(537), PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE EAST OF SISK ROAD. (COSTA LIMITED PARTNERS)

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

SECTION 1. ZONING CHANGE. Section 2-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(537), as an addition to P-D(537):

SP-O to P-D(537)

ALL that certain real property situate in the City of Modesto, County of Stanislaus, State of California and lying in a portion of the Northwest Quarter of the Southwest Quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, being more particularly described as follows:

COMMENCING for reference at the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 2, also being a point on the center line of Pelandale Avenue; thence North 89° 29' 39" East along the centerline of said Pelandale Avenue, a distance of 2120.63 feet to the TRUE POINT OF BEGINNING of this Description; thence leaving last said line and proceeding North 00° 13' 01" West, a distance of 670.38 feet; thence South 89° 38' 18" West, a distance of 799.68 feet; thence South 00° 13' 01" East, a distance of 672.40 feet; to a point on said centerline of Pelandale Avenue; thence North 89° 29' 39" East along last said center line, a distance of 799.69 feet to the Point of Beginning of this Description.

Containing 12.33 acres more or less.

SUBJECT TO all easements and/or rights-of-way of record.

SECTION 2. USES. The following uses shall be permitted in said P-D(537) 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. Commercial uses as allowed in the Highway Commercial C-3 Zone.

SECTION 3. ZONING MAP. Section Map 2-3-8 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~~ special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Planning Division

Ord. No. 3163-C.S.

FINAL ADOPTION CLAUSE

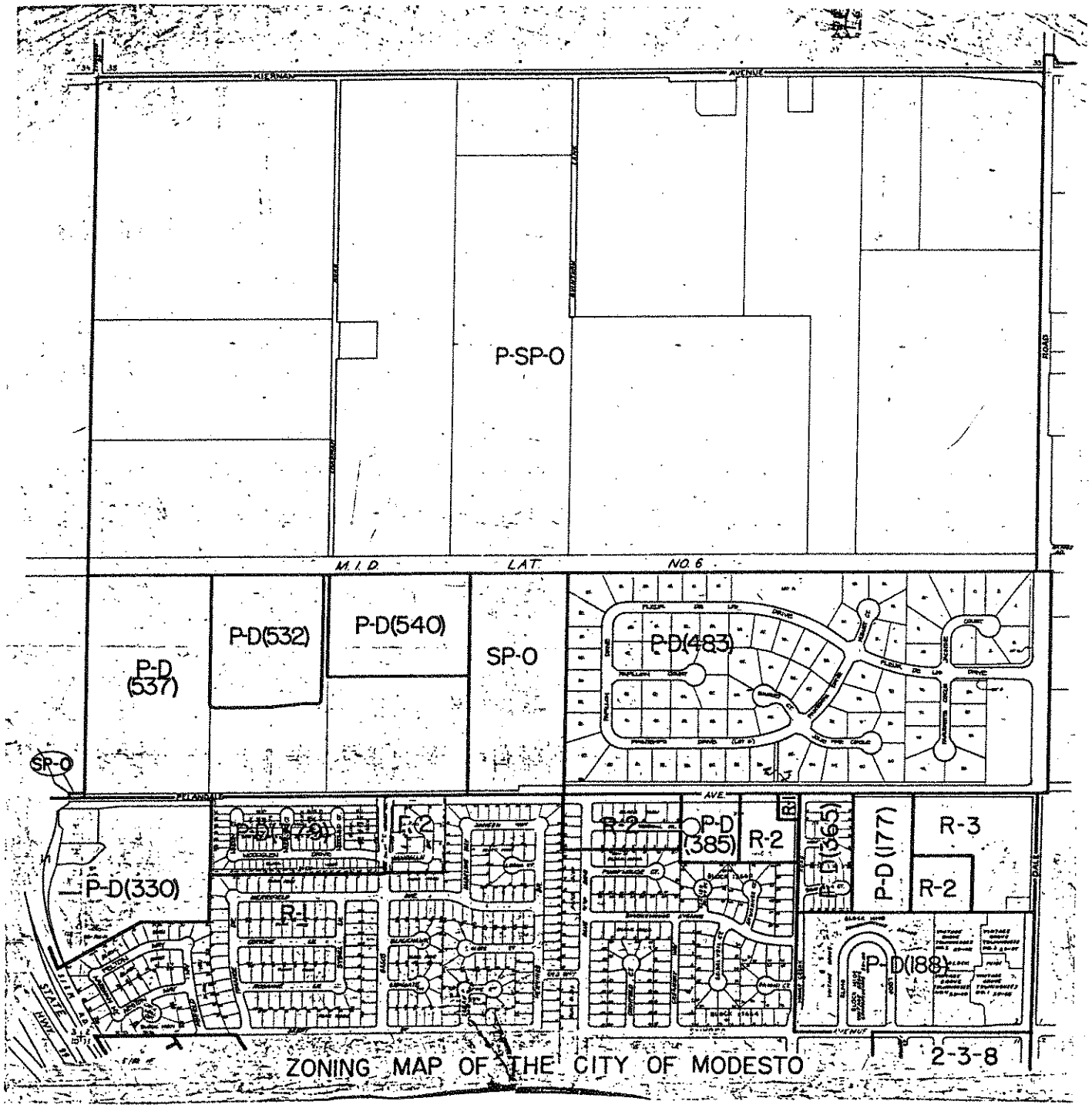
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000


