

ORDINANCE NO. 3726-C.S.

AN ORDINANCE AMENDING SECTION 9-4-9 OF THE ZONING CODE TO PREZONE 32.88 ACRES OF UNINCORPORATED AREA TO HEAVY INDUSTRIAL, (P)M-2 ZONE, PROPERTY LOCATED EAST OF LODI AVENUE AND NORTH OF WHITMORE AVENUE

WHEREAS, a verified application for an amendment to Section 9-4-9 of the Zoning Map was filed by G3 Enterprises, Inc., and DOT California 2019, LLC, on October 6, 2020, to prezone to Heavy Industrial, M-2 zone, property located east of Lodi Avenue and North of Whitmore Avenue, and

WHEREAS, after a public hearing held on December 7, 2020, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because the prezone of unincorporated area to Heavy Industrial (P-M-2) Zone would provide for development that is compatible with adjacent industrial uses, the requested zone change will result in an orderly planned use of land because it would facilitate industrial development that is compatible with adjacent industrial uses, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the allowed use of the Heavy Industrial (P-M-2) Zone is consistent with the site's General Plan Land Use Designation of Industrial, and

WHEREAS, by Resolution No. 2020-18, adopted on December 7, 2020, the Planning Commission recommended to the Council that the application of G3 Industries, Inc., and DOT California 2019, LLC, to amend Section 9-4-9 of the Zoning Map to prezone the hereinafter described property to Heavy Industrial, (P)M-2, be approved.

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

SECTION 1. After a public hearing held on January 26, 2021, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because the prezone of unincorporated area to Heavy Industrial (P-M-2) Zone would provide for development that is compatible with adjacent industrial uses.
2. The requested change will result in an orderly planned use of land because it would facilitate industrial development that is compatible with adjacent industrial uses.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowed use of the Heavy Industrial (P-M-2) Zone is consistent with the site's General Plan Land Use Designation of Industrial.

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

Prezone to P-M-2

All of the Real Property as described in the Grant Deed recorded as DOC-2020-0068632-00, Stanislaus County Records, shown as PARCEL NO. 2 on Sheet 2 of 2 of EXHIBIT "C" of the Certificate of Lot Line Adjustment recorded as DOC-2017-0090151-00, Stanislaus County Records, together with a portion of the Real Property designated "1" in the Grant Deed (Correcting) recorded as DOC-2019-0036251-00, Stanislaus County Records and shown as PARCEL NO. 1 on said sheet 2 of 2 of EXHIBIT "C", lying in the West half of Section 9, Township 4 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of the Whitmore No. 1 Addition to the City of Modesto by Instrument No. 73-55823, Stanislaus County Records, being the intersection of the southerly extension of the West line of the Map of Whitmore Industrial Park No. 1 filed in Volume 27 of Maps at Page 49, Stanislaus County Records, with the South line of said Section 9, said South line being the centerline of Whitmore Avenue as shown on said Map and also being the North line of the West landing Specific Plan

Reorganization to the City of Ceres recorded as DOC-2012-0048746-00, Stanislaus County recorded as; thence commencing the following six courses:

1. North 89°51'00" West, 760.98 feet, along said South line of the intersection of said South line with the Southerly extension of the West line of Lodi Avenue as shown on the Parcel Map filed in Book 42 of Parcel maps at Page 24, Stanislaus County Recorders; thence,
2. North 0°00'20" West, 950.07 feet, along said West line of the Lodi Avenue to the Northwest corner of said Lodi Avenue; thence,
3. South 89°50'04" East, 60.00 feet, along the North line of said Lodi Avenue to the Northeast corner of said Lodi Avenue being the southeastern most corner of PARCEL B as shown on said Parcel Map; thence,
4. North 0°00'20" West, 1010.54 feet, along the East line of said PARCEL B also being the West line of said PARCEL NO. 1, to the Northeast corner of said PARCEL B also being the Northwest corner of said PARCEL NO. 1, said corner lying on a south line of the Glenn Avenue Industrial Park Reorganization to the City of Modesto recorded as DOC-2005-0042056, Stanislaus County Records; thence,
5. South 89°50'38" East, 701.92 feet, along last said South line being the North line of said PARCEL NO. 1 to the Northwest corner of said Whitmore No. 1 Addition to the City of Modesto; thence,
6. South 0°01'19" West, 1960.51 feet, along the West line of said Whitmore No.1 Addition to the City of Modesto to the Point of Beginning.

Containing 32.88 Acres, more or less.

APNs: 086.013.017 and 086.013.018

SECTION 3. ZONING MAP. Section 9-4-9 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.

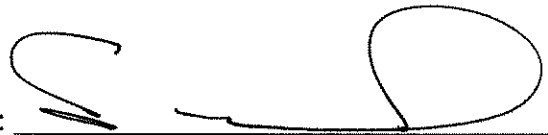
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2021, by Councilmember Zoslocki, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____



TED BRANDVOLD, Mayor

ATTEST:

By: _____



STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____



JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: _____



Community & Economic Development
Department, Planning Division

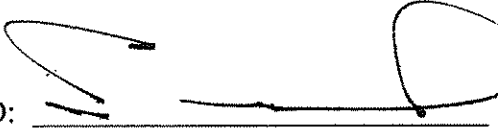
FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Brandvold

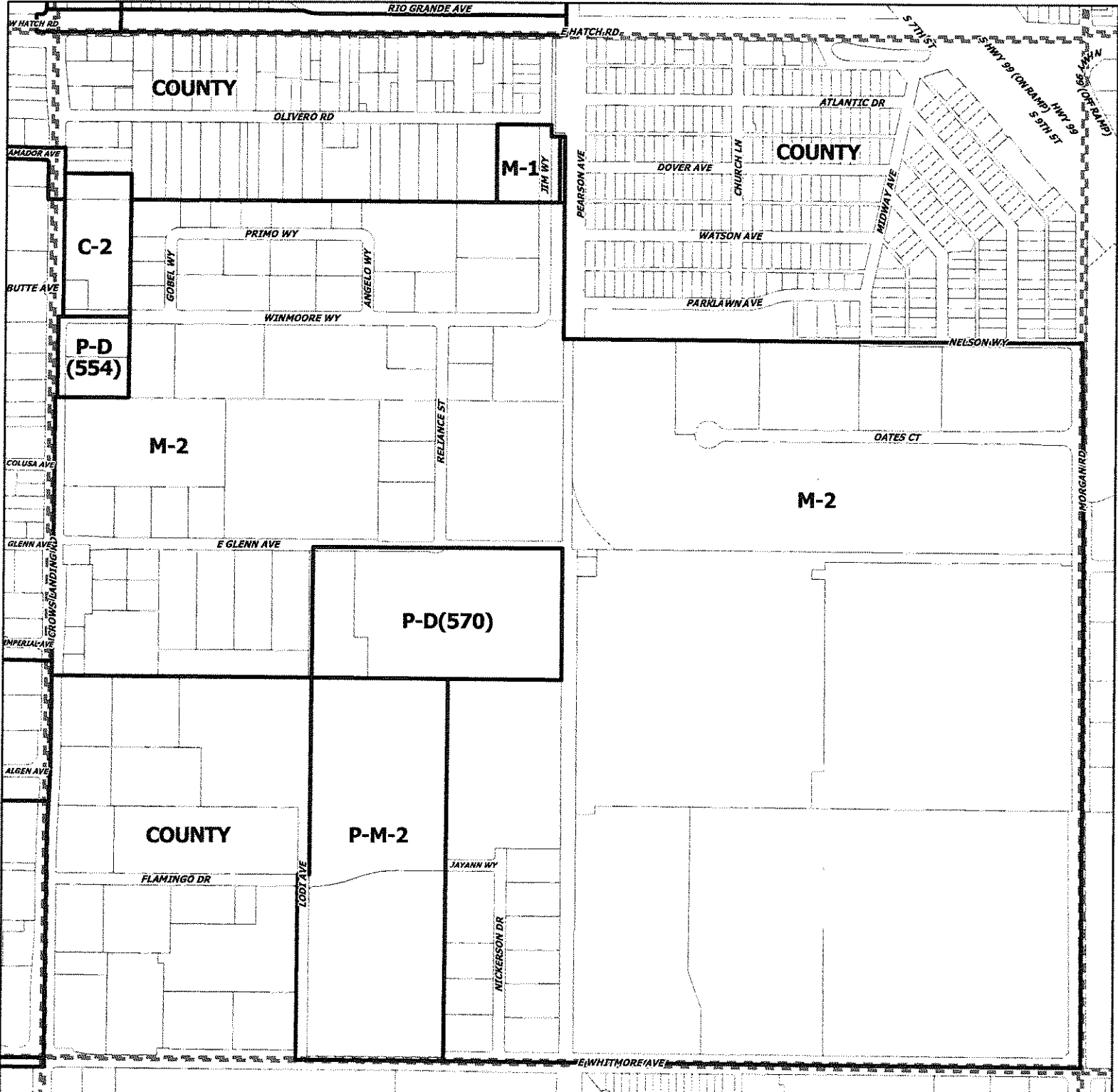
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR, TED BRANDVOLD

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: March 4, 2021



1 inch = 700 feet

Ord. 3726-C.S.

ZONING MAP OF THE CITY OF MODESTO

9-4-9

ORDINANCE NO. 3727-C.S.

AN ORDINANCE AMENDING SECTION 32-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3) ZONE TO PLANNED DEVELOPMENT ZONE, P-D(610), PROPERTY LOCATED 133 TUOLUMNE BOULEVARD

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 Residential, R-3, to Planned Development, P-D(610):

R-3 to P-D(610)

Real property In the City of Modesto, County of Stanislaus, State of California, described as follows:

LOTS 24, 25, 26 AND 27 IN BLOCK 305 OF THE CITY OF MODESTO, AS PER MAP FILED DECEMBER 21, 1942, IN VOLUME 15 OF MAPS PAGE 305, STANISLAUS COUNTY RECORDS AND ALL THAT PORTION OF SECTION 32, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS: BEING A PORTION OF ABANDONED TUOLUMNE BOULEVARD BY RESOLUTION #1046 RECORDED NARCH 28, 1968, IN VOLUME 2213 OF OFFICIAL RECORDS AT PAGE 290, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERN CORNER OF LOT 24 OF BLOCK 305 OF THE CITY OF MODESTO, AS PER MAP FILED DECEMBER 21, 1942, IN VOLUME 15 OF MAPS, AT PAGE 305, STANISLAUS COUNTY RECORDS; THENCE ALONG THE SOUTHEASTERN MNE OF LOTS 24, 25, 26 AND 27 NORTH 47° 13' 22" EAST 100.00 FEET; THENCE ALONG SOUTHEASTERLY PROJECTION OF THE NORTHEASTERN LINE OF LOT 27, SOUTH 42° 46' 38" EAST, 66.61 FEET; THENCE SOUTH 22° 46' 45" WEST 38.47 FEET; THENCE ALONG A TANGENT CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 25.00 FEET A CENTRAL ANGLE OF 90° 00' AND AN ARC LENGTH OF 39.27 FEET; THENCE NORTH 67° 13' 15" WEST 77.02 FEET TO THE POINT OF BEGINNING.

Also including the easterly one-half of Calaveras Avenue and the northerly one-half of Tuolumne Boulevard, all immediately adjacent to the above described property.

Totaling 19,602 square feet, more or less.

APN: 102-015-031-000

SECTION 2. USES. The following uses shall be permitted in said P-D(610)

Zone if the plan for construction conforms in principle to the approved plan:

1. On the first floor uses consistent with those allowed in the Medium-High Density Residential (R-3) and Neighborhood Commercial (C-1) Zones except for restaurants with seating and medical office uses.
2. On the second-floor residential uses as allowed in the Medium-High Density Residential (R-3) Zone.
3. In the basement, residential uses as allowed in the Medium-High Density Residential (R-3) Zone.

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 26th day of January, 2021, by Councilmember Escutia-Braaton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____


TED BRANDVOLD, Mayor

ATTEST:

By: _____


STEPHANIE LOPEZ, City Clerk

(SEAL)


APPROVED AS TO FORM:

By: _____


JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: _____


Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

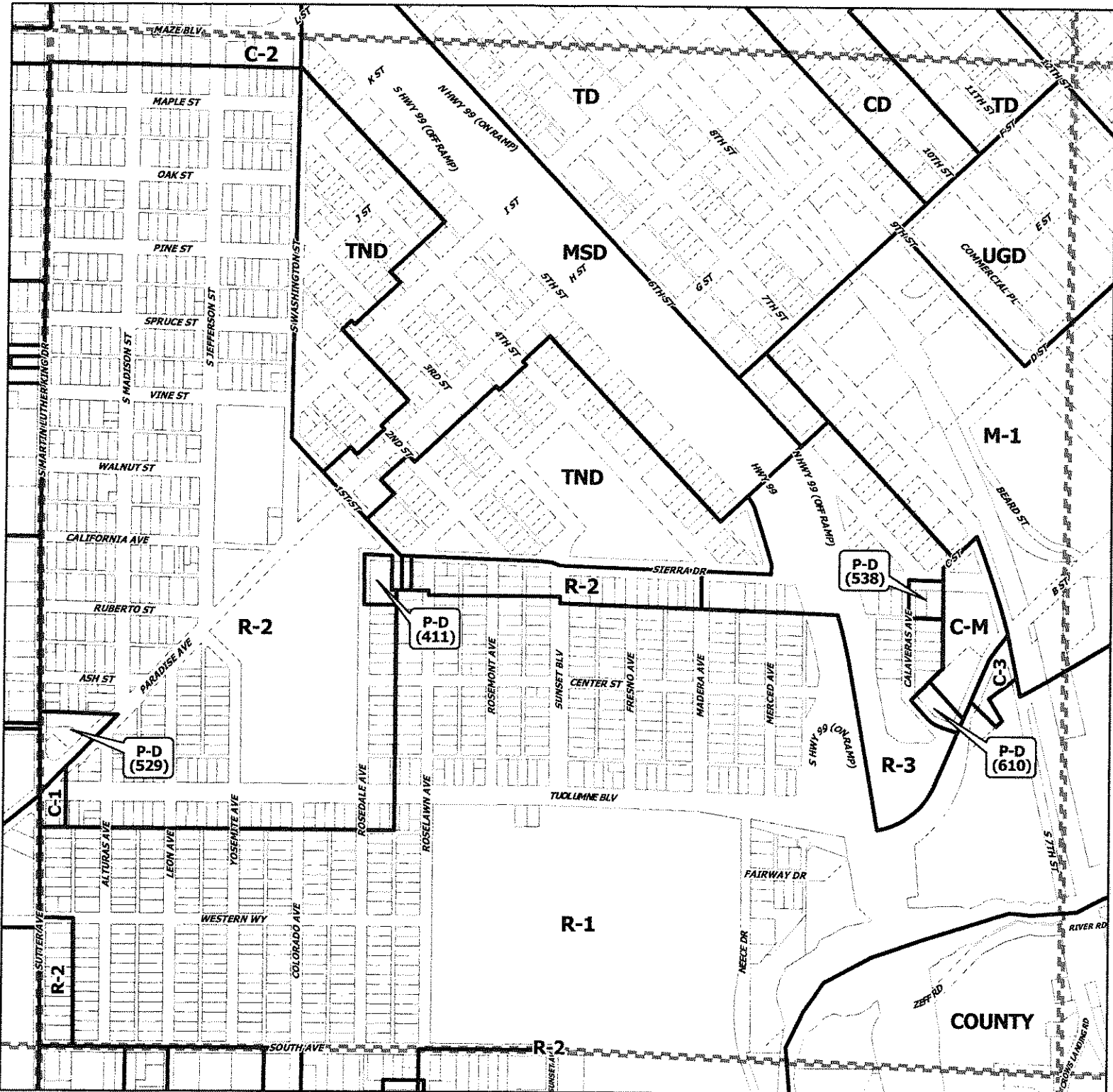
APPROVED: 

MAYOR, TED BRANDVOLD

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: March 4, 2021



1 inch = 700 feet

Ord. 3727-C.S.

ZONING MAP OF THE CITY OF MODESTO

32-3-9

ORDINANCE NO. 3728-C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 30 IN THE VILLAGE ONE SPECIFIC PLAN AREA TO AMEND THE CIRCULATION PLAN AND UTILITY PLANS, PROPERTY LOCATED BETWEEN FINE AVENUE AND CLAUS ROAD, SOUTH OF SHARON AVENUE AND NORTH OF MERLE AVENUE (NRB INVESTMENTS, LLC)

WHEREAS, the City Council, on October 16, 1990, adopted the Village One Specific Plan, pursuant to California Government Code Section 65450 et. seq., to implement the Modesto Urban Area General Plan in this 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, a Precise Plan for Area No. 30 was approved by the City Council by Ordinance No. 3409-C.S. on May 9, 2006, and

WHEREAS, an application has been filed by NRB Investments LLC for an Amendment to Precise Plan of Area No. 30 to amend the circulation and utility plans of the Precise Plan, property located between Fine Avenue and Claus Road, south of Sharon Avenue and north of Merle Avenue, and

WHEREAS, a public hearing was held by the Planning Commission on December 7, 2020, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WEHERAS, after considering public comments, the Planning Commission, by Resolution No. 2020-20, recommended to the City Council approval of amendments to Precise Plan Area No. 30, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on January 26, 2021 at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

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

WHEREAS, the Council declared that said amendments to the Precise Plan for Area No. 30 of the Village One Specific Plan is required by public necessity convenience, and general welfare for the following reasons:

1. The amendment to the Circulation, Water, Sanitary Sewer and Storm Water plans would allow for the development of single-family residential uses that is consistent with the Village One Specific Plan.
2. The amendment would provide for a more efficient layout of residential lots throughout the Precise Plan area.
3. The amendment would provide for utility connections for the northerly portion of the Precise Plan to the existing facilities in Sharon Avenue, thereby facilitating the development of 3.75 acres on Sharon Avenue with 24 new residential lots.

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

SECTION 1. APPROVAL OF AMENDMENT TO THE PRECISE PLAN.

