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ORDINANCE NO. 2939 -C.S.

AN ORDINANCE AMENDING SECTION MAP 12-3-8 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(346), AS AN ADDITION AND AN AMENDMENT TO P-D(346), PROPERTY LOCATED ON THE NORTH SIDE OF WEST RUMBLE ROAD WEST OF CONANT AVENUE. (TERRY L. MUNDY)

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

SECTION 1. ZONING CHANGE. Section 12-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(346), as an addition and an amendment to P-D(346):

R-1 to P-D(346)

All that certain real property situate in a portion of the Southwest quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Beginning at the Northeast corner of Parcel "A" as shown on that certain official Parcel Map filed in the office of the Recorder of Stanislaus County, California, on February 29, 1984, in Volume 35 of Parcel Maps, at Page 2; thence along the northern prolongation of the east line of said Parcel "A" North 0° 15' 05" West 25.00 feet to the north line of 25.00-foot-wide part width English Oaks Drive also as shown on said Parcel Map recorded in volume 35 of Parcel Maps, at Page 2; thence along the eastern prolongation of the north line of said part width English Oaks Drive North 89° 21' 15" East 80.00 feet; thence leaving the eastern prolongation of the north line of half-width English Oaks Drive, South 0° 15' 05" East 240.00 feet to the north line of original 40.00-foot-wide West Rumble Road; thence along said north line, South 89° 21' 15" west 80.00 feet to the southern prolongation of said east line of aforementioned Parcel "A", thence along said southern prolongation North 0° 15' 05" West

10.00 feet to the Southeast corner of said Parcel "A"; thence along said east line of Parcel "A" North 0° 15' 05" West 205.00 feet to the point of beginning of this description.

Including also all of the north 20.00 feet of the original 40.00-foot-wide West Rumble Road immediately adjacent to the above-described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(346) Zone, as an addition and an amendment to P-D(346), if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Convalescent hospital.
2. Off-street parking as shown on the approved plan.

SECTION 3. ZONING MAP. Section Map 12-3-8 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Patterson


APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

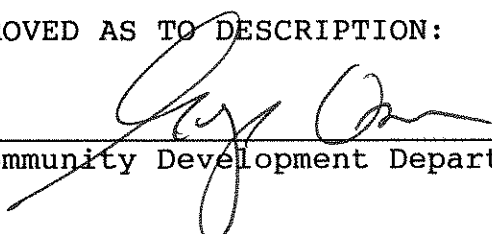
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department

Ord. No. 2939-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of January, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

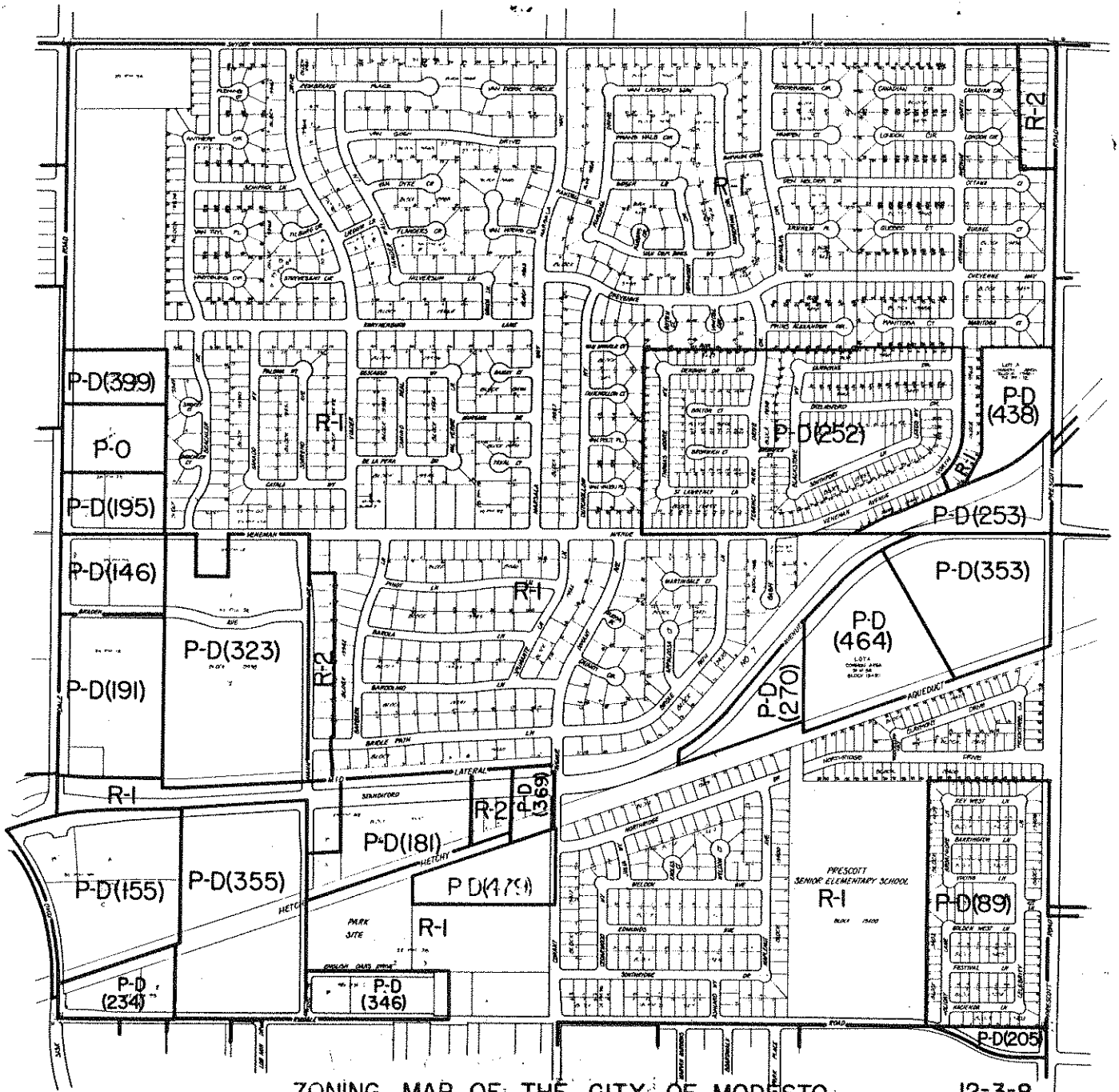
NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 16, 1995



ZONING MAP OF THE CITY OF MODESTO

12-3-8

Corrected 1/19/95

ORDINANCE NO. 2940 -C.S.

AN ORDINANCE AMENDING SECTION 3-5-8 OF THE ZONING MAP TO PREZONE FROM A-2-40 ZONE (COUNTY), TO PREZONED PLANNED DEVELOPMENT ZONE, P-PD(506), PROPERTY LOCATED ON THE WEST SIDE OF JENNINGS ROAD, JUST EAST OF THE CITY OF MODESTO SEWER TREATMENT FACILITY. (PUBLIC WORKS AND TRANSPORTATION DEPARTMENT)

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

SECTION 1. ZONING CHANGE. Section 3-5-8 of the Zoning Map is hereby amended to prezone the following described property from A-2-40 Zone (County), to Prezoned Planned Development Zone, P-PD(506):

A-2-40 to P-PD(506)

All that certain real property situate in Section 3, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

BEGINNING at the northeast corner of Parcel No. 1 of the Jennings Addition to the City of Modesto recorded December 29, 1969, as Instrument No. 42699 in Volume 2308 of Official Records, Page 377, Stanislaus County Records, said point being on the north line of said Section 3, South 89° 34' 35" East 1,720.00 feet from the northwest corner of said Section 3; thence South 27° 08' 03" East on the easterly line of said Jennings Addition, 563.98 feet to the southeast corner of said Jennings Addition' thence continue South 27° 08' 03" East 921.76 feet to a point on the westerly extension of a fence line running easterly; thence along said fence line and its westerly extension South 89° 35' 07" East 1,304.17 feet to the intersection with a fence line running northerly; thence northerly on said fence line the following three (3) courses: 1) North 2° 42' 24" East 593.76 feet; 2) North 89° 53' 19" East 51.49 feet; 3) North 0° 00' 30" West 722.64 feet to the north line of said Section 3; thence on said north line, North 89° 33' 37" West 2,061.24 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(506) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Co-composting biosolids and garden refuse and other wastewater disposal processes.