KIERNAN AVENUE
P-SP-O
M.I.D. LAT. NO. 6
P-D (537)
P-D(532)
P-D(540)
SP-O
P-D(483)
SP-O
P-D(330)
P-D(379)
R-1
R-2
P-D (385)
R-2
R-1
P-D (365)
P-D (177)
R-3
R-2
P-D(188)
STATE HWY. 99
ZONING MAP OF THE CITY OF MODESTO
2-3-8

Print

ORDINANCE NO. 3164 -C.S.

AN ORDINANCE AMENDING SECTION 2-3-8 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN OVER-LAY ZONE, SP-0, TO PLANNED DEVELOPMENT ZONE, P-D(540), PROPERTY LOCATED ON THE EAST SIDE OF CHAPMAN ROAD NORTH OF PELANDALE AVENUE. (COSTA LIMITED PARTNERS)

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

SECTION 1. ZONING CHANGE. Section 2-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(540):

SP-O to P-D(540)

ALL that certain real property situate in the City of Modesto, County of Stanislaus, State of California and lying in a portion of the Northwest Quarter of the Southwest Quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, being more particularly described as follows:

COMMENCING for reference at the West Quarter corner of said Section 2; thence South 00° 14' 29" East along the West line of said Section 2, a distance of 90.10 feet to a point on the South line of the 100-foot-wide right-of-way for the Modesto Irrigation District's Lateral No. 6; thence leaving last said line and proceeding North 89° 38' 18" East along last said right-of-way line, a distance of 1340.49 feet to the TRUE POINT OF BEGINNING of this Description; thence continuing North 89° 38' 18" East along last said right-of-way line, a distance of 780.66 feet to the Northeast corner of Parcel 2 as shown on that map filed for record in the Office of the Recorder of Stanislaus County on April 16, 1999, in Book 49 of Parcel Maps at Page 44; thence leaving last said line and proceeding South 00° 13' 01" East along the East line of said Parcel 2, a distance of 571.50 feet; thence leaving last said line and proceeding South 89° 38' 18" West, a distance of 780.66 feet; thence North 00° 13' 01" West, a distance of 571.50 feet to the Point of Beginning of this Description.

Containing 10.24 acres gross more or less.

Containing 9.67 acres net more or less.

Subject to all easements and/or rights-of-way of record.