That the City Council has reviewed and considered the amendments to the Precise Plan for Area No. 30 of the Village One Specific Plan to amend the circulation and utility plans of the Precise Plan as recommended by the Planning Commission, and the Council does hereby approve said amendments to the Precise Plan for Area No. 30 of the Village One Specific Plan. A copy of the amendments are attached hereto and incorporated by this reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2021, and continued to the 2nd day of February, 2021, by Councilmember Zoslocki, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST:

By: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 9th Day of February, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR, TED BRANDVOLD

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: March 11, 2021

ORDINANCE NO. 3729-C.S.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO ESTABLISHING A TEMPORARY LIMIT OF FIFTEEN PERCENT (15%) ON FEES BY THIRD-PARTY FOOD DELIVERY SERVICES TO RESTAURANTS IN MODESTO DURING THE COVID-19 PANDEMIC

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”), and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency regarding COVID-19, and

WHEREAS, on March 11, 2020, the Stanislaus County Public Health Officer declared a local health emergency, and on March 13, 2020, the County of Stanislaus Director of Emergency Services proclaimed a Local Emergency due to the threat of COVID-19 in the County, and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency regarding COVID-19, and

WHEREAS, on March 13, 2020, the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of a local emergency in the City of Modesto in response to COVID-19 pursuant to Government Code section 8630 and Modesto Municipal Code section 3-4.06, and

WHEREAS, on March 19, 2020, the City Council adopted Resolution 2020-140 ratifying the proclamation of a local emergency, and

WHEREAS, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction, and

WHEREAS, the shelter in place orders have been repeatedly modified over time, but remain in place and large segments of the economy, particularly related to indoor activities such as dining, remain closed or severely limited, and

WHEREAS, continuity of operations among the City's restaurants is critical for the delivery of essential food services to the residents of Modesto and to sustain these sources of employment and neighborhood vitality within the City, and

WHEREAS, many consumers use third-party applications and websites to place orders with restaurants for delivery and takeout, and these third-party platforms charge restaurants fees; service agreements between some restaurants and third-party platforms provide that the platform charges the restaurant more than twenty-five percent (25%) of the purchase price per order, and

WHEREAS, restaurants, eating and drinking establishments, and particularly those that are small businesses, have limited bargaining power to negotiate lower fees with third-party platforms given the financial straits restaurants are facing during this period of emergency, and

WHEREAS, given that only a few companies in the marketplace provide such delivery services, restaurants that do not operate their own delivery service resort to contracting with third-party delivery service providers as a means to compete in the marketplace, and

WHEREAS, capping delivery service per-order fees at fifteen percent (15%) will achieve the public purpose of ensuring the continued operation of local restaurants and third-party platforms during the period of emergency, and

WHEREAS, the fifteen percent (15%) limit on fees charged to restaurants is based on the findings and experience of other California cities and cities nationwide that have already adopted 15% fee ceilings or similar caps as reasonable emergency regulations in collaboration with food delivery companies, and

WHEREAS, California Constitution, Article XI, Section 7, provides cities with the authority to enact ordinances to protect the public health, safety, and general welfare, of their citizens, and

WHEREAS, COVID-19 restrictions have placed a sudden and severe financial strain on restaurants, and many restaurant and food establishments within the City have been relying on delivery and pick up to generate both revenue and serve customers, and

WHEREAS, it is in the public interest to take action to ensure the delivery of essential food services to residents of Modesto and to maximize restaurant revenue from the takeout and delivery orders that, with the exception of limited dining operations, are currently one of the primary sources of revenue for these businesses to enable restaurants to survive this crisis and remain as sources of employment and neighborhood vitality in the City, and

WHEREAS, it is critical that restaurants operate in a safe manner where social distancing can be maintained in accordance with guidance from the State of California and local health officials, and delivery services are critical for achieving that purpose, and

WHEREAS, if restaurants permanently close, then essential workers will be displaced, storefronts will be vacant, and residents will lose access to contactless delivery of locally prepared meals, and

WHEREAS, Governor Newsom recently lifted the Regional Stay at Home Order that prohibited restaurants from offering outdoor dining, but Stanislaus County remains in the purple tier “widespread” status, which prohibits indoor dining and further places a strain on Modesto’s local restaurants, and

WHEREAS, as restaurants return to modified, lower capacity restaurant service, it is also unclear how quickly restaurant patrons will return to restaurant dining and restaurants may continue to see a significant loss of revenue for an ongoing period of time, and

WHEREAS, this Ordinance is temporary in nature and only intended to promote stability and safe and healthy operations within restaurants in the City during the COVID-19 pandemic outbreak, to assist

local businesses in transitional and uncertain times, and to prevent avoidable business closures thereby serving the public peace, health, safety, and public welfare and ensuring jobs and economic vitality within the City, while also preventing further spread of the virus, and

WHEREAS, an urgency ordinance is necessary to avoid the continuing and immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance would result in the avoidable displacement or exposure to COVID-19 of the City's restaurant and foodservice industry and to the amplification of the factors that lead to the spread of the virus, as described in these Recitals, and

WHEREAS, the City Council hereby finds the approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines") under Section 15061(b)(3) of the CEQA Guidelines. This is an emergency response measure aimed at capping delivery services fees on existing restaurants. No new development will result from the proposed action and the regulation is temporary. No impact to the physical environment will result.

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

SECTION 1. FINDINGS.

The City Council of the City of Modesto finds that all of the above Recitals are true and correct and incorporated herein by reference. The local emergency declared by Resolution No. 2020-140 due to the COVID-19 Pandemic continues to exist within the City of Modesto and shall remain in effect until such time that the Council determines that the emergency conditions have been abated.

SECTION 2. URGENCY FINDINGS

The City Council of the City of Modesto hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency ordinance, which finding is based upon the facts stated in the Recitals

above, and in the Staff Report dated January 28, 2021, and considered during the February 2, 2021 City Council meeting as well as any oral and written testimony at the February 2, 2021 City Council meeting. The adoption and implementation of this Ordinance is an urgency measure necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as this Ordinance is an emergency response measure aimed at ensuring the recovery and vitality of the restaurant industry after closure and limited operations. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SECTION 3. THIRD-PARTY FOOD DELIVERY FEE LIMIT ORDINANCE

The City Council hereby makes the findings contained herein and hereby adopts the uncodified Ordinance to read as follows.

A Temporary Limit on Charges by Third-Party Food Delivery Services

Section 1. Definitions. For purposes of this Ordinance, the following definitions apply:

- A. “Covered Establishment” means a restaurant that offers, in a single commercial transaction over the internet, such as Online Order, or over the telephone, such as a Telephone Order, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers from one or more retail locations within the City.
- B. “Third-party Food Delivery Service” means any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from a Covered Establishment.
- C. “Online Order” means an order placed by a customer through a platform provided by a Third-party Food Delivery Service for delivery or pickup within the City.

- D. "Telephone Order" means an order placed by a customer to a foodservice establishment through a telephone call or the use of the third-party food delivery service providers' platform and/or on-line phone system, or via text for delivery or pickup within the City.
- E. "Purchase Price" means the menu price of an online order. Such term, therefore, excludes taxes, gratuities, and any other fees that may make up the total cost to the customer of an order.

Section 2. Temporary Limit on Third-Party Food Delivery Service Charges.

- A. It shall be unlawful for a Third-Party Food Delivery Service to charge a Covered Establishment a fee that totals more than fifteen percent (15%) of the Purchase Price of an Online or Telephone Order for the use of its services.
- B. It shall be unlawful for a Third-Party Food Delivery Service to charge a customer any Purchase Price for a food or beverage item that is higher than the price set by the Covered Establishment on the Third-Party Food Delivery Service or, if no price is set by the Covered Establishment on the Third-Party Food Delivery Service, the price listed on the Covered Establishment's own menu.

Section 3. Enforcement.

- A. A Third-Party Food Delivery Service shall not be found in violation of this Ordinance if, between the Effective Date of this Ordinance and February 8, 2021 it imposes a fee per Online or Telephone Order for the use of its services that totals more than fifteen percent (15%) percent of the Purchase Price of such order, provided it refunds the portion of the fee that exceeds the fee percentage set forth in this Ordinance to Covered Establishment no later than fifteen (15) days after the purchase.
- B. If a Third-Party Food Delivery Service charges a Covered Establishment fees that violate this Ordinance, the Covered Establishment shall, within seven (7) calendar days, provide written

notice to the Third-Party Food Delivery Service requesting a refund; the refund shall be paid within seven (7) calendar days. If the Third-Party Food Delivery Service does not provide the refund requested after seven (7) days or the Third-Party Food Delivery Service continues to charge fees in violation of this Ordinance after the initial notice, a Covered Establishment may enforce this Ordinance by means of a civil action seeking damages and injunctive relief. The prevailing party in any such action shall be entitled to an award of reasonable attorney fees.

C. Violations of this Ordinance are subject to administrative penalties pursuant to Chapter 1-6 of the Modesto Municipal Code.

Section 4. Guidance and Rules.

The City Manager, or designee, is authorized to implement this Ordinance and issue any guidance or rules necessary to implement this Ordinance.

Section 5. Duration.

This Ordinance shall become effective immediately upon its adoption and remain in effect until such time as the Modesto City Council terminates the declared local emergency established by Resolution 2020-140.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Modesto hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. EFFECTIVE DATE

Following adoption by at least a five-sevenths (5/7) vote of the City Council, this Ordinance shall be effective immediately upon adoption pursuant to Modesto Municipal Code Section 2-2.04 and Section 716 of the Modesto Charter. The City Clerk shall certify as to the adoption of this Urgency Ordinance and shall cause it to be published within fifteen (15) days of the adoption and shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2021, by Councilmember(s) Ricci and Escutia-Braaton, was upon roll call carried and ordered printed and published by the following votes:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Zoslocki, Mayor Brandvold

NAYS: Councilmembers: Wright

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST:

BY: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 

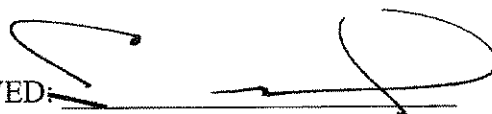
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2021, Councilmember(s) Ricci and Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Zoslocki,
Mayor Brandvold
NOES: Councilmembers: Wright
ABSENT: Councilmembers: None

APPROVED:



TED BRANDVOLD, Mayor

ATTEST:

BY:


STEPHANIE LOPEZ, City Clerk

(SEAL)

Effective Date: February 2, 2021

3684542.1

ORDINANCE NO. 3730-C.S.

AN ORDINANCE AMENDING SECTIONS 9-4.201(b), 9-4.201(m), 9-4.201(w), 9-4.201(am), 9-4.302, 9-4.402(a)(6), 9-4.02(d)(2)(ii), 9-4.501(c)(1), 9-4.501(c)(5)(ii)(A), AND 9-4.603(f), AND ADDING 9-4.307 TO CHAPTER 4, FLOODPLAIN MANGEMENT, OF TITLE 9, BUILDING REGULATIONS OF THE MODESTO MUNICIPAL CODE TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Modesto and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the City of Modesto was accepted for participation in the National Flood Insurance Program on August 15, 1980 and the City Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, pursuant to the California Health and Safety Code, Division 13, Part 1.5 and Part 2.5, the City of Modesto is required to administer and enforce the *California Building Standards Code*, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the City Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *California Building Standards Code*.

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

SECTION 1. The foregoing recitals are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENTS: Sections 9-4.201(b), 9-4.201(m), 9-4.201(w), 9-4.201(am), 9-4.302, 9-4.402(a)(6), 9-4.02(d)(2)(ii), 9-4.501(b), 9-4.501(c)(1), 9-4.501(c)(5)(ii)(A), and 9-4.603(f), of Chapter 4 “Floodplain Management,” of Title 9 “Building Regulations” of the Modesto Municipal Code are hereby amended to read as follows:

9-4.201 - Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- (b) "Accessory structure, low-cost and small" means a structure that is:
 - (1) Solely for the parking of no more than two (2) cars, or limited storage (small, low-cost sheds); and
 - (2) Less than one hundred fifty (150) square feet in size and has a market value of less than one thousand five hundred dollars (\$1,500.00); and
 - (3) On the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure
- (m) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the latter of August 15, 1980, or annexation to the City.
- (w) “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1, TB 3, and TB 7.
- (am) "New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of the initial FIRM, dated August 15, 1980, or annexation to the City, and includes any subsequent improvements to such structures.

9-4.302 - Basis for Establishing Special Flood Hazard Areas.

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for City of Modesto, California, Stanislaus County" dated August 15, 1980, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), dated August 15, 1980, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of these floodplain management regulations. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at 1010 10th Street, Suite 4100, Modesto, California 95353.

9-4.402 - Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- (a) Permit Review. Review all development permits to determine:
 - (6) All Letters of Map Revision (LOMR's) for projects within special flood hazard areas are approved prior to the issuance of building permits or "start of construction." Grading permits shall be issued based upon and consistent with Conditional Letters of Map Revision (CLOMR's). Prior to issuance of a building permit or "start of construction," "as-builts" showing final grades and elevations for the approved grading plan shall be submitted to the Floodplain Administrator for review and approval.
- (d) Notification of Other Agencies.
 - (2) Base flood elevation changes due to physical alterations:
 - (ii) All LOMR's are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). An approved CLOMR's allows for construction activities and land preparation up to, but not after the "start of construction" as defined in Section 9-4.201(ay).

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based on current data.

9-4.501 - Standards of Construction.

In all special flood hazard areas, the following standards are required:

- (b) Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
 - (1) With flood-resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;

- (2) Using methods and practices that minimize flood damage;
 - (3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) Elevation and Floodproofing.
- (1) Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
 - (i) In AE, AH, A1-30 zones, elevated to or above the base flood elevation;
 - (ii) In an A zone, without BFE's specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation, as determined under Section 9-4.402(c).

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- (5) Garages and Low-Cost Accessory Structures.
 - (ii) Detached Garages and Accessory Structures.
 - (A) Accessory structures used solely for parking (two (2) car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Article 2 of this chapter, may be constructed such that its floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
 - 1) Use of the accessory structure must be limited to parking or limited storage;
 - 2) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - 3) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - 4) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - 5) The accessory structure must comply with floodplain encroachment provisions in Section 9-4.506; and
 - 6) The accessory structure must be designed to allow for the automatic entry of floodwaters in accordance with subsection (c)(3) of this section.
 - 7) The accessory structure is one story and not larger than 600 square feet in area when located in special flood hazard areas other than coastal high hazard areas.

9-4.603 - Conditions for Variances.

- (f) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued to the Federal Emergency Management Agency.

SECTION 3. ADDITIONS: Section 9-4.307 of Chapter 4 “Floodplain Management,” of Title 9 “Building Regulations” of the Modesto Municipal Code is hereby added to read as follows:

9-4.307- Abrogation and Greater Restrictions.

These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal, abrogate or impair any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes, nor any existing easements, covenants, or deed restrictions. In the event of an overlap or conflict between these regulations and any other ordinance, code, regulation, easement, covenant, or deed restriction, the more restrictive shall govern.

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.

SECTION 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the

potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 7. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2021, by Councilmember Wright who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None


ABSENT: Councilmembers: None

APPROVED:


SUE ZWHALEN, Mayor

ATTEST:

By:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

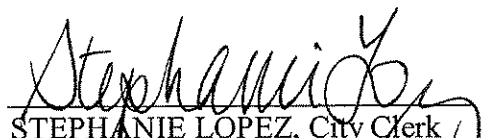

JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of July, 2021, Councilmember Escutia-Braaton moved its final adoption, which motion being duly seconded by Councilmember Wright was upon roll carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright,
Zoslocki, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: August 12, 2021

ORDINANCE NO. 3731-C.S.

**AN ORDINANCE AUTHORIZING THE LEVY OF SPECIAL TAXES
WITHIN THE CITY OF MODESTO COMMUNITY FACILITIES
DISTRICT NO. 2021-1 (WOODGLEN)**

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

WHEREAS, on June 1, 2021, this City Council, by Resolution No. 2021-196, adopted a resolution entitled “A Resolution Declaring the City Council’s Intention to Establish City of Modesto Community Facilities District No. 2021-1 (Woodglen) and to Authorize the Levy of a Special Tax Within Said Community Facilities District” stating its intention to form City of Modesto Community Facilities District No. 2021-1 (Woodglen) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”) in order to finance certain services and incidental expenses to be incurred in connection with financing the foregoing, and

WHEREAS, the City Council has held a noticed public hearing concerning the establishment of the Community Facilities District, as required by the Act, and

WHEREAS, subsequent to said hearing, the City Council adopted resolutions entitled “A Resolution Declaring the Formation of City of Modesto Community Facilities District No. 2021-1 (Woodglen), Conditionally Authorizing the Levy of Special Taxes Therein and Conditionally Establishing an Annual Appropriations Limit” (the “Resolution of Formation”), and “A Resolution Calling a Special Election for the City of Modesto Community Facilities District No. 2021-1 (Woodglen),” which resolutions established the Community Facilities District, authorized levy of special taxes therein and called an election within the Community Facilities District on the propositions of levying special taxes and establishing an appropriations limit, and

WHEREAS, an election was held within the Community Facilities District at which the qualified electors approved by more than a two-thirds vote the proposition of levying special taxes and establishing an appropriations limit,

NOW, THEREFORE, the Council of the City of Modesto, acting as the legislative body of City of Modesto Community Facilities District No. 2021-1 (Woodglen), DOES ORDAIN as follows:

SECTION 1. The above recitals are all true and correct.

SECTION 2. By the passage of this Ordinance, the City Council authorizes and levies special taxes within the Community Facilities District at the rates and in accordance with the methods of apportionment set forth in Attachment A to the Resolution of Formation and which, for reference purposes, is attached hereto as Attachment A and incorporated by this reference (the “Rate and Method”).

SECTION 3. The City’s Community Development Manager shall be responsible for annually preparing, or causing the preparation of, the current roll of special tax levy obligations by assessor’s parcel number on non-exempt property within the Community Facilities District. The City Council or, to the maximum extent permitted by law, the City’s Community Development Manager is authorized to determine the specific special taxes to be levied on each parcel of land in the Community Facilities District, in the manner and as provided in the Rate and Method. In connection with the foregoing, the Administrator of the Infrastructure Financing Program of the City shall take any and all steps necessary in order to deliver to the Stanislaus County Tax Collector, on or before the date specified in Section 53340, a certified list of all parcels subject to the Annual Maintenance Special Tax (as defined in the Rate and Method) levies, including the amount of each such

tax to be levied on each parcel for the applicable tax year. The special taxes to be levied shall not exceed the maximum rates set forth in the Rate and Method, but the special taxes may be levied at lower rates.

SECTION 4. Properties of entities of the state, federal or other local governments shall be exempt from the above-referenced special taxes only to the extent set forth in the Rate and Method, and otherwise shall be subject to tax consistent with the provisions of Section 53317.3 of the Act in effect as of the date of adoption of this Ordinance.

SECTION 5. All of the collections of the special taxes shall be used only as provided for in the Act and the Resolution of Formation. The special taxes shall be levied only so long as needed to accomplish the purposes described in the Resolution of Formation and the Rate and Method.

SECTION 6. The Annual Maintenance Special Tax shall be collected in the same manner as ordinary *ad valorem* taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes as such collection procedure may be modified by law or this City Council from time to time. Notwithstanding the foregoing, the City's Community Development Manager may collect, or cause to be collected, one or more installments of such special taxes by means of direct billing of the property owners within the Community Facilities District if, in the judgment of the City's Community Development Manager, such means of collection will reduce the burden of administering the Community Facilities District or is otherwise appropriate in the circumstances. In such event, such special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

SECTION 7. This Ordinance shall be effective after thirty (30) days from its final passage and adoption.

SECTION 8. 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 City Council of the City of Modesto, California, held on the 6th of July, 2021, by Councilmember Wright who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of July, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: August 12, 2021

ORDINANCE NO. 3732-C.S.