SECTION 3. ZONING MAP. Section Map 3-5-8 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17th day of January, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, Muratore, Mayor Lang

NOES: Councilmembers: McClanahan

ABSENT: Councilmembers: Patterson

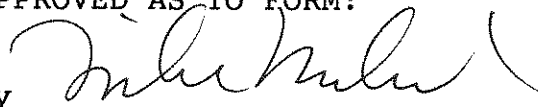
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

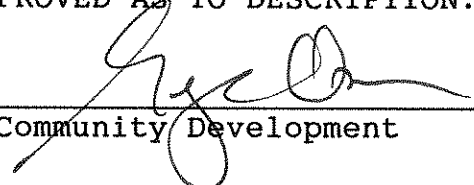
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development

Ord. No. 2940-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 1995, Councilmember Muratore removed its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dibbs, Friedman, Muratore,
Mayor Lang

NOES: Councilmembers: McClanahan

ABSENT: Councilmembers: Patterson

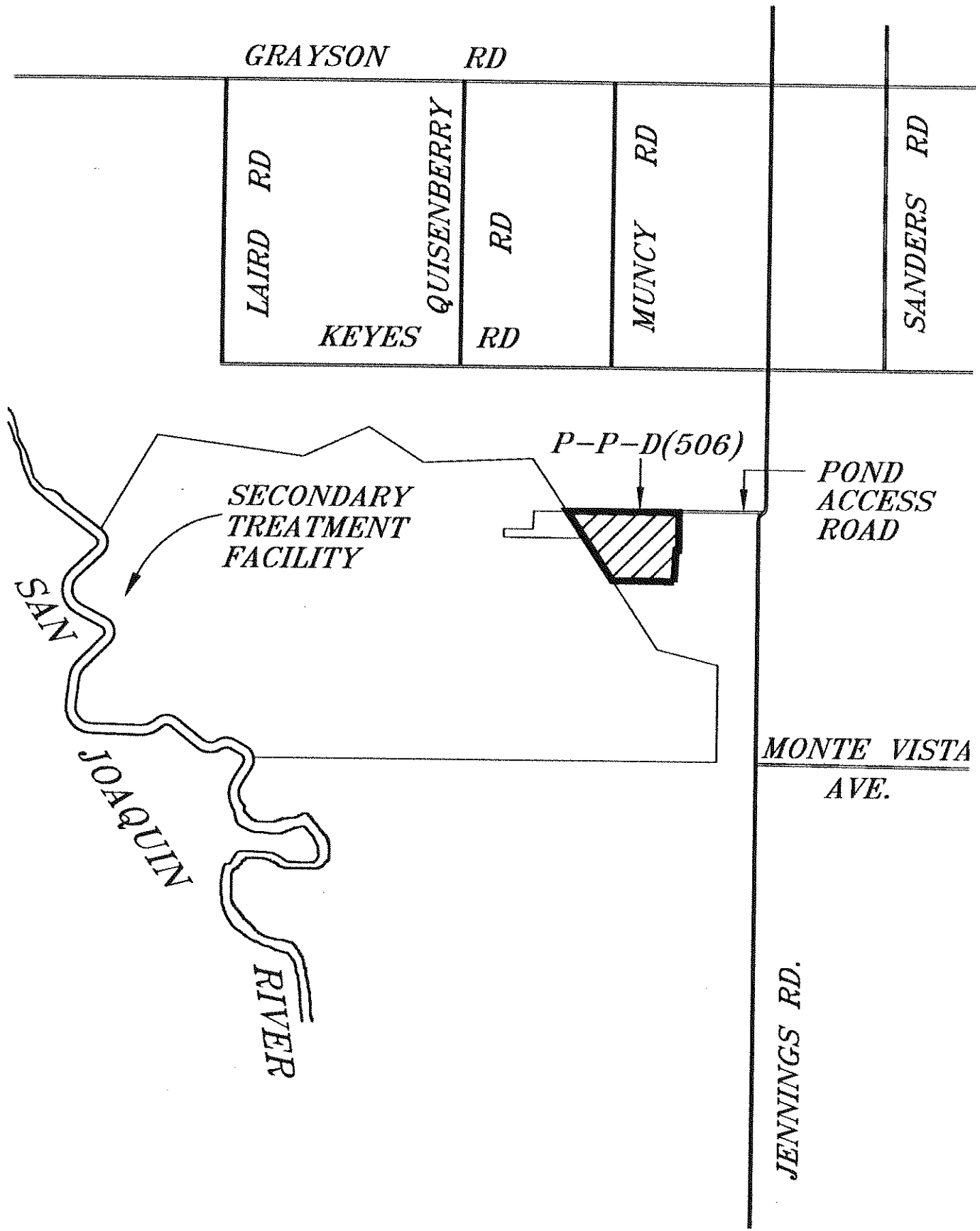
APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 23, 1995



Clerk

ORDINANCE NO. 2941 -C.S.

AN ORDINANCE AMENDING SECTIONS 12-4.201 AND 12-4.202 OF ARTICLE 2 OF CHAPTER 4 OF TITLE XII OF THE MODESTO MUNICIPAL CODE RELATING TO USE OF PARKS.

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

SECTION 1. AMENDMENT OF CODE. Sections 12-4.201 and 12-4.202 of Article 2 of Chapter 4 of Title XII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 12-4.201. DEFINITIONS.

Unless otherwise expressly stated, whenever used in this article, the following words shall be defined as follows:

- (a) **"Park"** shall mean any areas set aside for recreational uses, areas conserved for their scenic interest, playgrounds, beaches, recreation centers, golf courses, model plane fields, and any other areas owned or operated by the City of Modesto and which are intended for active or passive recreational purposes. The word "Park" shall also include any parking lot adjacent to any Park, any buildings, equipment, plants or other facilities located in any Park.
- (b) **"Director"** shall mean the Director of the Parks and Recreation Department of the City of Modesto.
- (c) **"City Council"** shall mean the legislative body of the City of Modesto.
- (d) **"Department"** shall mean the Parks and Recreation Department of the City of Modesto.
- (e) **"City"** shall mean the City of Modesto.

SEC. 12-4.202. GENERAL REGULATIONS GOVERNING USE OF PARKS.

- (a) Except as otherwise authorized by law, it shall be unlawful and an infraction for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any Park owned or operated by the City of Modesto.

- (1) To enter or trespass in any area, building or facility which is fenced and locked or enclosed and locked.
- (2) To ride or bring any horse or other similar animal or to propel a vehicle in or upon any area of a Park, except those areas specifically provided and designated for such purposes, unless prior written permission is obtained from the Director.
- (3) To ride a bicycle unless on trails or pathways designated for bicycle use.
- (4) To drive or operate any motor vehicle in any Park in excess of fifteen (15) miles per hour.
- (5) To park any automobile or other vehicle in any Park at any place other than designated parking areas. Places where parking is permitted shall be designated by appropriate signs.
- (6) To drive or operate any automobile, gasoline-powered go-carts, model airplanes, boats or midget cars in any Park except in designated areas or unless prior written permission is obtained from the Director.
- (7) To clean, wash, polish or make other than emergency repairs upon any automobile, motorcycle or self-driven vehicle in any Park.
- (8) To carry, bring into or ignite, fire or otherwise set off any firearms, air guns, slingshots, firecrackers or fireworks in any Park except those fireworks which are part of organized and permitted special events for which prior written permission to use fireworks has been obtained from the Director.
- (9) To make a fire in any Park other than in stoves, pits or braziers provided by the City unless prior written permission is obtained from the Director and a permit is obtained from the Air Pollution Control District for burning in open pits.
- (10) To bring into any Park any material which will, if spilled or spread, be injurious to the turf or plant growth.

- (11) To cut or remove any wood, turf, rock, tree, flower, shrub, sand or gravel from any Park unless prior written permission is obtained from the Director.
- (12) To throw or dispose of in any Park any bottles, tin cans, broken glass, paper, clothes, cast iron, rubbish, soil, tree trimmings, garbage, ashes or other debris of any kind except in approved containers provided by the City.
- (13) To remove, damage or destroy any athletic equipment provided by the City, normal wear and tear excepted.
- (14) To move or remove from one location to another any part or parts of field equipment.
- (15) To move or remove from one location to another any equipment used for Park maintenance.
- (16) To open or close any valve pertaining to the water mains or sprinkler system or to expose or interfere with any gas pipe, hydrant, stopcock, sewer, catch basin, backflow preventer, or other similar device in any Park.
- (17) To cut, break or deface in any way buildings, equipment, grounds or other facilities of any Park.
- (18) To wound, kill or catch any bird or other wild animal in any Park.
- (19) To indulge in indecent or riotous conduct or language or to otherwise make noises in such a manner as to disturb any picnic, meeting, concert or exhibition in any Park.
- (20) To operate a public address system without prior written permission of the Director. This prohibition shall not include the use of small portable radios used to receive regularly broadcasted programs, as long as such radios are operated at such a volume as not to disturb other persons present in the Park.
- (21) To disturb or interfere with any employee of the City of Modesto acting within the scope of his employment, or to disturb or interfere with any spectator or participant in any event or activity conducted in any Park, or to

enter any Park for the purpose of committing any such disturbance or interference.