SECTION 2. USES. The following uses shall be permitted in said P-D(540) 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. A 17-screen 80,000 square foot theater, including one I-Max type large screen theater.

2. Commercial uses as allowed in the Highway Commercial C-3 Zone.

SECTION 3. ZONING MAP. Section Map 2-3-8 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~~ special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By _____
Community Development Department
Planning Division

Ord. No. 3164-C.S.

FINAL ADOPTION CLAUSE

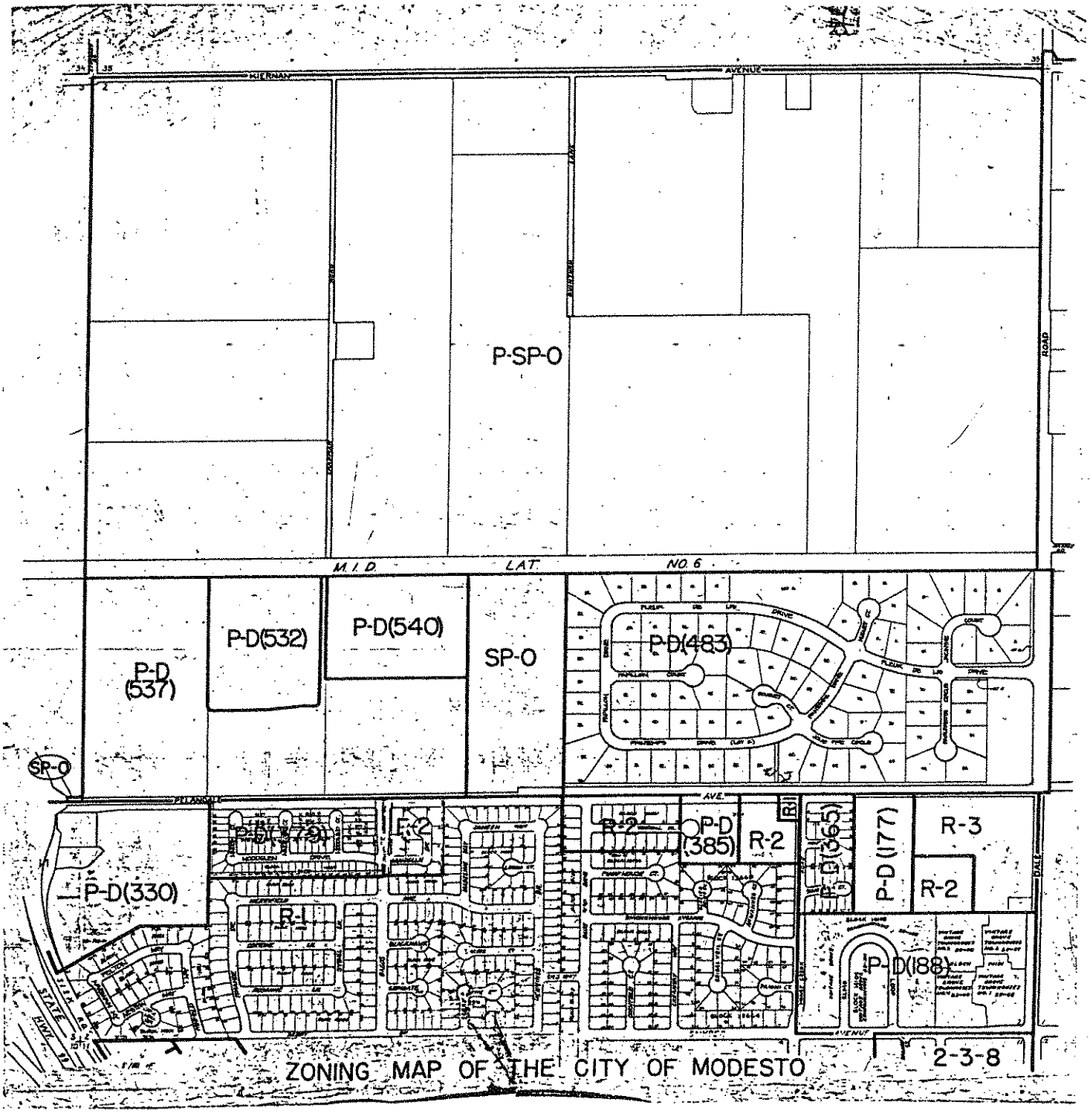
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000