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 the Modesto

Municipal Code is 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.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BANGS AVENUE, between Dale Road and McHenry Avenue *ES10	45 miles per hour	February 1, 2012
BLUE GUM AVENUE, between Morse Road and Carpenter Road	40 miles per hour	December 20, 2019
BRIGGSMORE AVENUE, between Claus Road and Santa Fe Railroad Tracks *ES10	45 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road	50 miles per hour	August 7, 2018

BRIGGSMORE AVENUE, between McHenry Avenue and Coffee Road	45 miles per hour	August 7, 2018
BRIGGSMORE AVENUE, Between Oakdale Road and Claus Road *ES10	50 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Prescott Road and Tully Road *ES10	45 miles per hour	February 3, 2015
BRIGGSMORE AVENUE, between Tully Road and McHenry Avenue	45 miles per hour	August 7, 2018
BRIGHTON AVENUE, between Coffee Road and Locke Road *ES10	30 miles per hour	May 8, 2013
CALIFORNIA AVENUE, between Carpenter Road and Martin Luther King Drive *ES10	30 miles per hour	January 17, 2013
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue	40 miles per hour	December 27, 2019
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard *ES10	40 miles per hour	February 16, 2012
CARPENTER ROAD, between Maze Boulevard and Paradise Road	50 miles per hour	December 20, 2019
CARVER ROAD, between Bangs Avenue and Pelandale Avenue *ES10	35 miles per hour	December 22, 2011

CARVER ROAD, between Pelandale Avenue and Brixton Lane *ES10	30 miles per hour	December 28, 2011
CARVER ROAD, between Brixton Lane and Briggsmore Avenue *ES10	30 miles per hour	December 28, 2011
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue *ES10	30 miles per hour	December 28, 2011
CARVER ROAD, between Orangeburg Avenue and 9th Street *ES10	30 miles per hour	December 28, 2011
CELESTE DRIVE, between Coffee Road and Oakdale Road *ES10	30 miles per hour	May 8, 2013
CLARATINA AVENUE, between Coffee Road and Oakdale Road	55 miles per hour	August 6, 2018
CLAUS ROAD, between Sylvan Avenue and Briggsmore Avenue *ES10	50 miles per hour	January 26, 2012
CLAUS ROAD, between Briggsmore Avenue and Scenic Drive	45 miles per hour	December 19, 2019
CLAUS ROAD, between Scenic Drive and Yosemite Boulevard *ES10	45 miles per hour	January 26, 2012
COFFEE ROAD, between Claratina Avenue and Sylvan Avenue	40 miles per hour	August 6, 2018
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue	40 miles per hour	December 20, 2019
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	December 20, 2019
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	December 20, 2019

COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	December 20, 2019
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue *ES10	35 miles per hour	September 29, 2015
COLLEGE AVENUE, between Princeton Avenue and Needham Avenue *ES10	25 miles per hour	September 29, 2015
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	35 miles per hour	December 27, 2019
CROWS LANDING ROAD, between 7th Street and Hatch Road *ES10	35 miles per hour	May 8, 2013
CROWS LANDING ROAD, between Hatch Road and Whitmore Avenue	40 miles per hour	December 20, 2019
DALE ROAD, northbound and southbound, between Bangs Avenue and Kiernan Avenue*ES10	40 miles per hour	December 20, 2011
DALE ROAD, between Bangs Avenue and Snyder Avenue*ES10	35 miles per hour	February 1, 2012
DALE ROAD, between Snyder Avenue and Veneman Avenue*ES10	35 miles per hour	February 1, 2012
DALE ROAD, between Veneman Avenue and Standiford Avenue*ES10	30 miles per hour	February 1, 2012
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	December 29, 2019

EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	August 8, 2018
EMERALD AVENUE, between Maze Boulevard and California Avenue	35 miles per hour	December 20, 2019
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road *ES10	30 miles per hour	February 22, 2012
FINE AVENUE, between Hillglen Avenue and Merle Avenue *ES10	30 miles per hour	May 8, 2013
FLOYD AVENUE, between Coffee Road and Oakdale Road*ES10	30 miles per hour	February 23, 2012
FLOYD AVENUE, between McHenry Avenue and Coffee Road*ES10	30 miles per hour	February 24, 2012
FLOYD AVENUE, eastbound and westbound, between Oakdale Road and Roselle Avenue*ES10	35 miles per hour	January 26, 2012
FLOYD AVENUE, between Roselle Avenue and Claus Road	40 miles per hour	August 6, 2018
G STREET, between 9 th Street and 17 th Street	25 miles per hour	August 7, 2018
GRANGER AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	December 27, 2019

GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	December 27, 2019
H STREET, between 9 th Street and 17 th Street	25 miles per hour	December 20, 2019
HASHEM DRIVE, between Sylvan Avenue and Oakdale Road*ES10	30 miles per hour	April 23, 2012
HATCH ROAD, between Carpenter Road and Crows Landing Road*ES10	45 miles per hour	February 15, 2012
JEFFERSON STREET, between Maze Boulevard and Paradise Road *ES10	25 miles per hour	March 25, 2015
KANSAS AVENUE, between Morse Road and Rosemore Avenue *ES10	40 miles per hour	March 30, 2015
KANSAS AVENUE, between Rosemore Avenue and Carpenter Road	35 miles per hour	December 20, 2019
KANSAS AVENUE, between Carpenter Road and Emerald Avenue	35 miles per hour	December 20, 2019
KANSAS AVENUE, between Emerald Avenue and Franklin Street*ES10	30 miles per hour	December 20, 2011
KODIAK DRIVE, between La Force Drive and Roselle Avenue *ES10	30 miles per hour	May 8, 2013
LA LOMA AVENUE, between Burney Street and Yosemite Boulevard*ES10	30 miles per hour	March 20, 2012

LAKWOOD AVENUE, between Briggsmore Avenue and Scenic Drive	40 miles per hour	December 20, 2019
LINCOLN AVENUE, between Dry Creek and Yosemite Boulevard*ES10	35 miles per hour	February 15, 2012
MABLE AVENUE, between Coffee Road and Oakdale Road*ES10	30 miles per hour	March 21, 2012
MARTIN LUTHER KING DRIVE, between Maze Boulevard and Paradise Road*ES10	30 miles per hour	February 16, 2012
MCCLURE ROAD, between Dry Creek Drive and Yosemite Ave *ES10	30 miles per hour	January 13, 2013
MERLE AVENUE, between Oakdale Road and Roselle Avenue*ES 10	30 miles per hour	December 23, 2014
MERLE AVENUE, between Roselle Avenue and Claus Road	35 miles per hour	December 20, 2019
MILLBROOK AVENUE, between Sylvan Avenue and Floyd Avenue *ES10	25 miles per hour	January 10, 2013
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	December 27, 2019
MITCHELL ROAD, between Finch Road and the southerly City limits *ES10	50 miles per hour	December 29, 2011
MORRIS AVENUE, between McHenry Avenue and Coffee Road *ES10	30 miles per hour	March 22, 2012
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue*ES10	40 miles per hour	February 22, 2012

MT. VERNON DRIVE, between Prescott Road and College Avenue *ES10	30 miles per hour	February 3, 2010
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue*ES10	35 miles per hour	February 22, 2012
NEEDHAM STREET, between 9th Street and L Street*ES10	35 miles per hour	March 6, 2012
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	February 20, 2019
OAKDALE ROAD, between Claratina Avenue and Sylvan Avenue *ES10	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	45 miles per hour	January 8, 2020
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue *ES10	40 miles per hour	February 3, 2015
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	December 27, 2019
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	35 miles per hour	September 7, 2018
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue*ES10	40 miles per hour	March 21, 2012
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road *ES10	40 miles per hour	March 22, 2012

ORANGEBURG AVENUE, between Coffee Road and Oakdale Road *ES10	35 miles per hour	March 22, 2012
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue*ES10	35 miles per hour	May 17, 2012
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road *ES10	35 miles per hour	May 23, 2013
PARADISE ROAD, between Carpenter Road and Martin Luther King Drive*ES10	35 miles per hour	May 23, 2012
PARADISE ROAD, between Martin Luther King Drive and Washington Street*ES10	30 miles per hour	May 23, 2012
PARKER ROAD, between Santa Fe and Church Street	50 miles per hour	December 19, 2019
PELANDALE AVENUE, between Sisk Road and Dale Road*ES10	45 miles per hour	December 20, 2011
PELANDALE AVENUE, between Dale Road and Prescott Avenue	50 miles per hour	December 20, 2019
PELANDALE AVENUE, between Prescott Avenue and Carver Road	50 miles per hour	December 20, 2019
PELANDALE AVENUE, between Carver Road and Tully Road	50 miles per hour	December 20, 2019
PELANDALE AVENUE, between Tully Road and McHenry Avenue	50 miles per hour	December 20, 2019
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	35 miles per hour	September 28, 2018

PRESCOTT ROAD, between Standiford Avenue and Rumble Road	35 miles per hour	September 28, 2018
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue *ES10	35 miles per hour	March 7, 2013
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard *ES10	30 miles per hour	February 3, 2015
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	September 28, 2018
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	30 miles per hour	September 28, 2018
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	September 14, 2016
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	December 27, 2019
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	December 27, 2019
ROSELLE AVENUE, between Sylvan Avenue and Floyd Avenue	45 miles per hour	December 27, 2019
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	December 27, 2019

ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue	30 miles per hour	September 28, 2018
ROUSE AVENUE, between Colorado Avenue and Neece Drive	30 miles per hour	December 20, 2019
RUMBLE ROAD, between Sisk Road and Conant Avenue	30 miles per hour	August 7, 2018
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	December 27, 2019
RUMBLE ROAD, between Tully Road and McHenry Avenue	30 miles per hour	December 27, 2019
RUMBLE ROAD, between McHenry Avenue and Coffee Road *ES10	30 miles per hour	April 21, 2015
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive	30 miles per hour	December 27, 2019
SCENIC DRIVE, between Burney Street and Coffee Road *ES10	30 miles per hour	April 23, 2012
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	August 7, 2018
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	December 20, 2019
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	40 miles per hour	August 6, 2018
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	August 6, 2018

SIERRA DRIVE, between G Street and 7th Street	30 miles per hour	December 27, 2019
SISK ROAD, between Pelandale Avenue and Standiford Avenue *ES10	40 miles per hour	December 20, 2011
SISK ROAD, between Standiford Avenue and Briggsmore Avenue *ES10	40 miles per hour	December 20, 2011
SNYDER AVENUE, between Dale Road and Prescott Road *ES10	30 miles per hour	March 25, 2015
SNYDER AVENUE, between Prescott Road and Tully Road *ES10	30 miles per hour	April 21, 2015
STANDIFORD AVENUE, between Sisk Road and Prescott Road	45 miles per hour	December 20, 2019
STANDIFORD AVENUE, between Prescott Road and Tully Road	40 miles per hour	December 20, 2019
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	40 miles per hour	December 20, 2019
SUNRISE AVENUE, between Floyd Avenue and Lucern Avenue	30 miles per hour	December 20, 2019
SUTTER AVENUE, between Paradise Road and Robertson Road	30 miles per hour	December 20, 2019
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	45 miles per hour	December 20, 2019
SYLVAN AVENUE, between Coffee Road and Oakdale Road	45 miles per hour	December 20, 2019

SYLVAN AVENUE, between Oakdale Road and Roselle Avenue	50 miles per hour	December 19, 2019
SYLVAN AVENUE, between Roselle Avenue and Claus Road *ES10	45 miles per hour	January 8, 2015
SYLVAN MEADOWS DRIVE, between Dragoo Park Drive and Coffee Road *ES10	25 miles per hour	August 2, 2012
TENAYA DRIVE, between Empire Avenue and the easterly city limit on Tenaya Drive *ES10	30 miles per hour	December 29, 2011
TULLY ROAD, between Bangs Avenue and Standiford Avenue	45 miles per hour	August 6, 2018
TULLY ROAD, between Standiford Avenue and Briggsmore Avenue	35 miles per hour	August 6, 2018
TULLY ROAD, between Briggsmore Avenue and Coldwell Avenue	35 miles per hour	August 6, 2018
TULLY ROAD, between Coldwell Avenue and 9 th Street	25 miles per hour	April 11, 2016
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	40 miles per hour	December 20, 2019
UNION AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	August 7, 2018
VENEMAN AVENUE, between Dale Road and Regency Park Drive	30 miles per hour	August 7, 2018

VIRGINIA AVENUE, between Roseburg Avenue and Needham Street *ES 10	30 miles per hour	December 11, 2010
WHITMORE AVENUE, between Ustick Road and Crows Landing Road	45 miles per hour	December 27, 2019
WHITMORE AVENUE, between Crows Landing Road and Morgan Road	45 miles per hour	December 27, 2019
WOODLAND AVENUE, between Morse Road and Carpenter Road	35 miles per hour	January 2, 2020
WOODLAND AVENUE, between Carpenter Road and 9th Street *ES10	30 miles per hour	March 25, 2015
WOODROW AVENUE, between Tully Road and McHenry Avenue *ES10	30 miles per hour	March 25, 2015
5TH STREET, between L Street and Sierra Drive	35 miles per hour	December 20, 2019
6TH STREET, between M Street and Sierra Drive *ES10	30 miles per hour	February 26, 2015
7TH STREET BRIDGE, between B Street and River Road	25 miles per hour	August 7, 2018
9TH STREET, between Carpenter Road and Tully Road	45 miles per hour	December 20, 2019
9TH STREET, between Tully Road and L Street	35 miles per hour	December 20, 2019
9TH STREET, between D Street and Morton Boulevard	35 miles per hour	December 30, 2019

SCHOOL ZONE REDUCED SPEED LIMITS

BEAR CUB LANE, between Kodiak Dr and Hillglen Avenue	15 miles per hour
BOWIE AVENUE, between School Ave and El Paso Ave	15 miles per hour
CALIFORNIA AVENUE, between Champagne Lane and S. Emerald Ave	15 miles per hour
CONANT AVENUE, between Nancy Ln And W. Rumble Road	15 miles per hour
ELSIE STREET, between Hudson Lane And Sutter Avenue	15 miles per hour
S. EMERALD AVENUE, between California Avenue and Muriel Avenue	15 miles per hour
FINE AVENUE, between Landing Way and Kodiak Drive	15 miles per hour
FINE AVENUE, between Merle Avenue And Sharon Avenue	15 miles per hour
FLOYD AVENUE, between Newport Drive and Vicki Drive	15 miles per hour
HAMMOND STREET, between Robertson Road and Red Pine Drive	15 miles per hour
KODIAK DRIVE, between Litt Road And Fine Avenue	15 miles per hour
KODIAK DRIVE, between Tagura Drive and Bear Cub Lane	15 miles per hour

MAID MARIANE LANE, between Merle Avenue and Sharon Avenue	15 miles per hour
MERLE AVENUE, between Wisdom Way And Walnut Tree Drive	15 miles per hour
MONTEREY AVENUE, between Kerr Avenue and Empire Avenue	15 miles per hour
POUST AVENUE, between Chapparad Place And Kidd Avenue	15 miles per hour
ROBERTSON ROAD, between Pine Tree Lane and Hammond Street	15 miles per hour
W. RUMBLE ROAD, between Conant Avenue and Marvin Gardens	15 miles per hour
W. RUMBLE ROAD, between Park Place and Holiday Lane	15 miles per hour
SCHOOL AVENUE, between Crows Landing Road and Bowie Avenue	15 miles per hour
SHARON AVENUE, between Maid Mariane Lane and Fine Avenue	15 miles per hour
SUTTER AVENUE, between Elsie Street and South Avenue	15 miles per hour
TERESA STREET, between Seasons Way and Grape Avenue	15 miles per hour
WOODROW AVENUE, between Tully Road and Lord Avenue	15 miles per hour

*EXTEND SURVEY 5, 7, 10 years per State of California Department of Transportation, Traffic Operations Policy Directive 09-04.

SECTION 2. SEVERABILITY . If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

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 13th day of July, 2021, by Councilmember Kenoyer who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

ORDINANCE NO. 3732-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 August, 2021, Councilmember Kenoyer, moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Ricci

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: September 3, 2021

ORDINANCE NO. 3733-C.S.

ORDINANCE ADDING SECTION 2-8.10 – “ELECTRONIC FILING DISCLOSURE” TO CHAPTER 8 – “CAMPAIGN REFORM” OF TITLE 2 “ADMINISTRATION” TO THE MODESTO MUNICIPAL CODE RELATING TO ELECTRONIC FILING OF CAMPAIGN DISCLOSURE STATEMENTS AND STATEMENTS OF ECONOMIC INTERESTS (FORM 700)

WHEREAS, Government Code Section 84615 currently provides that a local agency may adopt an ordinance to require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act (commencing with Section 84100 of the Government Code), except an elected officer, candidate, committee, or other person who receives contributions totaling less than \$2,000 and who makes expenditures totaling less than \$2,000 in a calendar year, to file those statements, reports, or other documents online or electronically with the local filing officer; and

WHEREAS, the City intends to enter into an agreement with NetFile, Inc., a vendor approved by the California Secretary of State, to provide an online electronic filing system ("System") for campaign disclosure statements and statements of economic interest forms; and

WHEREAS, the System will operate securely and effectively and will not unduly burden filers. Specifically:

(1) The system will ensure the integrity of the data and includes safeguards against efforts to tamper with, manipulate, alter, or subvert the data; and

(2) the System will only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and

(3) the System will be available free of charge to filers and to the public for viewing filings; and

WHEREAS, the City of Modesto desires to amend the Modesto Municipal Code to add a new Section relating to electronic filing of campaign statements and statements of economic interests.

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

SECTION 1. That the purpose of this Ordinance is to require the filing of Campaign Disclosure Statements and Statements of Economic Interest by elected officials, candidates, staff, consultants or committees to be completed electronically, except where state law does not authorize the City to require electronic filing. The City Council enacts this Ordinance in accordance with the authority granted to cities by state law. This ordinance is intended to supplement, and not conflict with, the Political Reform Act.

SECTION 2. Under Chapter 8 – CAMPAIGN REFORM, Section 2-8.10 – “Electronic Filing Disclosure” is hereby added to read as follows:

(a) Any elected officer, candidate, committee, or other person required to file statements, reports, or other documents (“Statements”) as required by Government Code Chapter 4 – Political Reform Act (commencing with Section 84100) shall file those Statements electronically using the City Clerk’s online system, unless exempt from the requirement to file online pursuant to Government Code Section 84615.

(b) In any instance in which an original Statement must be filed with the California Secretary of State and a copy of that Statement is required to be filed with the City Clerk, the filer may, but is not required to, file the copy electronically.

(c) The online filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d) The online filing system shall only accept a filing in the standardized record format that is developed by the California Secretary of State pursuant to Section 84602(a)(2) of the California Government Code and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(e) The online filing system shall include a procedure for filers to comply with the requirement that they sign Statements under penalty of perjury pursuant to Section 81004 of the Government Code.

(f) Any elected officer, candidate, or committee who has electronically filed a Statement using the City Clerk's online system is not required to file a copy of that document in paper format with the City Clerk.

(g) The City Clerk shall issue an electronic confirmation that notifies the filer that the Statement was received, the notification shall include the date and the time that the Statement was received and the method by which the filer may view and print the data received by the City Clerk. The date of filing for a Statement filed online shall be the day that it is received by the City Clerk.

(h) If the City Clerk's system is not capable of accepting a Statement due to technical difficulties, an elected officer, candidate, or committee shall file that Statement in paper format with the City Clerk.

(i) The online filing system shall enable electronic filers to complete and submit filings free of charge.

(j) The City Clerk's system shall make all the data filed available on the City's webpage in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the City's webpage shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The City Clerk's office shall make a complete, unredacted copy of the Statement, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(k) The City Clerk's office shall maintain, according to the City's Retention Schedule, a secured, official version of each online or electronic Statement which shall serve as the official version of that record for purpose of audits and any other legal purpose.

SECTION 3. The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its adoption

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Modesto, California, held on the 4th day of August, 2021, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal,
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Ricci

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

BY: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of August, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci Wright, Zoslocki, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: September 9, 2021

3809771.1

ORDINANCE NO. 3734-C.S.