- (22) To camp or lodge in or upon any Park unless prior written permission is obtained from the Director.
- (23) To sell refreshments, foodstuffs or novelties in any Park or on any street immediately adjacent thereto without the prior written permission of the Director or the City Council.
- (24) To practice, carry on, conduct or solicit for any trade, occupation, business or profession in any Park without the prior written permission of the City Council.
- (25) To play or engage in any game or contest in any Park except in such places as are specially provided or designated for that purpose.
- (26) To play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes.
- (27) To refuse to open any tennis court being used for singles play to doubles play at the end of the set being played when other persons are waiting, unless prior written permission is obtained from the Director.
- (28) To refuse to relinquish any tennis court being used for doubles play at the end of the set being played when other persons are waiting unless prior written permission is obtained from the Director.
- (29) To use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Director or the City Council.
- (30) To play or engage in the hitting of golf balls in any Park, except on driving ranges and golf courses.
- (31) To ride bicycles through any children's playground area.
- (32) To discard lighted or unlighted cigars or cigarettes in children's playground areas.

- (33) To wade or swim in any pool in any Park except when supervised.
 - (34) To use any Park facility for which a charge is now or hereafter made without first having paid the fee requested and having received the required permit.
 - (35) To enter any Park facility for which a charge is made without first paying the full legal charge made for such entrance unless such entrance is by the consent or permission of the person or persons in charge.
 - (36) To use any Park facility or equipment which has been reserved or which is indicated by an authorized or official sign to have been reserved without first having received the written permission of the Director.
 - (37) To remove any authorized or official sign indicating that any Park facility or equipment is reserved.
 - (38) For any male person to resort to any toilet set apart for women, and for any female person to resort to any toilet set apart for men, provided that this prohibition shall not apply to children accompanied by their father, mother or guardian.
 - (39) It shall be unlawful to climb onto any building or structure in a Park not designated for such activity.
 - (40) To possess any container made of glass in any Park or to bring, carry or transport any container made of glass into any Park except that the sponsor of an organized event may obtain permission from the Department to possess glass containers.
 - (41) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above sections.
- (b) Except as otherwise authorized by law, it shall be unlawful and a misdemeanor for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any Park owned or operated by the City of Modesto.
- (1) No person shall remain in any Park between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

- (2) The prohibitions contained in Section 12-4.202(b)(1) will not apply to:
- (i) Special use facilities, as may be posted by the Department extending use hours;
 - (ii) Any person attending a meeting, entertainment event, recreation activity, dance or similar activity in such Park, provided such activity is sponsored or co-sponsored by the Department or permit therefor, has been issued by the Department;
 - (iii) Any person exiting such Park immediately after the conclusion of any activity set forth in Section 12-4.202(b)(2)(ii);
 - (iv) Any peace officer or employee of the City while engaged in the performance of his/her duties.

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

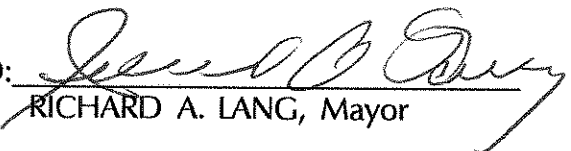
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17th day of January, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2941-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 23, 1995

ORDINANCE NO. 2942 -C.S.

AN EMERGENCY INTERIM ORDINANCE OF THE CITY OF MODESTO ADOPTED PURSUANT TO SECTION 716 AND 722 OF THE MODESTO CITY CHARTER AMENDING EMERGENCY INTERIM ORDINANCE NO. 2927 TO RESTRICT THE AREAS TO WHICH A "DISPLACED" ADULT BUSINESS MAY RELOCATE.

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

SECTION 1. FINDINGS AND DECLARATION OF EMERGENCY.

The Council of the City of Modesto hereby finds that this Ordinance is necessary in order to clarify the rights of "adult businesses," as that term is defined in Section 4 of Emergency Interim Ordinance No. 2927-C.S. (Ordinance No. 2927) which qualify as "displaced persons" within the meaning of Government Code Section 7260(c) and are thereby eligible for relocation assistance pursuant to the provisions of Chapter 16 of Division 4 of Title I of the California Government Code commencing with Section 7260. Section 2(d) of Ordinance 2927 prohibits the relocation of any adult business for a period of three-hundred and sixty-five (365) days from October 4, 1994, the effective date of the Ordinance.

On December 27, 1994, the City Council of the City of Modesto and the Redevelopment Agency of the City of Modesto took a series of actions, including authorizing the execution of a Disposition and Development Agreement with Wilmore/Regent Partnership, a Georgia general partnership, doing business as Wiljan Modesto partnership (the "developer"). Said Agreement, provides for, among other things, the acquisition of certain

property (the "site") located within the City of Modesto, sale of a portion of the site to the developer, retention by the Modesto Redevelopment Agency of a portion of the site, the development by developer of a mixed-use center, including retail uses, cinema complex and office space to be developed on a portion of the site to be conveyed to the developer, a public parking garage to be developed on a portion of the site to be retained by the Modesto Redevelopment Agency, school facilities improvements to be developed by the developer on a portion of the site to be retained by the Modesto Redevelopment Agency which shall be owned by various school districts and City Hall improvements to be developed on a portion of the site to be retained by the Modesto Redevelopment Agency which shall be owned and operated by the City of Modesto¹.

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Council Resolution No. 94-750

Resolution of the City of Modesto Making Findings as to Environmental Impacts and Adopting Statement of Overriding Considerations as to the Plaza Project.

Council Resolution No. 94-751

Resolution of the City Council of the City of Modesto Approving and Authorizing the Execution of a Disposition and Development Agreement Between the Redevelopment Agency of the City of Modesto and the Wilmore/Regent Partnership, a Georgia general partnership, dba Wiljan Modesto Partnership

Council Resolution No. 94-752

Resolution of the City Council of the City of Modesto Approving and Authorizing the Execution of a School Facilities Agreement Between the Redevelopment Agency of the City of Modesto, the Modesto City School District, the Modesto High School District and the Stanislaus County Office of Education and Making Certain Findings Related Thereto

Council Resolution No. 94-753

Resolution of the City Council of the City of Modesto Approving and Authorizing the Execution of a Public Facilities Agreement Between the City and the Redevelopment Agency of the City of Modesto and Making Certain Findings Related Thereto

Agency Resolution No. 17-94

Resolution of the Redevelopment Agency of the City of Modesto Certifying the Supplemental Environmental Impact Report, Making Findings as to Environmental Impacts, and Adopting Statement of Overriding Considerations as to the Plaza Project

As a result of the said actions, adult businesses qualifying as "displaced persons" within the meaning of Government Code Section 7260(c) shall have the right to relocate and therefore are exempt from the relocation prohibition set forth in Section 2(d) of Ordinance 2927.

The Declaration of Emergency set forth in Section 1 of Ordinance 2927 is incorporated herein by reference. Recently, since the actions taken by the City Council of the City of Modesto and the Modesto Redevelopment Agency on December 27, 1994, an adult business presently located on the site and therefore not subject to the relocation prohibition of Ordinance 2927 has expressed an interest in relocating to the 200 block of McHenry Avenue, an area which is immediately adjacent to a residential neighborhood. For the reasons set forth in Section 1 of Ordinance 2927, the City Council finds that the relocation of said business to said area poses an immediate threat to the public peace, health, or safety. The City Council of the City of Modesto further finds for the same

Agency Resolution No. 18-94

Resolution of the Redevelopment Agency of the City of Modesto Approving and Authorizing the Execution of a Disposition and Development Agreement Between the Agency and Wilmore/Regent Partnership, a Georgia general partnership, dba Wiljan Modesto Partnership

Agency Resolution No. 19-94

Resolution of the Redevelopment Agency of the City of Modesto Approving and Authorizing the Execution of a School Facilities Agreement Between the Agency, the Modesto City School District, the Modesto High School District and the Stanislaus County Office of Education and Making Certain Findings Related Thereto

Agency Resolution No. 20-94

Resolution of the Redevelopment Agency of the City of Modesto Approving and Authorizing the Execution of a Public Facilities Agreement Between the Agency and the City of Modesto and Making Certain Findings Related Thereto

reasons that it is necessary to amend Ordinance 2927 to provide for interim zoning regulations applicable to those adult businesses that are so exempt from the relocation prohibition of Ordinance 2927.