KIERNAN AVENUE
P-SP-O
M.I.D. LAT. NO. 6
P-D (537)
P-D(532)
P-D(540)
SP-O
P-D(483)
SP-O
P-D(379)
P-D(330)
R-1
R-2
P-D (385)
R-2
R-1
P-D(365)
P-D(177)
R-3
R-2
P-D(188)
STATE HWY. 99
ZONING MAP OF THE CITY OF MODESTO
2-3-8

Clerk

Print

ORDINANCE NO. 3165 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 3099-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION 2-3-8 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN OVERLAY ZONE, SP-0, TO PLANNED DEVELOPMENT ZONE, P-D(532), PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE EAST OF SISK ROAD. (COSTA LIMITED PARTNERS)"

SECTION 1. AMENDMENT OF ORDINANCE NO. 3099-C.S. Section 2 of Ordinance No. 3099-C.S. is hereby amended to delete a 16-screen theater to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(532) 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. Commercial uses as allowed in the Highway Commercial C-3 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~~ special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3165-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 January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000

Clerk

Print

ORDINANCE NO. 3166 -C.S.

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND COSTA LIMITED PARTNERS RELATING TO AN AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(532), TO DELETE THE THEATER FROM THE ALLOWED USES ON PROPERTY LOCATED ON THE WEST SIDE OF CHAPMAN ROAD PELANDALE AVENUE.

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, Ordinance No. 3100-C.S., which became effective on November 5, 1998, approved a Development Agreement between the City of Modesto and Costa Limited Partners and WestStar Cinemas, Inc. relating to a large retail center to include a 16-screen theatre, hotel, and other related uses, which agreement was amended, and

WHEREAS, Ordinance No. 3101-C.S., which became effective on November 19, 1998, approved a revised Development Agreement between the City of Modesto and Costa Limited Partners that removed WestStar Cinemas and provisions related to the theater operator from the Development Agreement, and

WHEREAS, Ordinance No. 3153-C.S., which became effective on August 19, 1999, approved a new Development Agreement with Costa Limited Partners in conjunction with approval of a rezoning of a portion of Planned Development Zone, P-D(532), to Planned Development Zone, P-D(537), and

WHEREAS, in conjunction with a proposed amendment to Planned Development Zone, P-D(532), to delete a 16-screen theater from the allowed uses and substitute a 135,200 square foot retail building, a revised Development Agreement has been negotiated between representatives of the City of Modesto and Costa Limited Partners, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on December 6, 1999, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of making a recommendation to the City Council concerning the proposed Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 99-83, adopted on December 6, 1999, recommended to the City Council approval by ordinance of the proposed Development Agreement between the City of Modesto and Costa Limited Partners, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 7:00 p.m., on December 14, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, and continued to December 16, 1999, at 7:00 p.m. to a special meeting of the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of considering the requested application of Costa Limited

Partners for an amendment to Planned Development Zone, P-D(532), to delete a 16-screen theater from the allowed uses and substitute a 135,200 square foot retail building, property located on the north side of Pelandale Avenue, east of Sisk Road, and

WHEREAS, Section 65867.5 of the Government Code provides that a Development Agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed development agreement is in accordance with the community's objectives as set forth in the General Plan, because the site is designated Regional Commercial in the General Plan, the project meets the criteria for the Regional Commercial designation found in Chapter III, Section B-7(b) and (c) of the General Plan, it furthers the General Plan Economic Development Goal I-D(2) to "provide more employment opportunities", and it will ensure that the appropriate infrastructure for development will be in place in a timely manner as called for by the General Plan Community Growth Policies in Chapter II.