AN ORDINANCE AMENDING SECTIONS 10-3.101, 10-4.104, 10-4.115, 10-4.406, 10-5.102, 10-5.103, 10-5.104, 10-6.107 AND 10-9.108 OF CHAPTERS 3, 4, 5, 6, AND 9 OF THE MODESTO MUNICIPAL CODE

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

SECTION 1. AMENDMENT OF CODE. Sections 10-3.101, 10-4.104, 10-4.115, 10-4.406, 10-5.102, 10-5.103, 10-5.104, 10-6.107 and 10-9.108 of Chapters 3, 4, 5, 6, and 9 of Title 10 are hereby amended to read as follows:

Table 3.1-1 Permitted and Conditional Land Uses

Land Use	Zoning Districts										Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
AGRICULTURAL											
Community Gardens	P	P	P	P	P	P	P	P	P	P	See Section 10-2.114
Fruit and nut trees, vines, row crops, horticulture stock	P	P	P	P	P	P	P	P	P	P	
RESIDENTIAL											
Accessory Uses											
Animals and Fowl	P	P	P	-	-	-	-	-	-	-	See Section 10-3.202
Garage Sales	P	P	P	-	-	-	-	-	-	-	See Section 10-3.206
Home Business	P	P	P	-	-	-	-	-	-	-	See Section 10-3.207
Personal Cannabis Cultivation	P	P	P	P	P	P	P	P	P	P	See Section 10-3.601 et seq.
Dwellings											
Accessory Buildings	P	P	P	P	P	P	P	P	P	P	See Section 10-4.114
Accessory Dwelling Unit, Junior Accessory Dwelling Unit	P	P	P	-	-	-	-	-	-	-	See Section 10-4.115
Single Family Dwelling	P	P	P	-	-	-	-	-	-	-	In R-1, 1 unit per lot. For corner lots, see Section 10-3.217
Manufactured Homes	P	P	P	-	-	-	-	-	-	-	See Section 10-3.209
Multiple Family	-	P	P	C	C	C	C	-	-	-	See Sections 10-9.1002 b 3, 10-9.1002 b 5, and 10-4.115. ADUs and JADUs are allowed in conjunction with multiple family development on commercial properties for which a CUP has been issued in accordance with Section 10-4.115.
Mobile Home Parks	-	-	-	-	-	-	-	-	-	-	See Section 10-7.103 b 2
Other Residential Uses within Dwellings											
Lodging and Boarding (3 or fewer persons, 1 dwelling)	P	P	P	-	-	-	-	-	-	-	See Section 10-3.208
Lodging and Boarding (4 or more persons, 1 dwelling)	C	C	P	-	-	-	-	-	-	-	See Section 10-3.208
Lodging and Boarding (3 or fewer persons, 2 dwellings on a lot)	-	P	P	C	C	C	C	-	-	-	See Section 10-3.208
Lodging and Boarding (4 or more persons, 2 dwellings on a lot)	-	C	P	C	C	C	C	-	-	-	See Section 10-3.208
CIVIC/INSTITUTIONAL											
Educational Facilities											

Land Use	Zoning Districts											Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2		
School - Private (including charter schools)	C	C	C	P	P	P	P	C	C	C		
School - Public (including charter schools)	C	C	C	P	P	P	P	C	C	C		
School - Vocational	-	-	-	P	P	P	P	P	P	P		
Healthcare Facilities												
Hospital	-	-	-	-	-	P	P	P	P	P		
Substance Abuse Clinic/Facility	-	-	-	P	P	P	P	P	P	P		
Veterinary Hospital (large animals)	-	-	-	-	-	-	-	P	P	P	See Section 10-2.1100	
Veterinary Hospital (small animals)	-	-	-	P	P	P	P	P	P	P	See Section 10-2.1101	
Non-Profit Organization												
No Retail (office, classroom, meeting hall)	C	C	C	P	P	P	P	P	P	P		
Retail	-	-	-	-	P	P	P	P	P	P		
Public Facilities												
Library	-	-	-	P	P	P	P	P	P	P		
Museum	-	-	-	P	P	P	P	P	P	P		
Public Buildings and Grounds (i.e. corporation yard)	C	C	C	C	C	C	C	P	P	P		
Public Facilities, Minor (wells, pumps)	P	P	P	P	P	P	P	P	P	P		
Public Parks	P	P	P	P	P	P	P	P	P	P		
Storm Drainage Facilities	P	P	P	P	P	P	P	P	P	P		
Quasi-Public Facilities												
Cemetery	-	-	-	-	-	-	-	-	-	-	See Section 10-7.103 b 3	
Church (place of worship)	C	C	C	P	P	P	P	P	P	P		
Utilities												
Solar Energy Systems (accessory use)	P	P	P	P	P	P	P	P	P	P	See Section 10-2.187	
Solar Energy Farm	-	-	-	-	-	-	-	-	P	P	See Section 10-2.186	
Utility Company Buildings, Facilities, and Grounds	C	C	C	C	C	C	C	P	P	P		
Utilities and Railroads											See Section 10-3.221	
COMMERCIAL												
Communication												
Broadcasting Studio (radio or television)	-	-	-	-	-	P	P	P	P	P		
Radio or Television Transmitter	-	-	-	-	C	C	C	P	P	P		
Wireless Telecommunication Facilities											See Chapter 3, Article 4	
Entertainment												
Adult Entertainment Business	-	-	-	-	-	-	-	-	P	P	See Chapter 3, Article 3	
Carnival (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Circus (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Entertainment Establishment (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4	
Theater, Motion Picture (indoor)	-	-	-	-	-	P	P	P	P	P		
Commercial Cannabis Uses											See Chapter 3, Article 7	
Commercial Marijuana Activity	-	-	-	-	-	-	-	-	-	-	See Section 10-3.210	
Lodging												
Motel, Hotel	-	-	-	P	P	P	P	P	P	P		
Bed and Breakfast (2 rooms for lodging, owner resides on site)	P	P	P	-	-	-	-	-	-	-		
Office												
General	-	-	-	P	P	P	P	P	P	P	See Section 10-2.159	
Medical	-	-	-	P	P	P	P	P	P	P	See Section 10-2.160	
Outdoor Sales and Activities												
Auction Yard	-	-	-	-	-	-	-	-	P	P		
Commercial												
Certified Farmers' Market	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 a	
Food and Drink Stands	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 b	
Fund Raisers (nonprofit organizations)	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 c	

Land Use	Zoning Districts										Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
Outdoor Dining Areas	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 d
Outdoor Display, major	-	-	-	-	-	P	P	P	P	P	See Section 10-3.212 e (2)
Outdoor Display, minor	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 f
Promotions	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 g
Seasonal Sales (fireworks, pumpkins, Christmas trees)	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 h
Vehicle Food Vendors	-	-	-	-	-	-	-	-	P	P	See Section 10-3.212 i
Flea Market - Indoor	-	-	-	-	-	P	P	P	P	P	
Flea Market - Outdoor	-	-	-	-	-	-	-	-	P	P	
Industrial	-	-	-	-	-	-	-	P	P	P	See Section 10-3.213
Recreational											
Campground, Recreation Vehicle Overnight Park	-	-	-	-	-	-	C	P	P	P	
Health Club	-	-	-	-	P	P	P	P	P	P	
Private Club, Lodge, Social Club, Cultural Center	-	-	-	-	P	P	P	P	P	P	
Recreation Facility - Indoor	-	-	-	-	C	P	P	P	P	P	See Section 10-2.165
Recreation Facility - Outdoor	-	-	-	-	-	C	C	P	P	P	See Section 10-2.166
Recycling (Collection)											
Recycling Facility, Large (more than 500 SF area)	-	-	-	-	-	C	C	P	P	P	
Recycling Facility, Small (500 SF max area)	-	-	-	-	P	P	P	P	P	P	See Section 10-3.215 b
Unattended Containers no more than 50 SF area (in residential zones w/ school, church, or government use)	P	P	P	-	-	-	-	-	-	-	See Section 10-3.215 a
Unattended Containers/Reverse Vending Machine no more than 50 SF area (w/ permitted or conditional use)	-	-	-	P	P	P	P	P	P	P	
Restaurants											
Banquet Hall	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Bar, Cocktail Lounge, Tavern	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/ alcohol)	-	-	-	-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/o alcohol)	-	-	-	-	P	P	P	P	P	P	
Retail											
General Retail	-	-	-	-	-	P	P	P	P	P	See Section 10-2.174
Neighborhood Retail	-	-	-	-	P	P	P	P	P	P	See Section 10-2.175
Services											
General Services											
Ambulance Service	-	-	-	-	-	P	P	P	P	P	
Armored Car Service	-	-	-	-	-	P	P	P	P	P	
Business Services	-	-	-	P	P	P	P	P	P	P	See Section 10-2.178
Car Wash	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Equipment Rental (indoors)	-	-	-	-	-	P	P	P	P	P	
Exterminating Service	-	-	-	-	-	P	P	P	P	P	
Fortune Telling	-	-	-	-	-	P	P	P	P	P	
Funeral Home (includes cremation)	-	-	-	-	-	C	C	P	P	P	
Janitor Service	-	-	-	-	-	P	P	P	P	P	
Kennel	-	-	-	-	-	C	C	P	P	P	
Laboratory (research and testing)	-	-	-	-	-	P	P	P	P	P	
Package Delivery Service	-	-	-	-	-	-	C	P	P	P	
Personal Services	-	-	-	P	P	P	P	P	P	P	See Section 10-2.179
Security Company	-	-	-	-	-	P	P	P	P	P	
Self Storage	-	-	-	-	-	-	C	P	P	P	
Sign Painting Shop	-	-	-	-	-	P	P	P	P	P	
Stone Monument	-	-	-	-	C	C	C	P	P	P	
Taxicab Service	-	-	-	-	-	P	P	P	P	P	
Taxidermist Shop	-	-	-	-	-	P	P	P	P	P	
Towing Services (no impound yard)	-	-	-	-	-	P	P	P	P	P	

Land Use	Zoning Districts											Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2		
Trade Services	-	-	-	-	-	P	P	P	P	P	P	See Section 10-2.182
Repair Services												
Major Repair	-	-	-	-	-	P	P	P	P	P	P	See Section 10-2.180
Minor Repair	-	-	-	-	P	P	P	P	P	P	P	See Section 10-2.181
Social Assistance Services												
Assisted Living Facility	C	C	P	P	P	P	P	-	-	-	-	
Adult Day Care (3 or fewer clients, 1 unit per lot)	P	P	P	-	-	-	-	-	-	-	-	Residential dwelling. Clients plus family members
Adult Day Care (4 or more clients, 1 unit per lot)	C	C	C	-	-	-	-	-	-	-	-	
Adult Day Care (3 or fewer clients, 2 units per lot)	C	C	C	-	-	-	-	-	-	-	-	
Adult Day Care	C	C	C	C	P	P	P	P	P	P	P	Commercial facility
Day Care Home - Small Family (6 or fewer children)	P	P	P	-	-	-	-	-	-	-	-	See Section 10-3.204 a 1
Day Care Home - Large Family (7-14 children)	P	P	P	-	-	-	-	-	-	-	-	See Section 10-3.204 a 2
Child Day Care Home (15 or more children)	C	C	C	-	-	-	-	-	-	-	-	See Section 10-3.204 a 3
Child Day Care Center	C	C	C	C	P	P	P	P	P	P	P	See Section 10-3.204 b
Convalescent and Other Care Facility	C	C	C	C	P	P	P	P	P	P	P	Commercial facility
Emergency Shelter	-	-	-	-	C	C	C	C	C	C	C	See Section 10-3.205
Homeless Shelter	-	-	-	-	C	C	C	C	C	C	C	
Residential Care Facility (6 or fewer persons)	P	P	P	-	-	-	-	-	-	-	-	
Residential Care Facility (7 or more persons)	C	C	C	-	-	-	-	-	-	-	-	
Residential Care Facility (2 or more care facilities)	C	C	C	-	-	-	-	-	-	-	-	See Section 10-3.216
Residential Service Facility (not State licensed)	C	C	C	-	-	-	-	-	-	-	-	
Supportive Housing	P	P	P	P	P	P	P	-	-	-	-	See Section 10-2.192
Transitional Housing	P	P	P	P	P	P	P	-	-	-	-	See Section 10-2.194
Vehicle Related												
Heavy Vehicles												See Section 10-2.198
Farm Equipment Sales, Rental, Repair, & Service	-	-	-	-	-	-	C	P	P	P	P	
Truck & Trailer Sales, Rental, Repair, & Service	-	-	-	-	-	-	C	P	P	P	P	
Light Vehicles												See Section 10-2.199
Minor Maintenance (minor tune up, smog check)	-	-	-	-	C/P	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Parts Store	-	-	-	-	P	P	P	P	P	P	P	
Rental and Sales	-	-	-	-	-	P	P	P	P	P	P	
Repair and Service, Major	-	-	-	-	-	-	-	C/P	C/P	C/P	C/P	See Sections 10-2.199 a and 10-3.222
Repair and Service, Minor	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	C/P	See Sections 10-2.199 b and 10-3.222
Service Station	-	-	-	-	P	P	P	P	P	P	P	
Stereo Installation	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
INDUSTRIAL												
Manufacturing												
Heavy	-	-	-	-	-	-	-	-	-	-	P	See Section 10-2.150
Light	-	-	-	-	-	-	-	-	-	P	P	See Section 10-2.151
Other Manufacturing Involving:												
Chemical Products (Hazardous)	-	-	-	-	-	-	-	-	-	-	C	
Explosives	-	-	-	-	-	-	-	-	-	-	C	
Natural Gas and Gas Products	-	-	-	-	-	-	-	-	-	-	C	
Paper, Pulp, and Wood (no burning operation)	-	-	-	-	-	-	-	-	-	-	C	
Other Industrial												
Animal Slaughter Facility	-	-	-	-	-	-	-	-	-	-	C	
Brewery	-	-	-	-	-	-	-	-	-	P	P	
Microbrewery	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Bulk Fuel Storage (Class II flammable liquids for the power needs of food processing plants)	-	-	-	-	-	-	-	-	-	P	P	
Cabinet Shop	-	-	-	-	-	-	-	P	P	P	P	

Land Use	Zoning Districts										Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
Contracting Business (with equipment and materials yard)	-	-	-	-	-	-	-	P	P	P	
Distributing, Freighting or Trucking Yard	-	-	-	-	-	-	-	-	P	P	
Equipment Rental Yard	-	-	-	-	-	-	-	P	P	P	
Laundry and Dry Cleaning Plant	-	-	-	-	-	-	-	P	P	P	
Machine Shop	-	-	-	-	-	-	-	P	P	P	
Power Plant	-	-	-	-	-	-	-	-	C	P	
Rock Crushing	-	-	-	-	-	-	-	-	-	C	
Sand, Gravel, Brick, and Building Block Yard (no concrete mixing, manufacture or rock crushing)	-	-	-	-	-	-	-	-	P	P	
Sheet Metal Shop	-	-	-	-	-	-	-	P	P	P	
Tire Rebuilding, Recapping, Retreading	-	-	-	-	-	-	-	P	P	P	
Transit and Transportation Equipment Storage Yard	-	-	-	-	-	-	-	-	P	P	
Vehicle Impound Yard	-	-	-	-	-	-	-	P	P	P	
Warehousing	-	-	-	-	-	-	-	P	P	P	
Waste Disposal or Transfer Station	-	-	-	-	-	-	-	-	-	C	
Welding Shop	-	-	-	-	-	-	-	P	P	P	
Wholesale Business	-	-	-	-	-	-	-	P	P	P	
Winery	-	-	-	-	-	-	-	-	-	P	
Recycling Facilities											
Recycling, Junk Handling, Processing and Storage, Heavy	-	-	-	-	-	-	-	-	-	C	
Recycling Processing Facility, Light	-	-	-	-	-	-	-	-	P	P	
Vehicle Salvage, Wrecking	-	-	-	-	-	-	-	-	-	C	
Miscellaneous											
Accessory Uses and Buildings											
Customarily incidental to permitted & conditional uses	P	P	P	P	P	P	P	P	P	P	See Section 10-3.201 a
Incidental Manufacturing, Processing, Packaging, Storage, or Wholesale Sales	-	-	-	-	P	P	P	P			See Section 10-3.201 b
Parking											
Parking Area in residential zone for adjacent nonresidential use in nonresidential zone	C	C	C	-	-	-	-	-	-	-	
Parking Area in P-O zone for adjacent commercial use in commercial zone	-	-	-	P	-	-	-	-	-	-	
Parking Lot or Garage	-	-	-	-	P	P	P	P	P	P	
Recreational Vehicles	P	P	P	P	P	P	P	P	P	P	See Section 10-3.214
Trucks and Truck Trailers in residential zones	-	-	-								See Section 10-3.220
Temporary Buildings											
Construction Buildings	P	P	P	P	P	P	P	P	P	P	See Section 10-3.218
Mobile Living Quarters	P	P	P	-	-	-	-	-	-	-	See Section 10-3.211
Sales Offices and Model Homes	P	P	P	P	P	P	P	P	P	P	See Section 10-3.219
Legend											
P - Permitted Use - Not Permitted C - Conditional Use Note: A blank box means the land use is not applicable and/or refer to notes.											

Chapter 4

DEVELOPMENT STANDARDS

Article 1. - Residential Zones (R-1, R-2, R-3)

10-4.104 - Density.

- (a) In the R-2 Zone, there shall be a minimum density of one (1) dwelling unit per four thousand (4,000) square feet of lot area, for sites smaller than one (1) acre, and a minimum density of approximately eleven (11) dwelling units per net acre for sites one (1) acre or larger. A maximum density of one (1) dwelling unit shall be permitted for each three thousand (3,000) square feet of lot area, for sites smaller than one (1) acre, and a maximum density of approximately fourteen and one-half (14.5) dwelling units per net acre shall be permitted for sites one (1) acre or larger.
- (b) In the R-3 Zone, there shall be a minimum density of more than one (1) dwelling unit per three thousand (3,000) square feet of lot area, for sites smaller than one (1) acre, and a minimum density of more than fourteen and one-half (14.5) dwelling units per net acre for sites larger than one (1) acre. A maximum density of one (1) dwelling unit shall be permitted for each one thousand five hundred (1,500) square feet of lot area, for sites smaller than one (1) acre, and a maximum density of approximately twenty-nine (29) dwelling units per net acre shall be permitted for sites larger than one (1) acre.
- (c) In the R-2 and R-3 zones, the minimum density shall be provided unless the applicant demonstrates and the Director makes the following findings:
 - (1) The proposed development is on an existing lot where the lot cannot accommodate a development of the minimum density due to configuration of existing buildings or shape or size of the lot, or
 - (2) A lower density will not adversely affect the City's ability to accommodate and provide its remaining share of the Regional Housing Needs Allocation for very-low and low-income households based on the remaining acreage of Medium Density Residential (R-2) or Medium-High Density Residential (R-3) zoned land at the time of application, provided, that if an adverse impact as described could otherwise occur, that such impact will be mitigated by one of the following means:
 - (i) An equivalent parcel of land of the same or greater acreage is provided by the applicant and rezoned to the same or greater density simultaneously, or
 - (ii) The applicant agrees to construct and covenant for affordable units on the subject site or another site in a number sufficient to ensure no net loss of units based on the minimum density set forth herein.

10-4.115 - Accessory Dwelling Units.

Table 4.1-3 Accessory Dwelling Unit (ADU) Development Standards

Development Standards	Maximum Square Footage	Notes
RESIDENTIAL ZONE WITH SINGLE FAMILY DWELLING		
Attached or Detached ADU – One bedroom	850	If the accessory unit is attached to the main unit, square footage is limited to no more than 50% of the main unit. If the accessory dwelling unit is 800 sf or less, lot coverage as shown on Table 4.1-1 does not apply.
Attached or Detached ADU – More than one bedroom	1,200	
Junior ADU in Single Family Dwelling	500	See Section 10-4.115 (a)
MULTIPLE FAMILY LOTS		
ADU with Multiple Family Dwelling(s)		See Section 10-4.115 (c) and (d)
SETBACK REQUIREMENTS		
Front (minimum in feet)	25	

Street Side (minimum in feet)		15	
Side and Rear (minimum in feet)			
Main Dwelling	Conversion within dwelling		-
	Expansion	Above garage	5
		1 st Story	4
Detached Building (Garage, Accessory Building)	Existing	Conversion	0
		Expansion 1 st Story	4
	New	Expansion 2 nd Story	5
			4/5
HEIGHT REQUIREMENTS			
ADU (maximum height in stories/feet)		1/16 2/25	If 1 story maximum height is 16 feet. If 2 stories maximum height is 25 feet.

10-4.406 - Walls and Fences.