SECTION 2. DEFINITIONS. As set forth in this Ordinance the term "adult business" shall be as set forth in Ordinance No. 2927, Section 4.

SECTION 3. Section 2(d) of Ordinance 2927 is hereby amended to read as follows:

"(d) The relocation of any such business unless such business qualifies as a "displaced person" within the meaning of Government Code Section 7260(c) in which case the following restrictions shall apply:

Any such business may relocate in the City of Modesto only to a location zoned either light industrial (M-1) or heavy industrial (M-2) pursuant to Articles 14 and 15, respectively, of Title X of the Modesto Municipal Code provided further that such location is no closer than five-hundred (500) feet from any residential zone or use, park, church, or school, excluding universities and colleges, and not less than fifteen-hundred (1,500) feet from any other such adult business. The distances set forth in the preceding sentence shall be measured as a radius from the primary entrance of the adult business to the property lines of the property so zoned or used.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance for any reason is held invalid and unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDING. The City Council finds that this emergency Ordinance is enacted in order to mitigate an immediate threat to the public peace, health, or safety. Therefore, such action falls within the specific exemption from the California Environmental Quality Act (CEQA) found in Public Resources Code Section 21080(b)(4) and applicable guidelines and no environmental review of this action is required. In addition, it can be seen with certainty that there is no possibility this emergency Ordinance may have a significant effect on the environment, and this Ordinance is exempt from CEQA requirements pursuant to Section 15061(b)(3) of the CEQA guidelines.

SECTION 6. EFFECTIVE DATE. Pursuant to Sections 716 and 722 of the Charter of the City of Modesto, this ordinance shall go into effect and be in full force and operation as of the date of its adoption.

SECTION 7. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth

the title of this ordinance, the date of its adoption and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 1995, by Councilmember Cogdill, who moved its introduction and adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan, Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Clerk

ORDINANCE NO. 2943 -C.S.

AN ORDINANCE AMENDING SECTION 6-4-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, AND NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(507), PROPERTY LOCATED ON THE SOUTHEAST SIDE OF PARADISE ROAD AT MAYETTE AVENUE (SELF-HELP ENTERPRISES)

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

SECTION 1. ZONING CHANGE. Section 6-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, and Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(507):

R-1 to P-D(507)

ALL that portion of the Northeast quarter of Section 6, Township 4 South, Range 9 East, Mount Diablo Base and Meridian described as follows:

BEGINNING at the Northwest corner of Lot 4, Block 3060, of the Southgate Subdivision as recorded in Volume 34 of Maps at Page 30, Stanislaus County Records; thence North 89 degrees 00' 58" East along the North line of said Southgate Subdivision a distance of 236.93 feet to its East line; also known as the Southeast corner of Parcel 1 as shown on the map filed in Volume 1 of Parcel Maps at Page 63, Stanislaus County Records; thence North 1 degree 06' 45" West along the East line of said Parcel 1 and the West line of Luck Estates as recorded in Volume 27 of Maps at Page 86, Stanislaus County Records a distance of 158.63 feet to the Northwest corner of said Luck Estates subdivision; thence North 89 degrees 00' East along the North line of said Luck Estates Subdivision a distance of 404.71 feet to the East line of said Luck Estates and the West line of Uccello Manor as recorded in Volume 17 of Maps at Page 56, Stanislaus County Records; thence North 1 degrees 00' West along said common line between Luck Estates and Uccello Manor and the Northerly projection thereof a distance of 374.37 feet to a point on the present Westerly terminus of Vicksburg Street as shown on the map recorded in Volume 19 of Maps at Page 9,

Stanislaus County Records; thence South 49 degrees 17' West along a line parallel to and 222 feet distant Southeasterly from the present Southeasterly right-of-way line of Paradise Road and its Northeasterly projection thereof a distance of 834 feet more or less to the POINT OF BEGINNING.

C-1 to P-D(507)

ALL that portion of the Northeast quarter of Section 6, Township 4 South, Range 9 East, Mount Diablo Base and Meridian described as follows:

BEGINNING at the Northwesterly corner of Parcel 1, as shown on the map recorded in Volume 1 at Page 63 of Parcel Maps, Stanislaus County Records; thence South 1 degrees 27' 34" East along the West line of said Parcel 1 a distance of 287.64 feet to the Northwest corner of Lot 4, Block 3060 of the Southgate Subdivision as recorded in Volume 34 of Maps at Page 30, Stanislaus County Records; thence North 49 degrees 17' East parallel to and 222 feet distance perpendicularly from the present Southeasterly right-of-way line of Paradise Road a distance of 834 feet \pm to its intersection with the West line of Walnut Grove Subdivision as shown on the map recorded in Volume 19 of Maps at Page 9, Stanislaus County Records; thence North 1 degrees 00' West a distance of 325.62 feet, to the present Southeasterly right-of-way line of Paradise Road; thence in a Southwesterly direction along said Southeasterly right-of-way line of Paradise Road a distance of 861.19 feet to the POINT OF BEGINNING. INCLUDING ALSO the Southeasterly one-half of Paradise Road immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(507) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Ten (10) single-family homes.
2. Forty-eight (48) multi-family dwelling units.

SECTION 3. ZONING MAP. Section Map 6-4-9 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 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Development Services

Ord. No. 2943-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 21st day of March, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 20, 1995

Clark

ORDINANCE NO. 2944 -C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(508), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF EAST ORANGEBURG AND FIORI AVENUES. (NORMAN E. WILSON, AIA)

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

SECTION 1. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(508):

R-1 to P-D(508)

ALL that certain real property situate in a portion of the Northwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Being a portion of Lot 28 of the Mensinger Colony as shown on that certain official map filed in the office of the Recorder of Stanislaus County, California, on May 18, 1909, in Volume 4 of Maps, at Page 25, and more specifically described as follows:

Commencing at the Northwest corner of said Lot 28, also being the point of intersection of the center lines of 80.00-foot wide East Orangeburg Avenue and original 40.00-foot wide Fiori Avenue; thence along the north line of said Lot 28 and center line of East Orangeburg Avenue, East 133.33 feet; thence leaving said center line, South 131.11 feet; thence West 133.33 feet to the center line of said Fiori Avenue; thence North 131.11 feet to the northwest corner of said Lot 28 and the point of commencement of this description.

SECTION 2. USES. The following uses shall be permitted in said P-D(508) Zone if the plan for construction conforms in principle to the approved plan, or if changes are

approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Medical/professional office uses.
2. Off-street parking area.

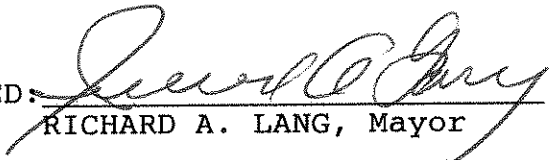
SECTION 3. ZONING MAP. Section Map 21-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of April, 1995, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION

By 
Community Development Department
Development Services

Ord. No. 2944-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of April, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore,
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Councilmember Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 15, 1995

Clerk
(5)

ORDINANCE NO. 2945 -C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, AND PLANNED DEVELOPMENT ZONE, P-D(465), TO PLANNED DEVELOPMENT ZONE, P-D(509), PROPERTY LOCATED ON THE SOUTH SIDE OF CORSON AVENUE AT MELROSE AVENUE AND ON THE NORTH SIDE OF EAST FAIRMONT AVENUE AT M.I.D. LATERAL NO. 4. (MELROSE SUNDIAL, INC.)

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

SECTION 1. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, and Planned Development Zone, P-D(465), to Planned Development Zone, P-D(509):

P-D(465) to P-D(509)

All that certain real property situate in a portion of the Southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

A portion of Lot 15 of the Fairmont Tract, according to the Official Map thereof, filed in the Office of the Recorder of Stanislaus county California, on December 27, 1911, in Volume 6 of Maps, at Page 12, and more closely described as follows:

All of that certain property known as Fairmont Court as shown on that certain official Subdivision Map filed in the office of the Recorder of Stanislaus County, California, on May 3, 1990, in Volume 35 of Maps, at Page 01.

Including also all of the south one-half of 50.00-foot-wide Corson Avenue, the north one-half of 30.00-foot-wide East Fairmont Avenue, and the northwest one-half of the M.I.D. Lateral No. 4 right-of-way and all immediately adjacent to the above-described property.

R-2 to P-D(509)

All that certain real property situate in a portion of the Southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel A as shown on that certain Parcel Map filed in the Office of the Recorder of Stanislaus County, California, on March 8, 1978, in Book 26 of Parcel Maps, at Page 90.