2. That the development agreement is consistent with the specific content and other requirements of City Council Resolution No. 91-185, which establishes procedures and requirements for the consideration of development agreements; the City's subdivision and zoning provisions of the Modesto Municipal Code; and Government Code Section 65854 et seq.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The newly negotiated Development Agreement between the City of Modesto and Costa Limited Partners is hereby approved. A copy of which is on file in the Office of the City Clerk.

EXECUTION BY CITY. The City Manager, or his authorized designee, is hereby authorized to execute said Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a ~~regular~~ special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3166-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 January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000

Clerk

Print

ORDINANCE NO. 3167 -C.S.

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND COSTA LIMITED PARTNERS RELATING TO AN AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(537), TO EXPAND A RETAIL COMMERCIAL CENTER ON AND TO REVISE THE DEVELOPMENT PLAN FOR THE EXISTING PORTION OF PLANNED DEVELOPMENT ZONE, P-D(537), PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE EAST OF SISK ROAD.

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, Ordinance No. 3100-C.S., which became effective on November 5, 1998, approved a Development Agreement between the City of Modesto and Costa Limited Partners and WestStar Cinemas, Inc. relating to a large retail center to include a 16-screen theatre, hotel, and other related uses, which agreement was amended, and

WHEREAS, Ordinance No. 3101-C.S., which became effective on November 19, 1998, approved a revised Development Agreement between the City of

Modesto and Costa Limited Partners that removed WestStar Cinemas and provisions related to the theater operator from the Development Agreement, and

WHEREAS, Ordinance No. 3153-C.S., which became effective on August 19, 1999, approved a new Development Agreement with Costa Limited Partners in conjunction with approval of a rezoning of a portion of Planned Development Zone, P-D(532), to Planned Development Zone, P-D(537), and

WHEREAS, in conjunction with a proposed amendment to Planned Development Zone, P-D(537), to expand a retail commercial center and to revise the development plan for the existing portion of Planned Development Zone, P-D(537), a revised Development Agreement has been negotiated between representatives of the City of Modesto and Costa Limited Partners, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on December 6, 1999, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of making a recommendation to the City Council concerning the proposed Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 99-84, adopted on December 6, 1999, recommended to the City Council approval by ordinance of the proposed Development Agreement between the City of Modesto and Costa Limited Partners, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 7:00 p.m., on December 14, 1999, in the City Council Chambers, City Hall, 801 11th

Street, Modesto, California, and continued to December 16, 1999, at 7:00 p.m. to a special meeting of the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of considering the requested application of Costa Limited Partners for an amendment to Planned Development Zone, P-D(537), to expand a retail commercial center and to revise the development plan for the existing portion of Planned Development Zone, P-D(537), property located on the north side of Pelandale Avenue, east of Sisk Road, and

WHEREAS, Section 65867.5 of the Government Code provides that a Development Agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed development agreement is in accordance with the community's objectives as set forth in the General Plan, because the site is designated Regional Commercial in the General Plan, the project meets the criteria for the Regional Commercial designation found in Chapter III, Section B-7(b) and (c) of the General Plan, it furthers the General Plan Economic Development Goal I-D(2) to "provide more employment opportunities", and it will ensure that the appropriate infrastructure for development will be in place in a timely manner as

called for by the General Plan Community Growth Policies in Chapter II.

2. That the development agreement is consistent with the specific content and other requirements of City Council Resolution No. 91-185, which establishes procedures and requirements for the consideration of development agreements; the City's subdivision and zoning provisions of the Modesto Municipal Code; and Government Code Section 65854 et seq.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The newly negotiated Development Agreement between the City of Modesto and Costa Limited Partners is hereby approved. A copy of which is on file in the Office of the City Clerk.