- (a) **Purpose.** The purpose of this section is to establish regulations governing the location and maximum height of wall and fences within all zoning districts in order to help maintain compatibility between dissimilar uses.
- (b) **Location and Maximum Height.**
- (1) No wall or fence shall exceed eight (8) feet in height, unless additional height is required as a condition of a zone, variance, use permit, development plan review, parcel map, subdivision map, noise mitigation, or other similar action.
 - (2) No wall or fence shall exceed forty-two (42) inches within the front and street side yard areas. In the R-1 zone, the street side setback required for fences taller than forty-two (42) inches is ten (10) feet.
 - (3) Any fence located along the front of any property zoned P-O, C-1, C-2, C-3, C-M, M-1, M-2 or P-D with commercial or industrial underlying zoning, shall meet the applicable front-yard and street-side-yard setback requirements and be constructed of decorative wrought iron or other similar material as authorized by the Director. Any exceptions for existing development may be authorized by the Director.
 - (4) All walls and fences shall comply with the clear vision triangle requirements provided in 10-4.404.
- (c) **Required Walls and Fences.**
- (1) **Parcels Abutting Property Zoned R-1, R-2, R-3 and Residential P-D.** For zones and uses abutting property zoned R-1, R-2, R-3 and Residential P-D walls and fences shall be required as listed in Table 4.4-1 below (even if the properties are separated by an alley). The Director may grant an exception to this requirement for new development in existing neighborhoods where no other similar walls and fences exist.
 - (2) **Back-up Lot.** A minimum seven (7) foot tall solid decorative masonry wall shall be required along the rear yard property line of any single-family residential lot that backs up to an arterial street or expressway where vehicular access to the street is not allowed.

Table 4.4-1 Fence and Wall Requirements

Uses	Minimum Height (in feet)	Type of Fence or Wall
NEXT TO R-1 ZONE		
Multi-family Development with fifteen (15) or more dwelling units	6	Solid decorative masonry wall ^{1,2}
NEXT TO RESIDENTIAL ZONE		
Church	6	Single board fence with decorative masonry pilasters ²
Church-Drive Aisles or Parking	6	Double alternating board fence with decorative masonry pilasters ²
School	7	Solid decorative masonry wall ¹
Modesto Irrigation District Canal or Substation	6	Solid decorative masonry wall ^{1,2}
Uses in P-O Zone	7	Solid decorative masonry wall ¹

Uses in C-1, C-2, C-3, C-M, M-1, M-2 Zones	8	Solid decorative masonry wall ¹
¹ The masonry wall shall be decorative when it is visible from a public street.		
² Six-foot tall fence and wall required as a condition for new development shall be subject to a building permit and meet structural standards approved by the Building Official.		

Chapter 5

PARKING REQUIREMENTS

Article 1. - Off-Street Parking Requirements

10-5.102 - Number of Required Spaces.

Except as otherwise provided in this chapter, or by the Council, Commission or Board as part of rezoning, use permits or other similar applications, the minimum number of required off-street parking spaces shall be provided as shown in Table 5.1-1:

Table 5.1-1 Parking Requirements

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1 2}	
RESIDENTIAL			
Single-Family Residential	2 per unit	Same	
Second Unit (Granny Flat)	1 additional space	Same	Per Section 10-3.217(b)
Multiple-Family Residential			
Studio	1 per unit	Same	Lots with 5 or more units shall provide 1 guest parking space per 4 units
1 bedroom	1 per unit	Same	
2 or more bedrooms	2 per unit	Same	
Boarding and Lodging House	1 space per 2 beds	Same	
Residential Care Facility, Residential Service Facility, Family Day Care Home	2 spaces per unit 1 additional space for each employee beyond 2 employees	Same	
Assisted Living	1 space per 4 beds, or 1 space per 4 units	Same	
Emergency/Homeless Shelter	1 space per employee	Same	
Mobile Home Park	As specified per Planned Development Zone approval	Same	
Senior Housing	As required by the designated approving authority	Same	
NON-RESIDENTIAL			
Auction Yard	Less than 10,000 square feet of sales area: 1 space per 1,000 square feet of gross building floor area, plus 1 space for each 2,500 feet of open sales area Greater than 10,000 square feet of sales area: 1 space per 1,000 square feet of gross building floor area, and 1 space for each 10,000 square feet of open sales area in excess of 10,000 square feet	Same	
Banquet Hall	1 space per 50 square feet of floor area used for dancing, assembly, dining and bar area	Same	
Bar	1 space per 60 square feet of drinking area	1 space per 80 square feet of drinking area	
Beauty College	2.5 space per training station	Same	
Bingo	1 space per 4 seats	Same	
Car Wash, Automatic	4 spaces, plus an additional dedicated space adjacent to each air, water and vacuum facility	Same	

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1 2}	
Car Wash, Full Service	10 spaces or 3 times the internal washing capacity, whichever is greater.	Same	Additional spaces may be required by the designated reviewing authority
Car Wash, Self Service	1 space per 2 washing bays.	Same	
Cemetery	As specified per Planned Development Zone approval	Same	
Child Day Care, Commercial	1 space per 5 children		
Church or Place of Worship	1 space per 4 seats or 1 space per 50 square feet for non-fixed seats in the building with largest capacity	1 space per 70 square feet for non-fixed seats in the building with largest capacity	
Equipment Rental Yard	1 space per 300 square feet of gross building area, plus 1 space per 1,000 square feet of outdoor equipment storage area	Same	
Emergency Shelter	1 space per employee	Same	
Flea Market (outdoor)	1 space per 200 square feet of sales area	Same	
Health Club, Swimming Pool, Tennis Court	1 space per 200 square feet of gym active area, 1 space per 300 square feet of pool area, 2 spaces per tennis court	1 space per 500 square feet of gym area, 1 space per 500 square feet of pool area, 1 space per tennis court	
Hospital	1.75 spaces per bed	1.5 spaces per bed	
Motel, Hotel	1 space per guest room. Additional spaces for restaurants, meeting facilities, and related uses	Same	
Library	1 space per 300 square feet	1 space per 500 square feet	
Manufacturing	1 space per 600 square feet	Same	
Motor Vehicle Repair, Machinery Repair	1 space per 300 square feet	1 space per 600 square feet	
Mortuary or Funeral Home	1 space per 4 seats in largest room use for services	1 space per 5 seats in largest room use for services	Tandem spaces may be counted
Museum	1 space per 500 square feet	Same	
Office, Medical or Dental	1 space per 200 square feet	Same	
Office or Service Business	1 space per 300 square feet	1 space per 500 square feet	
Recreation Facility, Indoor	1 space per 300 square feet	1 space per 500 square feet	
Recreational Facility, Outdoor	10 spaces per usable recreation acre	Same	
Recycling Collection	1 space per 300 square feet	Same	
Restaurant	1 space per 60 square feet of dining area	1 space per 80 square feet of dining area	
Restaurant, Outdoor Seating	1 to 12 seats: No parking required	No parking required	
	More than 12 seats: 1 space per 4 seats		
Retail Business	1 space per 300 square feet	1 space per 500 square feet	
Sanitarium, Nursing Home, 24 hour care facility	1 space per 4 beds plus parking as required for proprietor's dwelling	Same	
School, Elementary, Middle, Junior High	1.5 spaces per classroom, plus 1 space per 300 square feet of office area		The designated reviewing authority may approve the joint use of spaces pursuant to Section 10-5.104 for churches with school facilities
School, High	1 space per 150 square feet of classroom floor area, plus 1 space per 300 square feet of office floor area		
School, College, Professional, Trade, Vocational	1 space per 50 square feet of classroom floor area, plus 1 space per 300 square feet of office area		

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1 2}	
Self Storage	4 spaces, plus 2 spaces for resident manager's quarters	Same	
Shopping Center, five (5) acres or larger	1 space per 300 square feet	1 space per 500 square feet	Changes in use or tenant need not be evaluated. See also 10-5.103 and 10-5.104.
Theaters	1 space per 4 seats	1 space per 5 seats	
Vehicle Sales and Rental, Outdoor	1 space per 300 square feet of building area (includes office, sales, parts, repair etc.)		Customer parking should be delineated on plans
Veterinary Hospital	1 space per 300 square feet including animal runs	1 space per 500 square feet including animal runs	
Warehouse	1 space per 2,000 square feet up to 10,000 square feet, 1 space per 5,000 square feet after 10,000 square feet	Same	
Wholesale	1 space per 300 square feet	1 space per 800 square feet	

¹ For new development in Downtown Zones, see Article 5 of Chapter 7 for required parking spaces.

² See Section 10-2.121 for Downtown Area Map (Amended by Ord. No. 3618-C.S., § 2(Exh. A), effective 6-25-15)

10-5.103 - General Parking Provisions.

(a) **General Requirements.** The following requirements apply when implementing the parking regulations:

- (1) For existing shopping centers that occupy a site of five (5) or more acres, no parking analysis will be required when there is a change of business or tenant. Proposed new development that displaces existing parking on a site of any size must be evaluated in the context of parking availability for the entire shopping center. In no case shall the number of parking stalls provided be less than one (1) parking stall for every 300 square feet of development on the site, except as otherwise provided for in this Chapter (5. Parking Requirements).
 - (2) When the required number of spaces results in a fractional space, it shall be counted as a space if it is one-half (0.5) space or more.
 - (3) When a parking requirement is based on square footage, it shall mean gross square footage of the building.
 - (4) When a parking requirement is based on number of seats, number of beds or other similar formula, the number shall be as determined by the Director.
 - (5) Where there are mixed uses, the requirement for spaces shall be the sum of the requirements for each use unless approved for shared use of spaces as set forth below in Section 10-5.104.
 - (6) When a building is removed, any new building on the site shall have spaces provided in accordance with this article
 - (7) When the parking requirement for a use is not listed above, or if the procedure for determining the requirement is not specified, the Director shall determine the applicable requirement or procedure.
- (b) **Compact Spaces.** A maximum of thirty (30) percent of the spaces in a lot may be designated for parking compact cars. Compact spaces shall be identified with the words "Compact" painted on the pavement. Compact spaces shall be distributed throughout a parking area.
- (c) **Location.** All parking shall be located on the site it serves, unless otherwise approved per Section 10-5.104.
- (d) **Bicycle Parking.** Bicycle racks or other secure bicycle parking shall be provided in accordance with the California Green Building Code.

10-5.104 - Off-Site, Shared, and Reduced Parking.

- (a) The Board, Commission and Council may approve off-site parking, reduction in parking, or shared parking facilities for nonresidential buildings or uses in conjunction with a discretionary action that requires Board, Commission, or Council approval. Any request for off-site, reduced, or shared parking with a non-discretionary action such as a development plan review shall be reviewed by the Director. In no case shall the parking requirements be reduced where, based on substantial evidence, there is insufficient off-street parking to meet the needs of the building(s) or use(s). The Board, Commission, Council and/or staff shall be guided by the following criteria in making its determination:

- (1) The applicant shall submit sufficient information to indicate the normal hours of operation of such uses or activities do not substantially coincide or overlap with each other and/or the peak hour parking demand;
- (2) The adjacent or nearby properties will not be adversely affected relative to parking;
- (3) The traffic and pedestrian circulation resulting from the off-site or shared parking approval will not be detrimental to the public health, safety and welfare;
- (4) The development is located near available on-street parking or other public parking areas;
- (5) Transit alternatives are available near the development;
- (6) Mixed-use developments that includes residential and retail or office.

**TABLE 6.1-1
SIGNS PERMITTED IN RESIDENTIAL AND OFFICE ZONES (R-1, R-2, and R-3)**

Allowed Sign Class and Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
BUILDING SIGNS				
RESIDENTIAL USE				
Resident/dwelling name plate	1 per dwelling unit	1 sf	Height of wall	None
NONRESIDENTIAL USE				
Wall (includes canopy)	No limitation on number	0.5 sf in combined area for each linear foot of wall	Ridgeline of the roof, parapet or wall of which the sign is affixed	See Section 10-6.106(d). For conditional uses in the residential zones and for nonconforming uses, shall be externally illuminated and shall face a public street.
FREESTANDING SIGNS				
RESIDENTIAL USE				
Freestanding Gateway	1 per street frontage serving 5 or more dwellings. 2 per entry street for a single-family subdivision.	12 sf each	36 in	Sign copy shall be limited to housing project or subdivision name and logo, street name and address. For sign design, see Section 10-6.109(a).
Directional				
Freestanding, Exterior	1 per street frontage serving 5 or more dwellings	12 sf, plus 4 sf for required street address	6 ft	Sign copy shall be limited to street name and address, housing project name and logo, and/or for sale, rent, or lease.
Freestanding, Interior - Serving 5 or more dwellings	No limitation on number	6 sf each	6 ft	None
NONRESIDENTIAL USE				
Freestanding - P-O Zone Uses	1 per street frontage	24 sf, plus 4 sf for required street address	6 ft	The sign facing the street which provides the street address of the site shall include a street address. See Section 10-6.108(m). For sign design, see Section 10-6.109(a).
Freestanding - School or Church	1 per site	72 sf	20 ft	Conditional Use Permit approval required for sign. Permitted for school campus with 20 acres or greater. For sign design, see Section 10-6.109(a).
Freestanding or Bulletin Board - Conditional Uses in Residential Zones	1 per site	25 sf, plus 4 sf for required street address	6 ft	For school or church, can be part of but not in addition to freestanding sign. Not allowed for a conditional use in a dwelling unit. For sign design, see Section 10-6.109(a).
Directional				
Exterior	1 per driveway or pedestrian walkway	6 sf	6 ft	Sign copy shall be limited to street name and address.
Interior	No limitation on number	12 sf each	6 ft	None
TEMPORARY				
Construction - Freestanding or wall	1 per site	64 sf	10 ft	Shall be removed within 30 days after completion of construction.

Allowed Sign Class and Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Garage sale (for residential uses)	2 per garage sale	3 sf each	5 ft each	Shall be: unlighted; displayed only when sale is actually being conducted; and only installed on private property with the consent of the owner. These signs shall not be placed on street trees, utility poles, or otherwise within public rights-of-way.
Political				
Freestanding - On parcels with a residential structure	No limitation on number	16 sf each, and a maximum combined total of 60 sf	6 ft	Signs shall be unlighted. Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election.
Freestanding - On parcels with no residential structure	No limitation on number	32 sf each, and a maximum combined total of 100 sf	10 ft	
Real estate - Freestanding or wall	1 per street frontage	8 sf each	6 ft	Shall be unlighted. For sale or rent
Window (for nonconforming uses)	No limitation on number	50% of the window on which it is located	Height of window	Shall face a public street; and shall be externally illuminated only, except for neon signs inside of windows.
OTHER SIGNS				
Church	See Section 10-6.108(d)			
Electronic Message Boards	See Section 10-6.108(f)			
Historic	See Section 10-6.108(i)			
Street Address	See Section 10-6.108(m)			
Subdivision Sales	See Section 10-6.108(n)			

TABLE 6.1-2

SIGNS PERMITTED IN NON-RESIDENTIAL ZONES (P-O, C-1, C-2, C-3, C-M, M-1, AND M-2)

Allowed Sign Class and Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
BUILDING SIGNS				
Wall (includes canopy)	No limitation on number	2 sf per linear foot of building frontage	Ridgeline of the roof, parapet or wall of which the sign is to be affixed.	See Section 10-6.106(d).
Marquee or	1 per use. A second marquee sign is allowed if the 2 signs are single-faced, parallel, and placed on opposite ends of the marquee.	48 sf	Ridgeline of the roof, parapet or wall of which the sign is to be affixed.	None
Projecting or	1 per use	48 sf,	8 ft minimum above sidewalk	
Suspended	1 per use	6 sf per side; 12 sf total		
FREESTANDING SIGNS				
Freestanding - Not Freeway Oriented				
Business (single parcel)	One per single street frontage:			For sign design, see Section 10-6.109(a).
	Up to 100 ft frontage	24 sf plus 4 sf for street address	6 ft	
	100 ft up to 200 ft frontage	48 sf plus 4 sf for street address	8 ft	

Allowed Sign Class and Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
	200 ft up to 400 ft frontage	60 sf plus 4 sf for street address	12 ft	
	More than 400 ft frontage	72 sf plus 4 sf for street address	20 ft	
	Additional signs for each 200 ft beyond the first 200 ft single street frontage	48 sf plus 4 sf for street address for each sign	8 ft	Minimum 200 feet sign separation on each parcel
	One per additional street frontage:			
	Up to 100 ft frontage	24 sf plus 4 sf for street address	6 ft	
	More than 100 ft frontage	48 sf plus 4 sf for street address	8 ft	
	Additional signs for each 200 ft beyond the first 200 ft additional street frontage	48 sf plus 4 sf for street address for each sign	8 ft	
	Combined Business (multiple parcels)	One for each frontage:		
Up to 100 ft frontage		48 sf plus 4 sf for street address	8 ft	
100 ft up to 200 ft frontage		60 sf plus 4 sf for street address	12 ft	
More than 200 ft frontage		72 sf plus 4 sf for street address	20 ft	
Additional signs for each 200 ft beyond first 200 ft frontage		48 sf plus 4 sf for street address for each sign	8 ft	Minimum 200 feet sign separation on multiple parcels
Shopping Center	1 for each street frontage of the center	72 sf plus 4 sf for street address	20 ft	See Section 10-6.106(l). For sign design, see Section 10-6.109(a).
	Additional signs for each 400 ft beyond first 200 ft frontage			
	5 acres up to 10 acres	60 sf plus 4 sf for street address	12 ft	Minimum 300 feet sign separation on each center
	10 acres or more	72 sf plus 4 sf for street address	20 ft	
Freestanding - Freeway-Oriented				
Hotel, Motel, Service Station, or Restaurant as a freestanding use	1 per freestanding use	150 sf	35 ft (higher requires CUP by Board)	See Section 6.108(h). For sign design, see Section 10-6.109(a).
Shopping Center	1 per shopping center, 5 up to 20 acres 1 per shopping center, 20 acres plus	300 sf plus 100 sf for center name 700 sf plus 100 sf for center name	50 ft (higher requires CUP by Board)	
Directional				
Exterior	1 per use for each street frontage of the site; 1 allowed on a site with no public street frontage, provided the sign shall be oriented only to the street providing primary site access.	6 sf	6 ft	No business identification, monument type only
Interior	No limitation on number	12 sf	6 ft	No business identification shall be readable from a street

Allowed Sign Class and Types	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Additional Requirements
Restaurant and car wash menu board	2 per site	48 sf	8 ft	Allowed for drive-in restaurants and car washes only
TEMPORARY				
A-frames	See Section 10-6.108(a)			
Banners	See Section 10-6.108(b)			
Construction	1 per site	64 sf	10 ft	None
Flags	See Section 10-6.108(g)			
Political	No limitation on number	32 sf each; and a combined total of 150 sf per site	10 ft	Signs shall be installed no more than 120 days prior to election date and be removed within 10 days after election
Real estate	1 per site	64 sf	10 ft	None
Seasonal (pumpkin, Christmas tree lots)	1 per use	32 sf	12 ft	None
Use without structures (e.g., parking lot, etc.)	1 per use	72 sf	72 sf	None
Window	No limitation on number	50% of the window of which it is located	No limitation	None
OTHER SIGNS				
Church	See Section 10-6.108(d)			
Electronic Message Boards	See Section 10-6.108(f)			
Historic	See Section 10-6.108(i)			
Off-premise Advertising	See Section 10-6.108(j)			
Service Station	See Section 10-6.108(k)			
Street Address	See Section 10-6.108(m)			
Subdivision Sales	See Section 10-6.108(n)			

Chapter 9

ADMINISTRATION

10-9.108 - Expiration.

- (a) Any conditional use permit, variance, development plan review, Planned Development Zone, or other similar action, but not including subdivision map approvals, granted by the Board, Commission, Council or Director becomes null and void if not exercised within the time specified in the resolution or letter. If no time is specified, it becomes null and void after two (2) years of the approval date.
- (b) The Director, upon written request received prior to the date of expiration, or within one (1) year of the date of expiration whether or not any written request has been received, may grant an extension(s) to the development schedule if there is no substantial change in the project. A request for extension involving any substantial change as determined by the Director shall be subject to a new entitlement process.

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 10th day of August, 2021, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci Wright, Zoslocki, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:


By: 
DANA SANCHEZ, Assistant City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

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, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED:


SUE ZWAHLEN, Mayor

ATTEST:


DANA SANCHEZ, Assistant City Clerk

Effective Date: October 7, 2021

ORDINANCE NO. 3735- C.S.