Including also all of Parcel B shown on that certain Parcel Map filed in the Office of the Recorder of Stanislaus County, California, on March 14, 1973, in Book 16 of Parcel Maps, at Page 52.

Including also the Southern one-half of Corson Avenue immediately adjacent to the above-described property.

Including also the Northern 160.00 feet of the Western 132.00 feet of Lot 15 of Fairmont Tract, according to the Official Map thereof, filed in the Office of the Recorder of Stanislaus County, California, on December 27, 1911, in Volume 6 of Maps, Page 12.

SECTION 2. USES. The following uses shall be permitted in said P-D(509) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Phase I - One-story expansion of residential care facilities along Corson Avenue; provision of room and board care in five existing two-story houses for 99 total beds; provision of fencing, screen landscaping, and all off-street parking areas.

2. Phase II - Two-story building addition containing 45-bed assisted living apartments.

SECTION 3. ZONING MAP. Section Map 21-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of May, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Mayor Lang
NOES: Councilmembers: Muratore
ABSENT: Councilmembers: Patterson

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Development Services

4

Ord. No. 2945-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,
Mayor Lang

NOES: Councilmembers: Muratore

ABSENT: Councilmembers: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: July 5, 1995

Clerk
12

Corrected 6/22/95

ORDINANCE NO. 2946 -C.S.

AN ORDINANCE AMENDING SECTION 2-8.02 OF
CHAPTER 8 OF TITLE II OF THE MODESTO MUNICIPAL
CODE RELATING TO CAMPAIGN REFORM DISCLOSURE.

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

SECTION 1. AMENDMENT OF CODE. Section 2-8.02 of Chapter 8 of

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

SEC. 2-8.02. DISCLOSURE.

- (a) In addition to any statements of campaign contributions and expenditures required by state law to be filed with the City Clerk, a summary of contributions received and expenditures made for election in the current year up to 5:00 p.m. of the seventh day preceding election day for the first regular election of the current year only, shall be prepared by all candidates for the Council of the City of Modesto and shall be received by the City Clerk by 5:00 p.m. on the fifth day preceding such first election. Said summary shall be filed on the form required by state law for reporting contributions and expenditures and shall include the names of all contributors from whom contributions in excess of ninety-nine dollars (\$99.00) were received at or before 5:00 p.m. of the seventh day preceding the first regular election of the current year. For purposes of the summary, contributions shall include the items listed in subsection (c) of Section 2-8.01 of this Code. In addition to listing such contributions, said summary shall also include a list of all unpaid financial obligations incurred by the candidate in the course of the campaign for election to the Council in that calendar year. Unpaid financial obligations shall include material and work ordered by the candidate for the campaign for election, or by his her committee but not yet paid for and loans taken out by the candidate or his her committee for purpose of funding the campaign for election.
- (b) By 5:00 p.m. of the fourth day preceding the election described in paragraph (a) above, of members of the Council, the Clerk shall prepare an alphabetical list by donor and recipient of all campaign contributions exceeding ninety-nine dollars (\$99.00). Said list shall be made available by the City Clerk to the media and members of the public.

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

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


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED:


RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2946-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: July 5, 1995

ORDINANCE NO. 2947 -C.S.

AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIRST YEAR OF THE 1995-96 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1996, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed Operating Budget and Capital Improvement Program (CIP) for the 1995-1996 fiscal year has been submitted to the City Council by the City Manager, and the City Council has made such revisions as it has deemed advisable, and

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

WHEREAS, copies of the proposed budget have been and are available for inspection by the public at the office of the City Clerk,

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

SECTION 1. That the "City of Modesto Proposed Annual Budget 1995-96", presented by the City Manager to the City Council at its meeting held May 9, 1995, and as thereafter amended by the City Council, a copy of which budget, as amended, is on file in the office of the City Clerk, is hereby adopted, excluding the items relating to the Airport Fuel Flowage Fee increase and the Lincoln Lakewood Bridge project, as the budget for the City of Modesto for the fiscal year ending June 30, 1996, and the several amounts stated therein as proposed expenditures

are hereby appropriated for the various objects therein described.

SECTION 2. That funds of the City of Modesto encumbered on June 30, 1995, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the budget for the fiscal year 1995-1996 adopted hereby.

SECTION 3. That Capital Projects carried over from fiscal year 1994-1995 are hereby re-appropriated as a part of the budget for the fiscal year 1995-1996 adopted hereby. The amount of said appropriations will equal the Reserve for Appropriated Carryover Projects established in the General Ledger Accounts of the City of Modesto for all funds as of June 30, 1995.

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

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

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

SECTION 7. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its adoption and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 20th day of June, 1995, by Councilmember Friedman, who moved its adoption and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Patterson

APPROVED: *Richard A. Lang*

RICHARD A. LANG, Mayor

ATTEST:

By *Judy C. Hall*

JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Michael D. Milich*

MICHAEL D. MILICH, City Attorney

Check

ORDINANCE NO. 2948-C.S.

AN ORDINANCE AMENDING SECTION 2-3.302 OF ARTICLE 3 OF CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO CREATION AND FUNCTIONS OF THE CITY CLERK AND AUDITOR.

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

SECTION 1. AMENDMENT OF CODE. Section 2-3.302 of Article 3 of Chapter 3 of Title II of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 2-3.302. CREATION AND FUNCTIONS.

The office of the City Clerk and Auditor is established by the Charter. This office as an administrative division shall be under the direct control of the City Clerk and Auditor. It shall be the duty of the City Clerk and Auditor to perform all duties and have such authorities and responsibilities as are prescribed by the Charter and ordinances of the City and the laws of the State of California. The City Clerk and Auditor shall perform the following duties:

- (a) Attend all meetings of the Council and record, index and maintain a full and true record of all the Council's proceedings.
- (b) Maintain appropriately certified and indexed original copies of resolutions and ordinances adopted by the Council and of written contracts made by the City and deeds for property rights obtained or held by the City.
- (c) Verify cash receipts, the distribution of revenues to the appropriate funds, and certify as to legality and correctness all bills, invoices, payrolls, demands and charges against the City.
- (d) Audit fiscal transactions relating to the deposit, transfer, withdrawal or investment of City monies.
- (e) Perform such other duties as may be required by the Council.

The City Clerk and Auditor may require any claimant to make oath as to the validity of any claim or demand against the City. The Clerk may investigate any such claim or demand and for such purpose may

examine witnesses under oath; and if the Clerk finds it erroneous, fraudulent, or otherwise invalid, the Clerk shall refuse to certify the same for payment.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of June, 1995, by Councilmember McClanahan, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

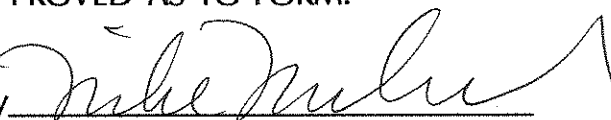
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2948-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of July, 1995, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 17, 1995

ORDINANCE NO. 2949 -C.S.

AN ORDINANCE AMENDING SECTION 2-9.01 OF
CHAPTER 9 OF TITLE II OF THE MODESTO MUNICIPAL
CODE RELATING TO MAIL BALLOT ELECTIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 2-9.01 of Chapter 9 of
Title II of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 2-9.01. MAIL BALLOT ELECTIONS.

The Council may call special municipal elections to be conducted wholly by mail ballots. Such elections shall be conducted in accordance with the provisions of Section 4100 et seq. of the Elections Code of the State of California, as now exists or may hereafter be amended. This section is enacted under the authority granted by Section 302 of the Charter of the City of Modesto.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 1995, by Councilmember McClanahan, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney


Ord. No. 2949-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of July, 1995, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 17, 1995

Clark
7

ORDINANCE NO. 2950 -C.S.

AN ORDINANCE AMENDING SECTIONS 3-1.108 AND 3-1.109 OF ARTICLE 1 OF CHAPTER 1 OF TITLE III OF THE MODESTO MUNICIPAL CODE AND ADDING SECTION 3-1.109.1 TO ARTICLE 1 OF CHAPTER 1 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO FIREWORKS.

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

SECTION 1. AMENDMENT OF CODE. Sections 3-1.108, 3-1.109 and 3-1.110 of Article 1 of Chapter 2 of Title III of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 3-1.108. PERMITS: MANUFACTURE, DISPLAY, AND SALES OF FIREWORKS.

Section 78.103 of said Fire Code is amended to read as follows:

(a) Fireworks.