EXECUTION BY CITY. The City Manager, or his authorized designee, is hereby authorized to execute said Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a ~~regular~~ special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3167-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 January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000

Clerk

Print

ORDINANCE NO. 3168-C.S.

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND COSTA LIMITED PARTNERS RELATING TO A 17-SCREEN 80,000 SQUARE FOOT THEATER, INCLUDING ONE I-MAX TYPE LARGE SCREEN THEATER, ON PROPERTY LOCATED ON THE EAST SIDE OF CHAPMAN ROAD NORTH OF PELANDALE AVENUE. (P-D(540))

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, Ordinance No. 3100-C.S., which became effective on November 5, 1998, approved a Development Agreement between the City of Modesto and Costa Limited Partners and WestStar Cinemas, Inc. relating to a large retail center to include a 16-screen theatre, hotel, and other related uses, which agreement was amended, and

WHEREAS, Ordinance No. 3101-C.S., which became effective on November 19, 1998, approved a revised Development Agreement between the City of Modesto and Costa Limited Partners that removed WestStar Cinemas and provisions related to the theater operator from the Development Agreement, and

WHEREAS, Ordinance No. 3153-C.S., which became effective on August 19, 1999, approved a new Development Agreement with Costa Limited Partners in conjunction with approval of a rezoning of a portion of Planned Development Zone, P-D(532), to Planned Development Zone, P-D(537), and

WHEREAS, in conjunction with a proposed rezoning from Specific Plan-Overlay Zone, SP-O, to Planned Development Zone, P-D(540), for a 17-screen 80,000 square foot theater, including one I-Max type large screen theater, a new Development Agreement has been negotiated between representatives of the City of Modesto and Costa Limited Partners, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on December 6, 1999, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of making a recommendation to the City Council concerning the proposed Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 99-85, adopted on December 6, 1999, recommended to the City Council approval by ordinance of the proposed Development Agreement between the City of Modesto and Costa Limited Partners, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 7:00 p.m., on December 14, 1999, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, and continued to December 16, 1999, at 7:00 p.m. to a special meeting of the City Council, at which date and time said duly noticed public hearing of the

Council was held for the purpose of considering the requested application of Costa Limited Partners rezoning from Specific Plan-Overlay Zone, SP-O, to Planned Development Zone, P-D(540), for a 16-screen theater, property located on the east side of Chapman Road, north of Pelandale Avenue, and

WHEREAS, Section 65867.5 of the Government Code provides that a Development Agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed development agreement is in accordance with the community's objectives as set forth in the General Plan, because the site is designated Regional Commercial in the General Plan, the project meets the criteria for the Regional Commercial designation found in Chapter III, Section B-7(b) and (c) of the General Plan, it furthers the General Plan Economic Development Goal I-D(2) to "provide more employment opportunities", and it will ensure that the appropriate infrastructure for development will be in place in a timely manner as called for by the General Plan Community Growth Policies in Chapter II.

2. That the development agreement is consistent with the specific content and other requirements of City Council Resolution No. 91-185, which establishes procedures and requirements for the consideration of development agreements; the City's subdivision and zoning provisions of

the Modesto Municipal Code; and Government Code Section 65854 et seq.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The newly negotiated Development Agreement between the City of Modesto and Costa Limited Partners is hereby approved. A copy of which is on file in the Office of the City Clerk.

EXECUTION BY CITY. The City Manager, or his authorized designee, is hereby authorized to execute said Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1999, by Councilmember Fisher, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Lang

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Dobbs

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 3168-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 January, 2000, Councilmember Friedman, moved its final adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Friedman, Frohman, Smith, Mayor Sabatino
NOES:	Councilmembers:	Serpa
ABSENT:	Councilmembers:	None

APPROVED: Carmen Sabatino
CARMEN SABATINO, Mayor

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Effective Date: February 3, 2000