AN URGENCY ORDINANCE AMENDING MODESTO MUNICIPAL CODE SECTION 4-23.02 BY ADDING ADDITIONAL RESTRICTED ITEMS FOR MANNER REGULATIONS AS TO PUBLIC ASSEMBLIES

SECTION 1. FINDINGS

A. The City Council of the City of Modesto hereby finds as follows: revisions to the City's Municipal Code implemented by this Urgency Ordinance are immediately necessary as an emergency measure in order to respond to preserve the public health, safety and welfare. Specifically, the revisions and amendments to Municipal Code Title 4, Chapter 23, Section 4-23.02 included in this Urgency Ordinance are essential and immediately necessary to improve the City's regulation of public assemblies, and thereby ensure the immediate preservation of the public peace, health, safety and general welfare in the City of Modesto.

B. The City Council desires to amend Title 4 entitled "Public Welfare, Safety and Health," Chapter 23, entitled "Restrictions on Use of Specified Items During Public Assembly," by amending Section 4-23.02 to provide additional critically needed rules regulating the use of certain objects that may be weaponized during demonstrations, rallies, protests, counter-protests, picket lines, marches, or assemblies on public property so as to safeguard against violence and promote peaceful assembly for Modesto citizens, police and visitors alike. These regulations serve to deter violence, property damage and any bodily harm to individuals that wish to engage in peaceful protests and demonstrations.

C. In developing this Ordinance, the City Council is mindful of the legal principles relating to regulation of activity in public forums such as sidewalks, streets and public parks. The City Council does not intend to unconstitutionally suppress or infringe expressive activities protected by the First Amendment of the United States Constitution or the Liberty of Speech Clause of the California Constitution, but instead is enacting reasonable content-neutral time, place

and manner regulations that address the need to prevent violent, dangerous and hazardous situations from arising and to promote the safety of both the public and the police.

D. The revisions to the City's Municipal Code implemented by this Urgency Ordinance are immediately necessary as an emergency measure in order to respond to recent developments regarding planned public assemblies that are proposed to take place in the City in the coming weeks, including events that have previously lead to significant violence, and which raise serious and alarming safety concerns regarding protecting citizens and police alike from violent disputes, and in order to reduce the threat of serious bodily injury or property damage during this proposed event and for future public events in Modesto. Specifically, the amendments to the City's Municipal Code Title 4, Chapter 23, Section 4-23.02 included in this Urgency Ordinance are essential and immediately necessary to ensure the orderly implementation of restrictions on specified items used at public assemblies to reduce the likelihood of violence and property damage and to ensure the safety of the general public, event attendees, counter-protestors and the police, and thereby ensure the immediate preservation of the public peace, health, safety and general welfare in the City of Modesto.

E. The City supports peaceful protests, demonstrations and events. Unfortunately, some individuals have used protests and other public assembly events as "cover" to commit acts of violence, arson and vandalism. It is the intent of the City in enacting this Urgency Ordinance to ensure that public assembly events are peaceful and safe.

F. At these events, devices such as poles, sticks, signs, wood and metal pipes, bats, chains, projectiles (such as rocks, concrete, pellets and ball bearings), as well as certain types of containers including but not limited to glass bottles, metal containers, balloons, super soakers and toy or replica guns, filled with flammable or noxious substances (such as urine) and aerosol sprays

deployed to cause flames or attack olfactory systems, and other items have been used as improvised weapons resulting in injuries and property damage. Demonstrators have also carried shields, thrown objects at police, used fire accelerant to light fires, used large poles and sticks as weapons to threaten bodily harm and to attack businesses. Rigid-support materials used on signs have frequently been used as weapons and turned upon police officers, marchers, or other demonstrators.

G. In addition, at these events, certain demonstrators also wear equipment specifically intended to facilitate engaging in violence, such as helmets, tactical gear, riot gear, flak jackets, stab/bullet-resistant vests, and load bearing vests. Violent individuals have also used certain tools and equipment in order to prevent law enforcement from maintaining peace and order, including laser pointers, umbrellas to shield activity, and gas masks or other breathing devices designed to overcome the use of the chemical agents disbursed locally by law enforcement to restore order and prevent ongoing violence.

H. The City of Modesto has seen similar occurrences in its jurisdiction. The City Council does not want to take a “wait-and-see” approach. The City Council has a reasonable basis to believe that failing to enact regulations limiting the use of objects that can be weaponized at public assemblies increases the risk that violence will occur at a public event in the City.

I. In past events, participants employed apparel and equipment in an apparent effort to intimidate and physically engage opposing factions.

J. As law enforcement has evolved in response to subjects bent on endangering others and disrupting the exercise of constitutional rights, so have protestor tactics. While existing Modesto Municipal Code guidelines have proven effective in helping provide a safe environment,

observed local behavior and an examination of similar incidents throughout the nation have identified a need for additional safeguards.

K. The City Council desires to amend Chapter 23.02 (9) Restrictions with the addition of “or metal containers” to read “Glass bottles or metal containers, whether empty or filled.”

L. The City Council desires to amend Chapter 23.02 Restrictions with the addition of the following “(14) Any gas masks or similar breathing devices;” “(15) Any impact resistant helmet, including, but not limited to: motorcycle helmets, bicycle helmets, sports helmets, or ballistic helmets;” “(16) Any laser pointing devices;” “(17) Any umbrellas in the absence of rain. During rainy weather an umbrella shall not exceed 16” in its longest dimension when fully collapsed and shall have a blunt end;” “(18) Any professionally manufactured or personally fabricated equipment or clothing designed to be bullet-resistant, fragment-resistant, stab-resistant, or impact resistant, including, but not limited to: riot control gear, sports equipment, bullet-resistant vests, flak jackets, or stab-resistant vests; and” “(19) Load-bearing or similar “tactical” vests designed to carry weapons, tactical equipment, or armor plates, commonly used by law enforcement or military institutions.”

M. The adoption of this Urgency Ordinance is a necessary and critical tool for the City to limit the use of specified items at public assembly events or at any of the various public venues in the City to ensure the safety of the general public and police.

N. It is imperative that individuals engaging in peaceful expressive public activity do so without fear of violence and that law enforcement personnel dedicated to protecting such activity be allowed to do so without suffering injury. This Urgency Ordinance provides a narrowly tailored content-neutral mechanism to reduce the risk of violence at demonstrations, rallies, protests, counter-protests, picket lines, marches, or public assemblies in the City of Modesto.

O. On August 10, 2021, the City Council held a public meeting during which it considered the adoption of this Urgency Ordinance pursuant to California Government Code § 36937 and the Modesto Charter § 716. Both California Government Code § 36937 and Modesto Charter § 716 allow the adoption of such urgency ordinances to take effect immediately to ensure the immediate preservation of the public peace, health, safety and general welfare in the City of Modesto. At the August 10 meeting, the City Council considered a staff report, presentation from staff, public comment and other written materials.

P. The restrictions on use of specified items during public assembly adopted herein are necessary in order to protect the public health, safety and welfare by providing a mechanism to limit and prevent violence and promote peaceful assembly. These are content-neutral time, place and manner restrictions that allow for peaceful public expressive activity. The restrictions are narrowly tailored to address the City's interest in safety and preventing violence and to the extent they burden expressive activity they leave ample alternatives for communication. The regulations make public assembly safer by banning objects that can readily be weaponized without depriving people of the opportunity to demonstrate, rally, protest, counter-protest, picket, march, assemble or otherwise engage in peaceful free speech activities.

SECTION 2. AMENDMENT OF MUNICIPAL CODE.

The City of Modesto Municipal Code Section 4-23.02 "Restrictions" is hereby amended to read as follows (with additions underlined):

Section 4-23.02 Restrictions

- (a) No person shall utilize, carry, or possess the following items or articles while attending or participating in any demonstration, rally, protest, counter-protest, picket line, march, or public assembly:

1. Any length of lumber, wood, or wood lath unless that object is 1/4 inch or less in thickness and 2 inches or less in width, or if not generally rectangular in shape, such object shall not exceed 3/4 inch in its thickest dimension. Both ends of the lumber, wood or wood lath shall be blunt;
2. Any length of metal or plastic pipe, whether hollow or solid; provided, however, that hollow plastic piping not exceeding 3/4 inch in its thickest dimension and not exceeding 1/8 inch in wall thickness, and not filled with any material, liquid, gas or solid may be used solely to support a sign, banner, placard, puppet or other similar expressive display. Both ends of any plastic pipe permissible under this subsection shall be blunt;
3. Signs, posters, banners, plaques or notices, unless such sign, poster, banner, plaque or notice is constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than 1/4 inch in thickness;
4. Baseball or softball bats, regardless of composition or size;
5. Any aerosol spray, tear gas, mace, pepper spray, smoke canisters, or bear repellent;
6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;
7. Weapons such as knives, daggers, swords, sabers or other bladed devices, axes, axe handles, hatchets, billy clubs, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet or BB guns, improvised explosive devices (IEDs), dynamite, conducted electrical weapons (CEWs), including, but not limited to, Tasers or stun guns, metal/composite/wooden knuckles, or any chains greater than 20 inches in length or greater than 1/4 inch in diameter;
8. Balloons, bottles or any other container such as water cannons, super-soakers, or toy or replica firearms filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly;
9. Glass bottles or metal containers, whether empty or filled;
10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources;
11. Shields made of metal, wood, hard plastic or any combination thereof;
12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings; and
13. The wearing of a mask, scarf, bandana or any other accessory or item that covers or partially covers the face shielding the wearer's face from view and conceals the wearer's

identity, except for coverings worn due to religious beliefs, practices or observances or due to medical necessity.

14. Any gas masks or similar breathing devices;
 15. Any impact resistant helmet, including, but not limited to: motorcycle helmets, bicycle helmets, sports helmets, or ballistic helmets;
 16. Any laser pointing devices;
 17. Any umbrellas in the absence of rain. During rainy weather an umbrella shall not exceed 16” in its longest dimension when fully collapsed and shall have a blunt end;
 18. Any professionally manufactured or personally fabricated equipment or clothing designed to be bullet-resistant, fragment-resistant, stab-resistant, or impact resistant, including, but not limited to: riot control gear, sports equipment, bullet-resistant vests, flak jackets, or stab-resistant vests; and
 19. Load-bearing or similar “tactical” vests designed to carry weapons, tactical equipment, or armor plates, commonly used by law enforcement or military institutions.
- (b) It shall be unlawful and a misdemeanor to violate any provisions of this Chapter.
- (c) When feasible, excluding exigent circumstances, a warning shall be issued before enforcement of the provisions of this Chapter. Such warning shall be sufficient if provided orally, by posted signs or by amplified announcement.
- (d) Authorized peace officers, or employees, agents or representatives of the City, shall be exempt from the provisions of this Chapter when such officers, employees, agents or representatives of the City are engaged in official business of the City.
- (e) Nothing in this Chapter shall prohibit the imposition of specific conditions for activities expressly authorized under a permit issued pursuant to Modesto Municipal Code Section 4-8.01 *et seq.* (Regulation of Parades) or prohibit the modification of these provisions for such permits issued pursuant to Section 4-8.01 *et seq.* upon a finding by the Chief of Police that such modification will not impair or threaten public safety.
- (f) Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility or access so that the person may participate in a public protest, demonstration, rally, picket line or public assembly.

SECTION 3. SEVERABILITY.

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City

of Modesto hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION 4. EFFECTIVE DATE/URGENCY.

This Urgency Ordinance shall be passed and adopted at one and the same meeting and shall become effective immediately. The reasons for this urgency are set forth in Paragraphs A-P inclusive.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th, day of August, 2021, by Councilmember Wright, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and ordered printed and published by the following votes:


AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:
BY: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of August, 2021, by Councilmember Wright, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:
BY: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

Effective Date: August 10, 2021

ORDINANCE NO. 3736- C.S.

AN ORDINANCE AMENDING MODESTO MUNICIPAL CODE SECTION 4-23.02 BY ADDING ADDITIONAL RESTRICTED ITEMS FOR MANNER REGULATIONS AS TO PUBLIC ASSEMBLIES

SECTION 1. FINDINGS

A. The City Council of the City of Modesto hereby finds as follows: revisions to the City's Municipal Code implemented by this Ordinance are immediately necessary as an emergency measure in order to respond to preserve the public health, safety and welfare. Specifically, the revisions and amendments to Municipal Code Title 4, Chapter 23, Section 4-23.02 included in this Ordinance are essential and immediately necessary to improve the City's regulation of public assemblies, and thereby ensure the immediate preservation of the public peace, health, safety and general welfare in the City of Modesto.

B. The City Council desires to amend Title 4 entitled "Public Welfare, Safety and Health," Chapter 23, entitled "Restrictions on Use of Specified Items During Public Assembly," by amending Section 4-23.02 to provide additional critically needed rules regulating the use of certain objects that may be weaponized during demonstrations, rallies, protests, counter-protests, picket lines, marches, or assemblies on public property so as to safeguard against violence and promote peaceful assembly for Modesto citizens, police and visitors alike. These regulations serve to deter violence, property damage and any bodily harm to individuals that wish to engage in peaceful protests and demonstrations.

C. In developing this Ordinance, the City Council is mindful of the legal principles relating to regulation of activity in public forums such as sidewalks, streets and public parks. The City Council does not intend to unconstitutionally suppress or infringe expressive activities protected by the First Amendment of the United States Constitution or the Liberty of Speech Clause of the California Constitution, but instead is enacting reasonable content-neutral time, place

and manner regulations that address the need to prevent violent, dangerous and hazardous situations from arising and to promote the safety of both the public and the police.

D. The revisions to the City's Municipal Code implemented by this Ordinance are necessary to respond to recent developments regarding planned public assemblies that are proposed to take place in the City in the coming weeks, including events that have previously lead to significant violence, and which raise serious and alarming safety concerns regarding protecting citizens and police alike from violent disputes, and in order to reduce the threat of serious bodily injury or property damage during this proposed event and for future public events in Modesto. Specifically, the amendments to the City's Municipal Code Title 4, Chapter 23, Section 4-23.02 included in this Ordinance are essential and immediately necessary to ensure the orderly implementation of restrictions on specified items used at public assemblies to reduce the likelihood of violence and property damage and to ensure the safety of the general public, event attendees, counter-protestors and the police, and thereby ensure the immediate preservation of the public peace, health, safety and general welfare in the City of Modesto.

E. The City supports peaceful protests, demonstrations and events. Unfortunately, some individuals have used protests and other public assembly events as "cover" to commit acts of violence, arson and vandalism. It is the intent of the City in enacting this Ordinance to ensure that public assembly events are peaceful and safe.

F. At these events, devices such as poles, sticks, signs, wood and metal pipes, bats, chains, projectiles (such as rocks, concrete, pellets and ball bearings), as well as certain types of containers including but not limited to glass bottles, metal containers, balloons, super soakers and toy or replica guns, filled with flammable or noxious substances (such as urine) and aerosol sprays deployed to cause flames or attack olfactory systems, and other items have been used as improvised

weapons resulting in injuries and property damage. Demonstrators have also carried shields, thrown objects at police, used fire accelerant to light fires, used large poles and sticks as weapons to threaten bodily harm and to attack businesses. Rigid-support materials used on signs have frequently been used as weapons and turned upon police officers, marchers, or other demonstrators.

G. In addition, at these events, certain demonstrators also wear equipment specifically intended to facilitate engaging in violence, such as helmets, tactical gear, riot gear, flak jackets, stab/bullet-resistant vests, and load bearing vests. Violent individuals have also used certain tools and equipment in order to prevent law enforcement from maintaining peace and order, including laser pointers, umbrellas to shield activity, and gas masks or other breathing devices designed to overcome the use of the chemical agents disbursed locally by law enforcement to restore order and prevent ongoing violence.

H. The City of Modesto has seen similar occurrences in its jurisdiction. The City Council does not want to take a “wait-and-see” approach. The City Council has a reasonable basis to believe that failing to enact regulations limiting the use of objects that can be weaponized at public assemblies increases the risk that violence will occur at a public event in the City.

I. In past events, participants employed apparel and equipment in an apparent effort to intimidate and physically engage opposing factions.

J. As law enforcement has evolved in response to subjects bent on endangering others and disrupting the exercise of constitutional rights, so have protestor tactics. While existing Modesto Municipal Code guidelines have proven effective in helping provide a safe environment, observed local behavior and an examination of similar incidents throughout the nation have identified a need for additional safeguards.

K. The City Council desires to amend Chapter 23.02 (9) Restrictions with the addition of “or metal containers” to read “Glass bottles or metal containers, whether empty or filled.”

L. The City Council desires to amend Chapter 23.02 Restrictions with the addition of the following “(14) Any gas masks or similar breathing devices;” “(15) Any impact resistant helmet, including, but not limited to: motorcycle helmets, bicycle helmets, sports helmets, or ballistic helmets;” “(16) Any laser pointing devices;” “(17) Any umbrellas in the absence of rain. During rainy weather an umbrella shall not exceed 16” in its longest dimension when fully collapsed and shall have a blunt end;” “(18) Any professionally manufactured or personally fabricated equipment or clothing designed to be bullet-resistant, fragment-resistant, stab-resistant, or impact resistant, including, but not limited to: riot control gear, sports equipment, bullet-resistant vests, flak jackets, or stab-resistant vests; and” “(19) Load-bearing or similar “tactical” vests designed to carry weapons, tactical equipment, or armor plates, commonly used by law enforcement or military institutions.”

M. The adoption of this Ordinance is a necessary and critical tool for the City to limit the use of specified items at public assembly events or at any of the various public venues in the City for public assembly events to ensure the safety of the general public and police.

N. It is imperative that individuals engaging in peaceful expressive public activity do so without fear of violence and that law enforcement personnel dedicated to protecting such activity be allowed to do so without suffering injury. This Ordinance provides a narrowly tailored content-neutral mechanism to reduce the risk of violence at demonstrations, rallies, protests, counter-protests, picket lines, marches, or public assemblies in the City of Modesto.

O. On August 10, 2021, the City Council held a public meeting during which it considered this Ordinance. At the August 10 meeting, the City Council considered a staff report, presentation from staff, public comment and other written materials.

P. The restrictions on use of specified items during public assembly adopted herein are necessary in order to protect the public health, safety and welfare by providing a mechanism to limit and prevent violence and promote peaceful assembly. These are content-neutral time, place and manner restrictions that allow for peaceful public expressive activity. The restrictions are narrowly tailored to address the City's interest in safety and preventing violence and to the extent they burden expressive activity they leave ample alternatives for communication. The regulations make public assembly safer by banning objects that can readily be weaponized without depriving people of the opportunity to demonstrate, rally, protest, counter-protest, picket, march, assemble or otherwise engage in peaceful free speech activities.

SECTION 2. AMENDMENT OF MUNICIPAL CODE.