1. Manufacturing. The manufacturing of fireworks is prohibited in the City of Modesto.

2. Displays.

(A) Permits are required to conduct a fireworks display. See Uniform Fire Code, Section 4.108. Permit applications shall be made not less than 14 days prior to the scheduled date of the display. The permit application shall include a diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged; the location of buildings, highways and other lines of communication; the lines behind which the audience will be restrained; and the location of nearby trees, telegraph or telephone lines and other overhead obstructions. At the time of permit application, the chief shall be

consulted regarding requirements for standby apparatus.

- (B) The Chief may grant the permit as applied for, or with condition thereto, unless he/she finds that to do so would be contrary to the public health, safety, or welfare. The decision of the Chief shall be in writing and shall be mailed, postage prepaid, to the applicant.
 - (C) The decision of the Chief, in acting on an application for permission to conduct a public display in accordance with the provisions of this section may be appealed to the City Manager. Notice of an appeal of the Chief's decision shall be filed by the applicant, with the City Clerk, within ten (10) days after the date of the decision. Upon failure to file such notice within the ten day period, the action of the Chief shall be final and conclusive. The applicant may appeal the decision of the City Manager to the City Council by filing a notice of appeal to the City Clerk within ten (10) days after the date of the City Manager's decision. Upon failure to file such notice within the ten-day period, the action of the City Manager, or his/her designee, shall be final and conclusive.
 - (D) Every application for permission to conduct a public display of fireworks shall be accompanied by a non-refundable fee as established by resolution of the City Council from time to time. This fee shall be in addition to any other fee or tax imposed by Title VI of the Modesto Municipal Code.
- (3) Sales. Permits are required for the retail sales of "Safe and Sane" fireworks in the City of Modesto.
- (A) It shall be unlawful to engage in the sale of "Safe and Sane" fireworks in the City of Modesto without first having secured a permit to do so.

- (B) The total number of sales permits issued in any given year shall be limited to one hundred twenty (120) sales permits. Ninety (90) of the sales permits shall be apportioned for local non-profit organizations, and thirty (30) sales permits shall be apportioned for local profit organizations.
- (C) Each organization shall be limited to a maximum of three (3) sales permits. A separate sales permit shall be required for each proposed location of a fireworks stand.
- (D) Permits for the sale of "Safe and Sane" fireworks in the City of Modesto shall be issued only to local non-profit organizations and local for profit organizations as defined herein.
 - (i) A "non-profit organization" shall mean any non-profit association, club, or corporation organized primarily for veteran, patriotic, welfare, religious, civic betterment, youth activity or charitable purposes, which has been issued a tax exempt certificate as required under the revenue and taxation code of the State of California or a group which is an integral part of a recognized national organization having such a tax exempt status.
 - (ii) A "local non-profit organization" must have its principal and permanent meeting place in the City of Modesto and must have been organized and established in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit, and must have a bona fide membership of at least ten (10) members who reside in the City of Modesto.
 - (iii) A "local for profit organization" must have a

permitted business location in the City of Modesto and must have been in business in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit.

- (E) Permits for retail sales of "Safe and Sane" fireworks in the City of Modesto issued pursuant to provision of this Code are not transferable by the holder of the permit. The permit may be used only by the organization to whom it is issued.
- (F) All applications for permits shall be in writing to the Fire Chief on forms supplied by the City. Applications may only be filed during normal business hours from January 2nd of each year up to and including February 15th of the same year, at which time the filing period for that year will close.
- (G) Applications shall set forth the proposed location of the fireworks stand including the seven (7) digit parcel number (APN) of the Stanislaus County Assessor and other information as may be required by the Fire Chief. Written permission from the property owner, or his/her designee, to sell fireworks at that location shall accompany the permit application.
- (H) Applicants for permits shall be notified by May 1st of each year, by the Fire Chief, of approval or disapproval of such application. All approved permits shall be picked up, from the Fire Chief, by 4:00 PM on May 15th of that year.
- (I) Every application shall be accompanied by proof of insurance as specified in Modesto Municipal Code Section 3-1.110(c).
- (J) Every application shall be accompanied by a non-refundable application fee as established by resolution of the City

Council from time to time. This application fee shall be in addition to any fees or taxes imposed by Title VI of the Modesto Municipal Code.

(K) The Fire Chief, or his/her designee, may revoke, immediately and without notice or hearing, the "Safe and Sane" fireworks permit of any location or organization when any of the provisions of Modesto Municipal Code Section 3-1.109(b), (c), (d), (e)1, (e)2, or (e)(3), are violated. The Chief shall inform the permittee that permittee may seek review of the Chief's decision, by the City Manager, on the next business day. At the earliest opportunity on the next business day after revocation, the Chief shall provide the City Manager with written notice that a fireworks permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. If requested by the permittee, the City Manager, or his/her designee, shall meet with the permittee and the Chief, or his/her designee, that day to review the Chief's decision. The decision of the City Manager shall be final.

(L) Revocation of any permit will be effective for that calendar year.

(b) **Pyrotechnic Special Effects Material.** A permit is required to manufacture, compound, store or use pyrotechnic special effects material. A permit for use shall be granted only to a State of California licensed pyrotechnic operator.

SEC. 3-1.109. SALES, STORAGE, USE, AND HANDLING OF FIREWORKS.

Section 78.201 of said Fire Code is amended to read as follows:

Sales, storage, use, and handling of fireworks shall be in accordance with this division.

(a) **Sales.** Retail sale or display with the intent to sell fireworks is limited to State of California Fire Marshal approved and labeled "Safe and Sane"

fireworks within the City of Modesto by State of California licensed retailers, provided a permit to sell those fireworks has been approved and obtained from the Chief. Fireworks may be sold or offered for sale from 12:00 noon to 10:00 p.m. on June 28, 9:00 a.m. to 10:00 p.m. on June 29 through July 5, and 9:00 a.m. to 12:00 noon on July 6.

(b) **Storage.**

- (1) The storage of fireworks within the City of Modesto is limited to State of California Fire Marshal-approved and labeled "Safe and Sane" fireworks by State of California licensed wholesalers and retailers.
- (2) **Wholesalers Storage.** Wholesalers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 1 through July 31 of each year. Storage facilities shall comply with H1 occupancy classification requirements as defined by the Uniform Building Code.
- (3) **Retailers Storage.** Retailers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 22 through July 15 of each year. "Safe and Sane" fireworks that are not being sold or displayed with the intent to sell, shall be stored solely in the following manner:
 - (A) Within the permitted fireworks stand with a responsible adult on the premises at all times.
 - (B) In a completely enclosed and locked utility type trailer constructed of 1/4 inch plywood or other approved noncombustible material.
 - (C) In a completely detached garage on residential property. There shall be no open-flame or spark producing equipment, or Class 1 flammable liquids stored or used within in the garage.
 - (D) Fireworks shall not be stored within forty (40) feet of any building classified or used as a public or

private school, day care facility, residential care facility, hospital, place of detention, public oil/gas station, or public garage, or any place of public assembly that can accommodate fifty (50) or more persons.

- (c) **Operator Safety.** Each year, one or more representatives from each organization, that is granted a permit to sell fireworks, shall attend a stand operator safety seminar conducted by the Fire Department and the fireworks industry. Failure to attend the seminar shall result in the revocation of the organization's permit to sell fireworks for that calendar year.
- (d) **Temporary Fireworks Stands.**
 - (1) All retail sales of "Safe and Sane" fireworks shall be permitted only from within a temporary fireworks stand and sales from any other building or structure is hereby prohibited.
 - (2) The fireworks stands shall be located at least twenty (20) feet from other structures.
 - (3) Zoning of property, in which the fireworks stand will be located, shall be in accordance with Modesto Municipal Code Section 10-2.2330.
 - (4) Fireworks shall not be stored, sold, offered for sale, or discharged within one hundred (100) feet of a location where gasoline, LPG, other class 1 flammable liquids or flammable gasses are stored or dispensed.
 - (5) All unsold stock and accompanying litter shall be removed from the location by 5:00 p.m. on the 6th day of July.
 - (6) The fireworks stand shall be removed from the temporary location by 12:00 noon on the 10th day of July, and all accompanying litter shall be cleared from said location by said time and date.
- (e) **Safety Precautions.**

- (1) No person under the age of eighteen (18) shall sell, or handle for sale, any classification of fireworks.
- (2) No person under the age of eighteen (18) shall purchase or be allowed to purchase any classification of fireworks.
- (3) Smoking, open-flame, and spark-producing equipment shall be prohibited for a distance of twenty (20) feet around any fireworks stand.
- (4) Dry grass, weeds, trash, and other combustible material shall be removed for a distance of twenty (20) feet around any fireworks stand.

(f) **Stand Construction.**

- (1) Merchandise may be displayed in approved glass enclosed counters or showcases, or
- (2) Merchandise may be displayed in stands constructed in the following manner:
 - (A) Walls and roof shall be of plywood at least 1/4" thick or of an approved noncombustible material.
 - (B) The stand shall be provided with a roof.
 - (C) Walls shall extend to a minimum height of 6 feet 8 inches, on at least three (3) sides. These three sides shall be without openings, except for an exit door.
 - (D) An exit door with a minimum size of twenty (24) inches in width and six (6) feet in height, shall be provided in each stand. Exits shall be maintained clear and unobstructed at all times.
 - (E) The front wall of the stand shall provide a physical barrier not less than eighteen (18) inches in height between the public and the merchandise on display.

- (F) Approved "NO SMOKING" signs shall be prominently displayed in and on the stand.
 - (G) Approved "NO SALES TO PERSONS UNDER THE AGE OF 18" signs shall be prominently displayed in the stand.
 - (H) An approved fire extinguisher having a minimum U.L. classification of 2A shall be located in the stand, near the exit and readily accessible.
 - (I) Sellers of fireworks shall comply with all rules and regulations of Title 19 of the California Code of Regulations and with the rules and regulations of the Chief.
- (g) Operation of Fireworks Stand Only by Permittee.
- (1) It is unlawful for the permittee organization to permit any person other than the permittee organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such fireworks stand.
 - (2) It is unlawful for a non-profit organization to permit any person other than the individuals who are members of the permittee organization, their spouses or adult children, or volunteers to whom no compensation is paid, to sell or otherwise participate in the sale of fireworks at such fireworks stand.
 - (3) It is unlawful for a non-profit organization to pay any consideration to any person for selling or otherwise participating in the sale of fireworks at such fireworks stand, except the hiring of a night watchman or security officer.
- (h) Seizure. The Chief shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this Division.

SECTION 2. AMENDMENT OF CODE. Section 3-1.109.1 is hereby added to Article 1 of Chapter 2 of Title III of the Modesto Municipal Code to read as follows:

SEC. 3-1.109.1. FIREWORKS DISPLAYS.

Sections 78.203(b) and (c) of said Fire Code are amended to read as follows:

(b) **Pyrotechnic Operator.** Fireworks display operations shall be under the direct supervision of a State of California licensed pyrotechnic operator. The pyrotechnic operator shall be responsible for all aspects of the display related to pyrotechnics.

(c) **Insurance.**

(1) The permittee shall furnish a certificate of insurance for each policy required, executed by the company issuing such policy, and approved as to form by the Risk Manager. Such policies shall contain a provision which holds the City as an additional insured and declaring said insurance to be primary and that no other insurance carried by an insured party shall be called upon for contribution. Notwithstanding any other provision of this section, the failure of the permittee to carry such insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance policy or policies. A payment of fifty dollars (\$50.00) shall be made to the City before any such revoked permit may be reinstated.

(2) The permittee/licensee shall carry general liability insurance with a minimum limit of liability per occurrence of one million dollars (\$1,000,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) for property damage, or one million dollars (\$1,000,000.00) combined single limit. The certificate of insurance shall include the following coverages and indicate the policy aggregate limit applying to: premises and operations, broad form contractual, and, products and completed operation.

- (3) The permittee/licensee shall agree to hold the City of Modesto, its agents, officers, employees, and volunteers harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities, and from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney fees and all costs and expenses arising directly or indirectly out of any act or omission of permittee arising out of any activity authorized by the permit.
- (4) The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies with insurance companies approved by the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the City Clerk of the City by registered mail, return receipt requested.

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

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 1995, by Councilmember McClanahan, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

Ord. No. 2950-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of July, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: September 14, 1995

Clerk

ORDINANCE NO. 2951 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.2115 OF ARTICLE 21 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO SIGN REGULATIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.2115 of Article 21 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.2115. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE C-1, C-2, C-M, M-1, AND M-2 ZONES - SIGNS OTHER THAN IDENTIFICATION SIGNS.

It shall be unlawful for any person to erect, construct or maintain on any lot or parcel any sign of a type or having an area and/or height in violation of the following specific requirements:

(a) In the C-1, C-2, C-M- M-1 and M-2 zones, the following signs are permitted except as otherwise stated:

(1) Directional signs located wholly on private property on the premises to which they pertain as follows:

(aa) One (1) exterior directional sign per use per street frontage of the site, not exceeding twelve (12) square feet in area and six (6) feet in height, and provided business identification shall not exceed half of the area on a given sign face.

(ab) Any number of interior directional signs, each not exceeding six (6) square feet in area and six (6) feet in height.

(ac) Two (2) maximum interior directional signs for a drive-in restaurant or other eating place with drive-through facilities, each sign not to exceed

forty-eight (48) square feet in area and eight (8) feet in height.

- (2) One (1) for sale or rent sign, not exceeding sixty-four (64) square feet in area and ten (10) feet in height.
- (3) One (1) construction sign, not exceeding sixty-four (64) square feet in area and ten (10) feet in height, provided such sign is removed not later than thirty (30) days after construction is completed.
- (4) Political signs may be erected, maintained, and displayed as follows:
 - (aa) Each such sign shall not exceed sixty-four (64) square feet in area.
 - (ab) The overall height of each such sign shall not exceed ten (10) feet.
 - (ac) The combined area of all such signs shall not exceed one hundred fifty (150) square feet.
 - (ad) Such signs shall be erected no more than one hundred twenty (120) days prior to the date of election and shall be removed within ten (10) days after an election.
- (5) Temporary signs are not permitted.
- (6) Outdoor advertising signs are not permitted except as otherwise provided in this article.
- (7) Window signs are permitted.
- (8) One (1) corporate flag per use or occupancy, not exceeding twenty-four (24) square feet in area; dimensions relative to each other shall not exceed a ratio of 2:1. Such flags shall be flown only from a flagstaff or flagpole.
- (9) Banners for grand openings and banners for outdoor display or sale of goods may be erected and displayed as follows:
 - (aa) One (1) banner per street frontage.

- (ab) Each banner shall not exceed seventy-two (72) square feet in area.
 - (ac) Each banner shall not exceed thirty-five (35) feet in height, or the ridgeline of the roof of the building, whichever is lower. If the banner is placed on a freestanding structure, the sign shall not exceed twenty (20) feet in height.
 - (ad) Banners for a grand opening shall be permitted for no more than fourteen (14) days at a newly opened business, after obtaining a permit from the Director. Banners are not permitted for grand openings of businesses not located on the premises.
 - (ae) Banners for outdoor display or sale of goods shall be permitted only in conjunction with the six (6) permitted outdoor display, sales and promotions, after obtaining a permit from the Director.
- (10) Decorative banners for regional and community shopping centers as defined by the Land Use Element of the General Plan, and nonresidential P-D zones with pedestrian orientation are permitted subject to the securing of a conditional use permit from the Board in accordance with Article 25 of Chapter 2 of Title X of this Code.
- (aa) Each banner shall not exceed thirty-six (36) square feet in area.
 - (ab) Each banner shall comply with a minimum vertical clearance as defined by Modesto Municipal Code Section 10-2.2110(e).
 - (ac) Design review guidelines shall be adopted by the Board. Copy, color and materials used for each banner shall be subject to design review by the Board.
 - (ad) Products sold or individual businesses shall not be identified.
 - (ae) Each banner shall be erected and displayed on private property.

(af) Each banner shall be anchored as approved by the Board.


(ag) Each banner and its mounting shall be properly maintained. Bleached and tattered banners shall be prohibited.

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

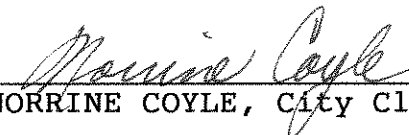
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 1995, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

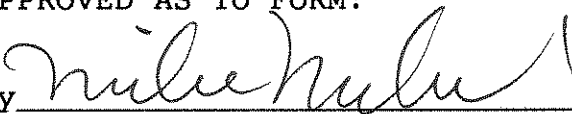
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2951-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of September, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: October 17, 1995

ORDINANCE NO. 2952 -C.S.

AN EMERGENCY INTERIM ORDINANCE OF THE CITY OF MODESTO ADOPTED PURSUANT TO SECTIONS 716 AND 722 OF THE MODESTO CITY CHARTER EXTENDING FOR AN ADDITIONAL 30 DAYS THE MORATORIUM ESTABLISHED BY ORDINANCE NO. 2916-C.S. AND ORDINANCE NO. 2927-C.C. AS AMENDED BY ORDINANCE NO. 2942-C.S.