The City of Modesto Municipal Code Section 4-23.02 "Restrictions" is hereby amended to read as follows (with additions underlined):

Section 4-23.02 Restrictions

- (a) No person shall utilize, carry, or possess the following items or articles while attending or participating in any demonstration, rally, protest, counter-protest, picket line, march, or public assembly:
 - 1. Any length of lumber, wood, or wood lath unless that object is 1/4 inch or less in thickness and 2 inches or less in width, or if not generally rectangular in shape, such object shall not exceed 3/4 inch in its thickest dimension. Both ends of the lumber, wood or wood lath shall be blunt;
 - 2. Any length of metal or plastic pipe, whether hollow or solid; provided, however, that hollow plastic piping not exceeding 3/4 inch in its thickest dimension and not exceeding 1/8 inch in wall thickness, and not filled with any material, liquid, gas or solid may be used solely to support a sign, banner, placard, puppet or other similar expressive display. Both ends of any plastic pipe permissible under this subsection shall be blunt;

3. Signs, posters, banners, plaques or notices, unless such sign, poster, banner, plaque or notice is constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than 1/4 inch in thickness;
4. Baseball or softball bats, regardless of composition or size;
5. Any aerosol spray, tear gas, mace, pepper spray, smoke canisters, or bear repellent;
6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;
7. Weapons such as knives, daggers, swords, sabers or other bladed devices, axes, axe handles, hatchets, billy clubs, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet or BB guns, improvised explosive devices (IEDs), dynamite, conducted electrical weapons (CEWs), including, but not limited to, Tasers or stun guns, metal/composite/wooden knuckles, or any chains greater than 20 inches in length or greater than 1/4 inch in diameter;
8. Balloons, bottles or any other container such as water cannons, super-soakers, or toy or replica firearms filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly;
9. Glass bottles or metal containers, whether empty or filled;
10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources;
11. Shields made of metal, wood, hard plastic or any combination thereof;
12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings; and
13. The wearing of a mask, scarf, bandana or any other accessory or item that covers or partially covers the face shielding the wearer's face from view and conceals the wearer's identity, except for coverings worn due to religious beliefs, practices or observances or due to medical necessity.
14. Any gas masks or similar breathing devices;
15. Any impact resistant helmet, including, but not limited to: motorcycle helmets, bicycle helmets, sports helmets, or ballistic helmets;
16. Any laser pointing devices;

17. Any umbrellas in the absence of rain. During rainy weather an umbrella shall not exceed 16” in its longest dimension when fully collapsed and shall have a blunt end;

18. Any professionally manufactured or personally fabricated equipment or clothing designed to be bullet-resistant, fragment-resistant, stab-resistant, or impact resistant, including, but not limited to: riot control gear, sports equipment, bullet-resistant vests, flak jackets, or stab-resistant vests; and

19. Load-bearing or similar “tactical” vests designed to carry weapons, tactical equipment, or armor plates, commonly used by law enforcement or military institutions.

- (b) It shall be unlawful and a misdemeanor to violate any provisions of this Chapter.
- (c) When feasible, excluding exigent circumstances, a warning shall be issued before enforcement of the provisions of this Chapter. Such warning shall be sufficient if provided orally, by posted signs or by amplified announcement.
- (d) Authorized peace officers, or employees, agents or representatives of the City, shall be exempt from the provisions of this Chapter when such officers, employees, agents or representatives of the City are engaged in official business of the City.
- (e) Nothing in this Chapter shall prohibit the imposition of specific conditions for activities expressly authorized under a permit issued pursuant to Modesto Municipal Code Section 4-8.01 *et seq.* (Regulation of Parades) or prohibit the modification of these provisions for such permits issued pursuant to Section 4-8.01 *et seq.* upon a finding by the Chief of Police that such modification will not impair or threaten public safety.
- (f) Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility or access so that the person may participate in a public protest, demonstration, rally, picket line or public assembly.

SECTION 3. SEVERABILITY.

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Modesto hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

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, 2021, by Councilmember Ricci, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following votes:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: *Sue Zwahlen*
SUE ZWAHLEN, Mayor

ATTEST:

BY: *Stephanie Lopez*
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: *Jose M. Sanchez*
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of September, 2021, by Councilmember Kenoyer, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Zoslocki,
Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

BY: 
for STEPHANIE LOPEZ, City Clerk

(SEAL)

Effective Date: October 7, 2021

ORDINANCE NO. 3737 -C.S.

AN ORDINANCE AMENDING SECTION 27-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(612), PROPERTY LOCATED ALONG THE SOUTH SIDE OF MILLER AVENUE BETWEEN ROSINA AVENUE AND N. CONEJO AVENUE

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

SECTION 1. ZONING CHANGE. Section 27-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(612):

R-2 to P-D(612)

All that real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel 1, of Parcel Map No. 2012-06, filed on February 4, 2013, in Book 56 of Parcel Maps, at Page 87, Stanislaus County Records.

Containing 0.80 acres, more or less.

APN 116-004-069

SECTION 2. USES. The following uses shall be permitted in said P-D(612)

Zone if the plan for construction conforms in principle to the approved plan:

1. 16 two-story apartments, and;
2. R-2 uses

SECTION 3. ZONING MAP. Section Map 27-3-9 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 7th day of September, 2021, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:

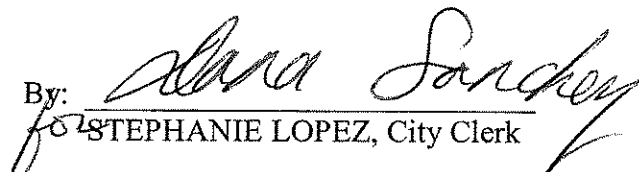
AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Zoslocki,
Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
SUE ZWAHLEN, Mayor

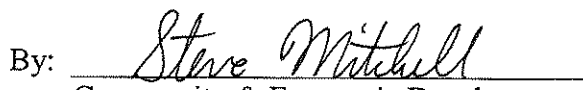
ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

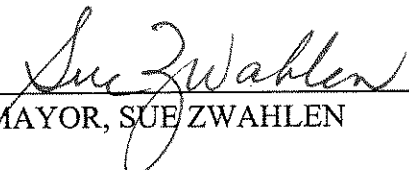
FINAL ADOPTION CLAUSE

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, 2021, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
MAYOR, SUE ZWAHLEN

ATTEST: 
for STEPHANIE LOPEZ, City Clerk

Effective Date: October 14, 2021

ORDINANCE NO. 3738-C.S.

AN ORDINANCE AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(613), PROPERTY LOCATED AT 1400 COFFEE ROAD

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 Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(613):

C-1 to P-D(613)

All that portion of Lot 5 of the Broughton Colony, as per Map filed March 17, 1904 in Volume 1 of Maps, Page 78, Stanislaus County Records, located in the Northwest Quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

COMMENCING at the centerline intersection of Coffee Road and Orangeburg Avenue; thence North 1° 54' 48" West along the centerline of a 90 foot right of way (Coffee Road), a distance of 205.01 feet; thence North 89° 51' 45" East parallel to the centerline of Orangeburg Avenue, a distance of 45.02 feet to the East right of way line of Coffee Road, as said road exists as a 90 foot wide street and the true to the point of beginning of this description; thence continuing North 89° 51' 45" East a distance of 209.16 feet to the point on the Southerly extension of the Westerly right of way line of Water Avenue, a 50 foot public street; thence South 0° 30' 15" East along said Westerly right of way line of Water Avenue, a distance of 174.92 feet to the North right of way line of Orangeburg Avenue, as said Avenue exists as a 60 foot right of way; thence South 89° 51' 45" West along the aforementioned North right of way line of Orangeburg Avenue, a distance of 190.31 feet; thence along a curve concave to the Northeast having a radius of 15.00 feet through a central angle of 88° 13' 27" a curve distance of 23.10 feet; thence North 1° 54' 48" West along the East right of way line of Coffee Road, as said road exists as a 90 foot street, a distance of 160.46 feet to the true point of beginning.

Together with all right, title and interest, if any, in and to the streets, road and highways adjacent to the premises.

Containing 0.825 acres, more or less.

APN 032-008-006

SECTION 2. USES. The following uses shall be permitted in said P-D(613)

Zone if the plan for construction conforms in principle to the approved plan:

1. Gas station and convenience store;
2. Automatic car wash and vacuums; and
3. C-1 uses.

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 7th day of September, 2021, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:


By: 
per STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

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, 2021, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
MAYOR, SUE ZWAHLEN

ATTEST: 
for STEPHANIE LOPEZ, City Clerk

Effective Date: October 14, 2021

ORDINANCE NO. 3739-C.S.

AN ORDINANCE AMENDING TITLE 10 OF MODESTO MUNICIPAL CODE TO AMEND SECTIONS 10-3.101, 10-3.210, AND 10-3.212 REGARDING MOBILE FOOD FACILITIES

WHEREAS, mobile food facilities are currently allowed only in the industrial zones; and

WHEREAS, the proposed amendment would allow mobile food facilities in the commercial zones with a mobile food facility permit; and

WHEREAS, a public hearing was held by the Planning Commission on September 13, 2021, in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed code amendment addressing regulations for mobile food facilities is exempt from CEQA pursuant to CEQA Guidelines Section 15061 (b) (3) of the State CEQA Guidelines that exempts any projects where it can be seen with certainty that it would not have any significant effect on the environment; and

WHEREAS, after a public hearing held on September 13, 2021, it was found and determined by the Planning Commission that the code amendment will not be detrimental to the public health, safety or welfare because the proposed amendments include operational requirements to address compatibility with surrounding uses, the requested code amendment will result in an orderly planned use of land because the amendment would allow a mobile retail activity in commercial zones which helps provide a variety of goods and services consistent with the purpose and intent of the commercial zones; and

WHEREAS, the requested code amendment is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because proposed amendments will result in regulations consistent with the Urban Area General Plan Chapter III regarding land use goals and policies because the proposed amendments help provide a range of commercial uses consistent with applicable Urban Area General Plan content; and

WHEREAS, by Resolution No. 2021-18, adopted on September 13, 2021, the Planning Commission recommended to the Council that the proposed amendment to Sections 10-3.101, 10-3.210, and 10-3.212, of the Modesto Municipal Code, be approved; and

WHEREAS, this code amendment was set for a public hearing on October 26, 2021, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to Sections 10-3.101, 10-3.210, and 10-3.212; and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred; and

WHEREAS, after a public hearing held on October 26, 2021, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The proposed amendment will not be detrimental to the public health, safety or welfare because the proposed amendment include operational requirements to address compatibility with surrounding uses.

2. The proposed amendment will result in an orderly planned use of land because the amendments would allow a mobile retail activity in commercial zones which helps provide a variety of goods and services consistent with the purpose and intent of the commercial zones.
3. The proposed amendment is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plan(s) because proposed amendments will result in regulations consistent with the Urban Area General Plan Chapter III regarding land use goals and policies because the proposed amendments help provide a range of commercial uses consistent with applicable Urban Area General Plan content.

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

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 1, “Permitted and Conditional Land Uses,” Section 10-3.101, Table 3.1-1 “Permitted and Conditional Land Uses,” Residential Section, is hereby amended to be read as follows:

Article 1. – Permitted and Conditional uses

10-3.101 - Land Use Table.

The following Land Use Table identifies those uses that are permitted, conditional, and not permitted for each listed zoning district.

(a) The land use symbols shown on Table 3.1-1 have the following meaning:

- (1) "P" indicates that the use is permitted
- (2) "C" indicates that the use is conditional (A conditional use permit is required)
- (3) "-" indicates that the use is not permitted
- (4) The zoning district symbols and corresponding zoning district names are as follows:

R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Medium-High Density Residential
P-O	Professional Office
C-1	Neighborhood Commercial
C-2	General Commercial
C-3	Highway Commercial

C-M	Commercial-Industrial
M-1	Light Industrial
M-2	Heavy Industrial

See Chapter 4, Land Use Regulations, for the definition and purpose and intent of the zoning districts.

(b) Refer to the Chapter 9, Administration, to determine the required application and process for permitted and conditional uses.

(c) Refer to the notes column for additional information.

Table 3.1-1 Permitted and Conditional Land Uses

Land Use	Zoning Districts										Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
COMMERCIAL											
Communication											
Broadcasting Studio (radio or television)	-	-	-	-	-	P	P	P	P	P	
Radio or Television Transmitter	-	-	-	-	C	C	C	P	P	P	
Wireless Telecommunication Facilities											See Chapter 3, Article 4
Entertainment											
Adult Entertainment Business	-	-	-	-	-	-	-	-	P	P	See Chapter 3, Article 3
Carnival (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Circus (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Entertainment Establishment (entertainment permit required)	-	-	-	-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Nightclub	-	-	-	-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203 (also: nightclubs prohibited in Downtown zones)
Theater, Motion Picture (indoor)	-	-	-	-	-	P	P	P	P	P	
Commercial Cannabis Uses											See Chapter 3, Article 7
Commercial Marijuana Activity	-	-		-	-	-	-	-	-	-	See Section 10-3.210
Lodging											
Motel, Hotel	-	-	-	P	P	P	P	P	P	P	
Bed and Breakfast (2 rooms for lodging, owner resides on site)	P	P	P	-	-	-	-	-	-	-	
Office											
General	-	-	-	P	P	P	P	P	P	P	See Section 10-2.159
Medical	-	-	-	P	P	P	P	P	P	P	See Section 10-2.160
Outdoor Sales and Activities											
Auction Yard	-	-	-	-	-	-	-	-	P	P	
Commercial											
Certified Farmers' Market	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 a
Food and Drink Stands	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 b
Fund Raisers (nonprofit organizations)	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 c
Outdoor Dining Areas	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 d
Outdoor Display, major	-	-	-	-	-	P	P	P	P	P	See Section 10-3.212 e (2)
Outdoor Display, minor	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	-	-	-	-	P	P	P	P	P	P	See Section 10-3.212 f
Promotions	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 g

Land Use	Zoning Districts										Notes
	R-1	R-2	R-3	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
Seasonal Sales (fire works, pumpkins, Christmas trees)	P	P	P	P	P	P	P	P	P	P	See Section 10-3.212 h
Mobile Food Facilities	-	-	-	-	P	P	P	P	P	P	See Sections 10-3.210 and 10-3.212 i
Flea Market - Indoor	-	-	-	-	-	P	P	P	P	P	
Flea Market - Outdoor	-	-	-	-	-	-	-	-	P	P	
Industrial	-	-	-	-	-	-	-	P	P	P	See Section 10-3.213

SECTION 2. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 2, “Specific Land Use Regulations,” Section 10-3.210, is hereby added to be read as follows:

Article 2. - Specific Land Use Regulations

10-3.210 Mobile Food Facilities

- (a) **Purpose.** The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity and general welfare by requiring that new and existing mobile food facilities operate on private property(ies) zoned for commercial or industrial uses and provide the community and customers with a minimum level of cleanliness, quality, safety and security.
- (b) **Definitions.**
 - (1) “Commissary” means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:
 - (i) Food, containers or supplies are stored.
 - (ii) Food is prepared or prepackaged for sale or service at other locations.
 - (iii) Utensils are cleaned.
 - (iv) Liquid and solid wastes are disposed, or potable water is obtained.
 - (2) “**Mobile Food Facility**” means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. Mobile Food Facilities include the vending and sales of any food product(s) from a vehicle, trailer, or structure that is not affixed to a permanent foundation and any person(s) conducting mobile food vending business activities.
 - (3) “Persons” means any person, firm, partnership, association or corporation, and includes but is not limited to owners, operators, drivers, workers, employees, lessors and lessees of mobile food facilities.
 - (4) “Vend” or “vending” means the sale of prepared, prepackaged, unprepared and/or unpackaged food or foodstuffs in the context of mobile food facility as defined herein.

Vending generally has the following characteristics:

- (i) Food is ordered and served from a take-out counter that is integral to the mobile food facility, as applicable;
 - (ii) Food is paid for prior to consumption; and,
 - (iii) Food and beverages are served in disposable wrappers, plates or containers for off-site consumption.
- (5) “Vendor” or “operator” means any person who drives, operates, vends, and/or otherwise participates in mobile food vending as described herein.
- (c) **Permit.** A person desiring to engage in mobile food facility operations, as defined by this Section, shall submit a written application on a form(s) acceptable to and provided by the City. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Vendors must have a valid permit in their possession when vending. There must be at least one (1) vendor with a valid permit where vending operations occur. Documentation of property owner consent shall be required prior to permit issuance. A City business license shall also be required, subsequent to mobile food facility permit issuance. The application for a mobile food facility permit shall include, but not be limited to:
- (1) The name, address and telephone number of the applicant.
 - (2) Copy of a government issued photo identification.
 - (3) Copy of the State of California seller's permit number issued by the California Department of Tax and Fee Administration.
 - (4) A description of the type of food to be sold, including whether such foods are prepared on site, whether such foods will require a heating element inside the mobile food facility for food preparation, and the type of heating element, if any.
 - (5) The location at which the mobile food facility is to operate and the proposed dates and times of operation, the physical dimensions of the intended equipment displays, shade covers, tables and chairs, carts, kiosk or other items.
 - (6) A photo of the proposed mobile food facility location, and a legible site plan sketch of the intended setup.
 - (7) The name and location of the commissary or permanent food facility used by the mobile food facility.
 - (8) Agreement by the applicant to indemnify and hold harmless the City, its officers and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant, or by hazardous or negligent conditions maintained at the applicant's sales or vending location.
 - (9) Any such further information that the City deems reasonably necessary.
- (d) **Review Procedure.**
- (1) Upon filing of any mobile food facility application subject to review under this article, planning staff within the Community and Economic Development Department shall make a determination as to completeness of the application and associated information. Planning staff may refer the application and all accompanying maps, drawings, plans, elevations, tabulations and other information to various City departments for review and comment.

- (2) Following a determination that the application is complete, the Director shall review the application for compliance relative to the Modesto Municipal Code and shall, following completion of such review, provide written notice of the decision to the applicant, which may include conditions and corrections required to establish conformance with applicable rules and regulations. A copy of this decision shall be mailed to the owner, if different than the applicant.
- (3) The administrative decision shall be final and effective fifteen (15) days following the date of approval or denial, unless the decision is appealed in writing to the Planning Commission within the 15-day period pursuant to Section 10-9.301.
- (e) **Requirements.** In approving a mobile food facility application, the following requirements apply.
- (1) The use shall be conducted entirely upon private property, on a paved or all-weather surface, and not within any public right-of-way.
 - (2) The use shall not create any demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.
 - (3) The use shall not interfere with pedestrian and vehicular traffic and circulation on the site and public sidewalk.
 - (4) The use shall maintain site circulation for pedestrians and access consistent with the Americans for Disabilities Act.
 - (5) The use shall conform to all applicable building, electrical, fire, plumbing, engineering, solid waste, wastewater, and water quality requirements.
 - (6) No permanent structure(s) may be constructed.
 - (7) No signs, balloons, banners, or flags may be displayed to promote the mobile food facility except those affixed to the mobile food facility vehicle / trailer / cart.
 - (8) No outdoor music, amplified sound, horns, nor any other excessive noise is permitted.
 - (9) Temporary canopies smaller than 120 square feet may be used, to protect customers from sun or rain, and must be removed at the end of each business day.
 - (10) No more than two (2) small tables and ten (10) chairs may be available for dining and must be removed at the end of each business day.
 - (11) The site shall be continuously maintained to be free of weeds, litter, trash and/or debris.
 - (12) The mobile food facility business operator shall maintain a valid City of Modesto business license, and a formal agreement for use of properly operating restrooms within 200 feet of the mobile food facility business operation.
 - (13) A health permit issued by the Stanislaus County Department of Environmental Resources is required prior to any mobile food facility business operations.
 - (14) The use shall not adversely affect any adjacent property, its owners or occupants, nor the surrounding neighborhood
 - (15) Any additional limitations, restrictions, or conditions as required by the Director.
- (f) **Suspension, Revocation.** Any approved mobile food facility permit may be suspended or revoked at the Director's discretion based on lack of compliance with conditions of approval or other applicable regulations or requirements. The permit shall be automatically suspended and may be revoked when the operator's health permit issued by the Stanislaus County Department of Environmental Resources is suspended or revoked for any reason.

SECTION 3. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, "Land Use Regulations," Article 2, "Specific Land Use Regulations," Section 10-3.212, is hereby amended to be read as follows:

10-3.212 - Outdoor Sales and Activities (Commercial).

- (i) **Mobile Food Facility.** Food vendors from a truck, vehicle or trailer are permitted, with an approved mobile food facility permit (see Section 10-3.210, above), in the C-1, C-2, C-3, C-M, M-1 and M-2 zones. Ordinance No. 3724-C.S., which is related to sidewalk vendors, does not apply to Mobile Food Facilities.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061 (b) (3) of the State CEQA Guidelines that exempts any projects where it can be seen with certainty that it would not have any significant effect on the environment

SECTION 9. 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.

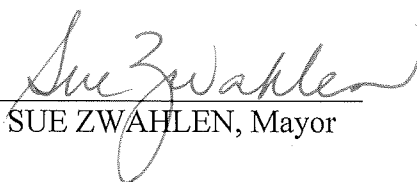
SECTION 10. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 October, 2021, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Wright, Mayor Zwahlen

NOES: Councilmembers: Madrigal, Ricci,

ABSENT: Councilmembers: Zoslocki

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

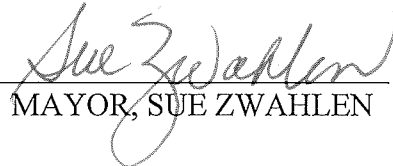
FINAL ADOPTION CLAUSE

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 November 2, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright,
Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

APPROVED: 
MAYOR, SUE ZWAHLEN

ATTEST: 
DANA SANCHEZ, Interim City Clerk

Effective Date: December 2, 2021

ORDINANCE NO. 3740-C.S.

ORDINANCE AMENDING SECTIONS 5-5.103, 5-5.108, 5-5.109 AND 5-5.118 OF TITLE 5, “SANITATION & HEALTH,” CHAPTER 5, “SOLID WASTE,” ARTICLE 1, RELATING TO SOLID WASTE AND ADDING CHAPTER 11” TITLED “ORGANIC WASTE DISPOSAL ” TO TITLE 5, “SANITATION AND HEALTH,

WHEREAS, Senate Bill (SB) 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations; and

WHEREAS, this ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, the requirements of this ordinance are consistent with other adopted goals and policies of the City of Modesto including: Title 5- Chapter 5- Solid Waste; and

WHEREAS, periodically, staff reviews sections of the Modesto Municipal Code relating to Solid Waste to ensure that the terminology used accurately reflects current procedures (such as the laws pertaining to organic recycling) and is consistent with terminology used in the solid waste industry and by the Department of Resources Recycling and Recovery (CalRecycle), the state agency responsible for implementation of the state’s recycling and waste management programs and law; and

WHEREAS, Solid Waste staff has reviewed the Modesto Municipal Code and is recommending a revision to the terminology of Sections 5-5.103, 5-5.108, 5-5.109, 5-5.118 of Chapter 5, of Title 5, as well as the addition of a new Chapter 11, of Title 5, adopting an Organic Waste Disposal ordinance as required by SB 1383 and CalRecycle regulations.

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

SECTION 1. AMENDMENTS:

Title 5, “Sanitation & Health,” Chapter 5, “Solid Waste,” Article 1, “Solid Waste,” Sections 5-5.103, 5-5.108, 5-5.109, and 5-5.118 of the City’s Municipal Code is hereby amended to read as follows:

5-5.103 - Definitions.

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

- (a) "Annexation" means the legal process of including new territory within the incorporated boundaries of the City.
- (b) "Automated collection container" means a standard container designed for automated collection.
- (c) "Black container" means the container used for the purpose of storage and collection of black container waste.
- (d) "Black container waste" means solid waste that is collected in a black container that is part of a two-container organic waste collection service that prohibits the placement of organic waste in the black container.
- (e) "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.
- (f) "Collection" means the collection and transport of solid waste.
- (g) "Collection routes" means streets or areas designated for collection on a particular day/schedule.
- (h) "Collection vehicle" means any vehicle used by the collector for the collection of solid waste.
- (i) "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.
- (j) "Commercial" means occurring in a business zone.
- (k) "Commercial Waste Generator" means a business subject to subdivision (a) of Section 42649.2 of the Public Resources Code.
- (l) "Construction and demolition sites" means sites where construction or demolition activities are taking place.
- (m) "Containerized small green waste" means small green waste set out for collection in a standard container.
- (n) "Customer" shall mean any person, firm or corporation receiving service under the provisions of this chapter.
- (o) "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 Public Works Director.
- (p) "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 Public Works Director, and furnished by a collector.
- (q) "Disposal" means the final disposition of solid waste at a solid waste facility.

- (r) "Drop box container" means a metal box designed for loading upon a vehicle for transportation to a solid waste facility, with a minimum of ten (10) cubic yards' capacity, of a design approved by the Public Works Director, and furnished by a collector.
- (s) "Finance Director" means the Finance Director of the City of Modesto or his/her designee.
- (t) "Garbage" means any solid, liquid, semisolid, or contained gaseous discarded material that is not excluded by this chapter or by regulations adopted pursuant to this chapter.
- (u) "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.
- (v) "Green container" means the container used for the purpose of storage and collection of organic waste.
- (w) "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.
- (x) "Household hazardous waste" means hazardous waste generated at a residential location within the City.
- (y) "Industrial areas" means areas which are zoned industrial by the City's Zoning Code.
- (z) "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.
- (aa) "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.
- (ab) "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.
- (ac) "Large green waste" means shrubbery, brush, tree limbs, tree branches, tree trimmings and similar material, excluding tree limbs larger than six (6) feet in length or six (6) inches in diameter, and any single piece of large green waste weighing more than fifty (50) pounds.
- (ad) "Organic waste" means food waste, cardboard, paper waste, and small green waste.

- (ae) "Organic recycling container" means an organic recycling container to be used for the separate collection and recycling of small green waste and organic waste. Organic recycling container shall also mean a detachable or other container as approved by the Public Works Director, used for the collection and recycling of small green waste from commercial or other customer classes.
- (af) "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.
- (ag) "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.
- (ah) "Public Works Director" means the Public Works Director of the City of Modesto and/or his/her duly authorized agent.
- (ai) "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, plastics, metal, bi-metal, aluminum, and other materials.
- (aj) "Recyclables" means recyclable materials.
- (ak) "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.
- (al) "Recycling collector" means a person, firm, organization or company which the City has authorized to provide recycling service in the City.
- (am) "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.
- (an) "Removal" means transportation and disposal of solid waste by noncustomers in accordance with the provisions of this chapter.
- (ao) "Residential premises" means any dwelling unit; the occupant of which places his/her solid waste in a standard container.
- (ap) "Rubbish" means nonputrescible, useless, unused, unwanted or discarded material or debris, either compostable or noncompostable, which by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.

- (aq) "Salvageable waste" means matter and material which will be reused and which has a property value.
- (ar) "Service area" means the area of the City to be served by a collector as described in the service agreement between City and collector.
- (as) "Small green waste" means leaves, weeds, grass clippings, vines, twigs and other similar soft vegetative materials, and woody prunings from trees no longer than two (2) foot length or six (6) inches in diameter, except that small green waste shall not include large green waste or leaves separated and 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) "Solid waste" means all putrescible and nonputrescible solid, semisolid and liquid waste accumulated or delivered for collection and disposal within the City and includes, but is not limited to, construction debris, demolition debris, and bulky waste. Solid waste does not include hazardous waste or household hazardous waste, designated waste, infectious waste, recyclable materials when recycled, sewage, or abandoned automobiles.
- (au) "Solid Waste Enforcement Officer" means the Solid Waste Enforcement Officer of the City of Modesto.
- (av) "Solid Waste Enforcement Supervisor" means the Solid Waste Enforcement Supervisor of the City of Modesto.
- (aw) "Standard container" means a black or green 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 Public Works Director, or such other disposal unit approved by the Public Works Director, and supplied by the solid waste collector to its residential customers. The Public Works Director shall make the determination of what size container a residential customer receives.
- (ax) "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.
- (ay) "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.
- (az) "Term" means the length of an agreement entered under the terms of this chapter.

5-5.108 - Containers Required.

1. It shall be unlawful for any person occupying any premises within the City, or for any person, controlling or maintaining any premises within the City where solid waste is created, produced, or accumulated, to fail or neglect to provide a sufficient number of each approved type of standard containers for receiving and holding, without leakage or escape of odors, all solid waste produced, created, or accumulated upon such premises, except as hereinafter

provided; and all such persons shall deposit all such solid waste in the correct containers, and all such containers shall be at all times kept in a good, usable and sanitary condition.

2. Containers shall be kept continuously closed except when solid waste is being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents, and animals to the contents thereof.
3. Garbage, rubbish and/or garbage/recyclables may be deposited in the same black container or detachable container used for black container waste.
4. It shall be unlawful for any person to place anything other than small green waste or organic waste in a green container or detachable container used for organic waste.
5. It shall further be unlawful for any person to place small green waste or organic waste in any black container or detachable container used for black container waste.
6. No standard container shall exceed one hundred (100) pounds in weight when filled for collection or removal, except when detachable or drop box containers are used.

5-5.109 - Number of Containers Required.

All places or premises within the City shall have sufficient containers of the approved type to hold all garbage, garbage/recyclables, and small green waste/organic 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: one (1) black standard container for garbage and recyclables per dwelling unit, and one (1) green standard container for small green waste and organic waste per dwelling unit.
- (b) Three (3) or four (4) family dwellings: one (1) black standard container per dwelling unit for garbage and recyclables, unless a lesser number is authorized by the Public Works Director, and one (1) green standard container for small green waste and organic waste per dwelling unit unless a lesser number is authorized by the Public Works Director
- (c) Apartment Houses and multiple dwelling buildings: One (1) detachable container per building equivalent to one (1) black standard container per dwelling unit for garbage and recyclables, unless a lesser number is authorized by the Public Works Director and one (1) detachable container per building equivalent to one (1) green standard container per dwelling unit for small green waste and organic waste collection unless a lesser number is authorized by the Public Works Director.
- (d) Motel, hotel, trailer park, or mobile home park: One (1) black standard container for garbage and garbage/recyclables per unit or space, unless a lesser number is

authorized by the Public Works Director, and one (1) green standard container or detachable container for small green waste and organic waste per unit or space unless a lesser number is authorized by the Public Works Director.

- (e) Commercial place or premises: not less than one (1) detachable container per building equivalent to one (1) black standard container for garbage and recyclables, and one (1) detachable container(s) unless a lesser number is authorized by the Public Works Director, and one (1) detachable container per building equivalent to one (1) green standard container or detachable container for small green waste and organic waste collection per building unless a lesser number is authorized by the Public Works Director.
- (f) Enclosures Required: For multifamily apartment houses, multiple dwelling buildings, commercial and industrial premises, one (1) enclosure per building in compliance with the Garbage Enclosure & Container standards set forth by the Council on August 9, 2005 (Resolution #2005-404), unless a lesser number is authorized by the Public Works 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 standard container, detachable container or drop box container by two (2) or more customers upon approval of the Public Works Director.

5-5.118 – Self-Haul Requirements.

Notwithstanding the provisions of Section 5-5.117:

- (a) Any person may remove or may cause to be removed from premises occupied by that person or under their control, all solid waste created or produced on such premises if all of the following conditions have been met or will be complied with:
 - (1) 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 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 Public Works Director, 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) Organic waste, large green waste and small green waste shall be separated from garbage and taken to a permitted composting facility or such other locations as defined in 5-11.108 as directed by the Public Works Director.
 - (x) 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. A 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 moneys 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 ($\frac{1}{4}$) 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.

- (b) 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.
- (c) 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.
- (d) 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 small green waste, rubbish or salvageable waste produced as an incident to such business. It shall be unlawful to dispose of small green waste, organic waste and recyclable waste. These materials shall be taken to an approved recycling or compost facility locations as defined in 5-11.108 unless otherwise approved by the Public Works Director.

SECTION 2. ADDITIONS:

Title 5, "Sanitation and Health," Chapter 11, "Organic Waste Disposal" shall be

added to read as follows:

5-11.102 – Definitions.

- (a) "Administrative Citation" means a document issued by an enforcement officer to a person violating the provisions of Modesto Municipal Code or applicable state codes.
- (b) "Black Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste.
- (c) "Black Container Waste" means Solid Waste that is collected in a Black Container that is part of a two-container Organic Waste collection service that prohibits the placement of Organic Waste in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).
- (d) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.
- (e) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (f) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of this ordinance.
- (g) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- (h) "Compliance Review" means a review of records by the City to determine compliance with this ordinance.
- (i) "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

- (j) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (k) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (l) “C&D” means construction and demolition debris.
- (m) “Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- (n) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (o) “Enforcement Action” means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (p) “Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City’s, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.
- (q) “Exclusive Service Agreement” – An agreement held by the City for the collection collect of commercial and residential garbage/recyclables and containerized organic waste. The City holds an Exclusive Service Agreement with Bertolotti Disposal Service and Gilton Solid Waste Management.

- (r) “Food Distributor” means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- (s) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- (t) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (u) “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

- (v) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- (w) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (x) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (y) “Food Waste” means Food Scraps and Food-Soiled Paper.

- (z) “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- (aa) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (bb) “Inspection” means a site visit where the City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (cc) “City” means the City of Modesto.
- (dd) “Enforcement Official” means the City Manager, Public Works Director, or their authorized Designee(s) who is/are responsible for enforcing the ordinance.
- (ee) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (ff) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- (gg) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- (hh) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4. and Title 5 Chapter 5 of the Modesto Municipal Code.
- (ii) “Organic Waste” means food waste, cardboard, paper waste and small green waste as defined in 5-5.103(ap).
- (jj) “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- (kk) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (ll) “Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, offset, forms, computer printout paper, white wove envelopes, manila

envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

- (mm) “Prohibited Container Contaminants” means the following:
- (a) Discarded materials placed in a Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green Container.
 - (b) Discarded materials placed in the Black Container that are identified as acceptable Source Separated Green Container Organic Waste, which are to be separately collected in City’s Green Container.
 - (c) Excluded Waste as defined in 5-11.102(p) placed in any container.
- (nn) “Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).
- (oo) “Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (pp) “Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- (qq) “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- (rr) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.
- (ss) “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (tt) “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by

the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

- (uu) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (vv) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:
 - (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
 - (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
 - (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.
- (ww) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Black Container Waste or other Solid Waste for the purposes of collection and processing.
- (xx) "Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator.
- (yy) "State" means the State of California.
- (zz) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarkets with a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
 - (2) Grocery Stores with a total facility size equal to or greater than 10,000 square feet defined as a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
 - (3) Food Service Provider defined as an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
 - (4) Food Distributor defined as a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
 - (5) Wholesale Food Vendor defined as a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).
- (aaa) “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:
- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - (2) Hotel with an on-site Food Facility and 200 or more rooms.
 - (3) Health facility with an on-site Food Facility and 100 or more beds.
 - (4) Large Venue defined as a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large

Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

- (5) Large Event defined as an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

5-11.103- REQUIREMENTS FOR SINGLE-FAMILY GENERATORS.

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 5-11.109:

- (a) Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described below. City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (b) Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - 1) Generator shall place only Source Separated Green Container Organic Waste in a Green Container; and
 - 2) Generator shall place all other materials in a Black Container.

5-11.104- REQUIREMENTS FOR COMMERCIAL BUSINESSES.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- (a) Subscribe to City's two (2) container collection services and comply with requirements of those services as described below in Section 5-5.109 except Commercial Businesses that meet the Self-Hauler requirements in Section 5-11.109. Jurisdiction shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.
- (b) Except Commercial Businesses that meet the Self-Hauler requirements in Section 5-11.109, participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.
 - 1) Generator shall place only Source Separated Green Container Organic Waste in a Green Container.
 - 2) Generator shall place all other materials in a Black Container.
- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsections (d)(1) and (d)(2) below) for employees, contractors, tenants, and customers, consistent with City's Green Container, and Black Container collection service in accordance with Section 5-5.109 or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 5-11.109.
- (d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - (1) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the

requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

- (2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 6(d) pursuant to 14 CCR Section 18984.9(b).
- (f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Green Container, and Black Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 5-11.109.
- (g) Excluding Multi-Family Residential Dwellings, periodically inspect Green Containers, and Black Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste.
- (i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste separate from Black Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with Section 5-11.110 of this ordinance to confirm compliance with the requirements of this ordinance.
- (k) If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 5-11.109 of this ordinance.
- (l) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

- (M) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 5-11.107.

5-11.105. WAIVERS FOR GENERATORS.

- (a) De Minimis Waivers - City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described below. Commercial Businesses requesting a de minimis waiver shall:
- a. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted below.
 - b. Provide documentation that either:
 - i. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - ii. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - c. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - d. Provide written verification of eligibility for de minimis waiver every five years, if City has approved de minimis waiver.
- (b) Physical Space Waivers - City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

- a. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- b. Provide documentation that the premises lacks adequate space for Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
- c. Provide written verification to City that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.
- d. Review and Approval of Waivers will be completed by the Public Works Director and/or their designated agent.

5-11.106 - REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS.

- (a) Tier One Commercial Edible Food Generators must comply with the requirements commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - 1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - 2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - 3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - 4) Allow City's designated Solid Waste Enforcement Officer/Supervisor or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - 5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

- a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- 6) No later than April 1 of each year commencing no later than April 01, 2023 for Tier One Commercial Edible Food Generators and April 01, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City that includes the following information:
- a. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - b. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - c. The established frequency that food will be collected or self-hauled.
 - d. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

5-11.107 - REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES.

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

- (c) Food Recovery Organizations and Food Recovery Services shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1, of each year.

(e) Food Recovery Capacity Planning

- (1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

5-11.108 - REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS.

(a) Requirements for Haulers

- (1) Exclusive Service Agreement haulers providing Residential, Commercial, or Industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - (a) Through written notice to the City annually on or before April 1, of each year identify the facilities to which they will transport Organic Waste including facilities for Source Separating.
 - (b) Transport Source Separated Green Container Organic Waste, to the City of Modesto Composting Facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (c) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.
- (2) Exclusive Service Agreement hauler authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its service agreement, permit, license, or other agreement entered into with City.

(b) Requirements for Facility Operators and Community Composting Operations

- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
- (2) Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

5-11.109 - SELF-HAULER REQUIREMENTS.

- (a) Self-Haulers shall source separate all Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a high diversion organic waste processing facility.
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in 5-11.109 (c) to City if requested.

- (e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 5-11.109 (c) and (d).

5-11.110- INSPECTIONS AND INVESTIGATIONS BY CITY.

- (a) City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for:
 - 1) access to an entity's premises;
 - 2) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- (c) Any records obtained by the City during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) City shall receive written or verbal complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

5-11.111- ENFORCEMENT.

- (a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- (c) Responsible Entity for Enforcement
 - (1) Enforcement pursuant to this ordinance may be undertaken by the Enforcement Official, which may be the City Manager, the Public Works Director, and/or their designated entity, legal counsel, or combination thereof.
 - (2) Enforcement may also be undertaken by a Stanislaus County Enforcement Official, designated by the City, in consultation with Enforcement Official.
 - (a) Enforcement Official(s) and/or County Agency Enforcement Official, will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - (b) Enforcement Official(s) and County Enforcement Official may issue Notices of Violation(s).
- (d) Process for Enforcement
 - 1) Enforcement Officials or County Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program.
 - 2) City may issue an official notification to notify regulated entities of its obligations under the ordinance.

- 3) For incidences of Prohibited Container Contaminants found in containers, City will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication upon identification of the Prohibited Container Contaminants after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in a generator's containers on more than one occasion within a 12-month period, the City may assess contamination penalties on the generator.
- 4) With the exception of violations of generator contamination of container contents addressed under subsection (d)(3) above, City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Section 1-6.305.
- 5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(h) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation within 20-calendar days of the mailing of the citation. A hearing will be held only if it is requested within the time prescribed and consistent with City's procedures in the

City’s codes for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(i) Education Period for Non-Compliance

City will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required and that violations may be subject to administrative civil penalties.

(j) Civil Penalties for Non-Compliance

Prior to or beginning on January 1, 2024, If the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action as needed.

SECTION 3. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

The City Council hereby finds that the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) of the State CEQA Guidelines.

Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new structures or other physical changes to the environment.

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.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23rd day of November, 2021, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DANA SANCHEZ, Interim City Clerk

Effective Date: December 23, 2021

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