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

SECTION 1. DECLARATION OF EMERGENCY. The Council of the City of Modesto hereby finds and declares that this ordinance is necessary as an emergency measure to preserve the public peace, health, or safety for the following reasons:

The findings set forth in Section 1 of Ordinance No. 2916-C.S. are incorporated herein by reference. The moratorium on the establishment of adult businesses provided for by Ordinance No. 2916-C.S., as extended by Ordinance No. 2927-C.S. and as amended by Ordinance No. 2942-C.S., will expire on October 5, 1995. The Council is considering permanent regulations of adult entertainment businesses which will, in the normal course of events, take effect on November 3, 1995. Therefore, the permanent regulations applicable to adult entertainment businesses will mitigate the negative secondary side effects which are created by such businesses and which are referred to in Section 1 of Ordinance No. 2916-C.S. The extension of the moratorium established by Ordinance No. 2916-C.S. for an additional 30 days so that no new adult businesses can be established until the contemplated regulations become effective.

SECTION 2. ORDINANCE TO REMAIN IN EFFECT. Ordinance No. 2916-C.S., as extended by Ordinance No. 2927-C.S., and as amended by Ordinance No. 2942-C.S. shall remain in full force effect until November 4, 1995.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance for any reason is held invalid and

unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

FINDING. The City Council finds that this emergency ordinance is enacted in order to temporarily prohibit a use otherwise permitted under the applicable zoning ordinance. Therefore, such prohibition falls within the specific exemption from the California Environmental Quality Act (CEQA) found in Public Resources Code Section 21080(b)(5) and applicable guidelines, as well as Public Resources Code Section 21080(b)(4) and applicable guidelines, and no environmental review of this action is required. In addition, it can be seen with certainty that there is no possibility this emergency ordinance may have a significant effect on the environment, and this ordinance is exempt from CEQA requirements pursuant to Section 15061(b)(3) of the CEQA guidelines.

SECTION 5. EFFECTIVE DATE. Pursuant to Section 716 and 722 of the Charter of the City of Modesto, this ordinance shall go into effect and be in full force and operation as of the date of its adoption.

SECTION 6. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its adoption and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

ORDINANCE NO. 2953 -C.S.

AN ORDINANCE ADDING ARTICLE 24 TO CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE PERTAINING TO ZONING REGULATIONS APPLICABLE TO ADULT ENTERTAINMENT BUSINESSES AND AMENDING CHAPTER 9 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO ADULT ENTERTAINMENT BUSINESSES.

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

SECTION 1. FINDINGS. The City Council of the City of Modesto hereby finds that:

(a) The City Council, in adopting this ordinance, takes legislative notice of the existence and content of the following studies concerning the adverse secondary side effects of adult entertainment businesses in other cities: Garden Grove, California (1991); Tucson, Arizona (1990); Seattle, Washington (1989); Austin, Texas (1986); Oklahoma City, Oklahoma (1986); Indianapolis, Indiana (1984); Houston, Texas (1983); Beaumont, Texas (1982); Minneapolis, Minnesota (1980); Phoenix, Arizona (1979); Whittier, California (1978); Amarillo, Texas (1977); Cleveland, Ohio (1977); Los Angeles, California (1977). The City Council finds that these studies are relevant to the problems addressed by the City in enacting this ordinance to regulate the adverse secondary side effects of adult entertainment businesses, and more specifically finds that these studies provide convincing evidence that:

(1) Adult entertainment businesses are linked to increases in the crime rates in those areas in which they are located and in surrounding areas.

(2) Both the proximity of adult businesses to sensitive land uses and the concentration of adult businesses tend to result in the blighting and deterioration of the areas in which they are located.

(3) The proximity and concentration of adult entertainment businesses adjacent to residential, recreational, religious, educational and other adult entertainment business uses can cause other businesses and residences to move elsewhere.

(4) There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by adult entertainment businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that adult businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values.

(b) Based on the foregoing, the City Council of the City of Modesto finds and determines that special regulation of adult entertainment businesses is necessary to ensure that their adverse secondary side effects will not contribute to an increase in crime rates or to the blighting or deterioration of the areas in which they are located or surrounding areas. The need for such special regulations is based upon the recognition that adult entertainment businesses have serious objectionable operational characteristics, particularly when several of them are

concentrated under certain circumstances or located in direct proximity to sensitive uses such as parks, schools, churches, thereby having a deleterious effect upon the adjacent areas. It is the purpose and intent of these special regulations to prevent the concentration of adult businesses and thereby prevent such adverse secondary side effects.

(c) The locational requirements established by this ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult entertainment businesses in the City of Modesto, and a sufficient reasonable number of appropriate locations for adult businesses are provided by this ordinance.

(d) In developing this ordinance, the City Council has been mindful of legal principles relating to regulation of adult businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendments of the United States and California Constitutions, but instead desires to enact reasonable time, place, and manner regulations that address the adverse secondary effects of adult entertainment businesses. The City Council, has considered decisions of the United States Supreme Court regarding local regulation of adult entertainment businesses, including but not limited to: Young v. American Mini Theaters, Inc., 427 U.S. 50 (1976) Reh. Denied 429 U.S. 873; Renton v. Playtime Theaters, 475 U.S. 41 (1986) Reh. Denied 475 U.S. 1132; FW/PBS, Inc. v. Dallas, 493 U.S.215 (1990); Barnes v. Glenn Theater, 111 S.Ct. 2456 (1991); United States Court of Appeals 9th Circuit decisions, including but not limited to: Topanga Press, et al. v. City of Los Angeles, 989 F.2d 1524 (1993); and several California cases including but

not limited to: City of National City v. Wiener, 3 Cal.4th 832 (1992); People v. Superior Court (Lucero) 49 Cal.3d 14 (1989); and City of Vallejo v. Adult Books, et al., 167 Cal.App.3d 1169 (1985).

(e) The City Council of the City of Modesto also determines that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of the City of Modesto, and thus certain requirements with respect to the ownership and operation of adult entertainment businesses are in the public interest. In addition to the findings and studies conducted in other cities regarding increases in crime rates, decreases in property values and the blighting of areas in which such businesses are located, the City Council also takes legislative notice of the facts recited in the case of Kev, Inc. v. Kitsap County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in secondary effects such as prostitution, drug dealing, and other law enforcement problems.

(f) The studies referred to above show that adult entertainment businesses are frequently used for sexual activities including prostitution and for other sexual liaisons of a casual nature in places open to the public, and, therefore, the City Council of the City of Modesto has a legitimate concern over sexually transmitted diseases, including AIDS, and this legitimate health concern demands reasonable regulations of adult entertainment businesses in order to protect the health and well-being of the citizens of Modesto.

(g) Zoning, licensing and other police power regulations are legitimate, reasonable means of accountability to help protect the quality of life in

the community of Modesto and to help assure that all operators of adult entertainment businesses comply with reasonable regulations and are located in places that minimize the adverse secondary effects which naturally accompany the operation of such businesses.

(h) The City Council of the City of Modesto recognizes the possible harmful effects on children and minors exposed to the effects of such adult entertainment businesses and the deterioration of respect for family values, and the need and desire of children and minors to stay away from and avoid such businesses, which causes children to be fearful and cautious when walking through or visiting the immediate neighborhood of such businesses; and the City Council desires to minimize and control the adverse secondary side effects associated with the operation of adult entertainment businesses and thereby protect the health, safety, and welfare of the citizens of Modesto; protect the citizens from increased crime; preserve the quality of life; preserve property values and the character of surrounding neighborhoods and businesses; deter the spread of urban blight and protect against the threat to health from the spread of communicable and sexually transmitted diseases.

(i) It is not the intent of the City Council of the City of Modesto in enacting this ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City of Modesto recognizes that state law prohibits the distribution of the obscene materials and expects and encourages law

enforcement officials to enforce state obscenity statutes against such illegal activities in the City of Modesto.

(j) Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof.

SECTION 2. AMENDMENT OF CODE. Article 24 entitled "Adult Entertainment Businesses" is hereby added to Chapter 2 of Title X of the Modesto Municipal Code to read as follows:

ARTICLE 24. ADULT ENTERTAINMENT BUSINESSES.

SEC. 10-2.2401. PURPOSE.

It is the intent of this article to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of adult entertainment businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, churches, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult entertainment businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses or their close proximity to incompatible uses, while permitting the location of adult businesses in certain areas.

SEC. 10-2.2402. DEFINITIONS.

- (a) **Establishment of an adult entertainment business.** As used herein, to "establish" an adult entertainment business shall mean and include any of the following:
- (1) The opening or commencement of any adult entertainment business as a new business;
 - (2) The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business defined herein;
 - (3) The addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or
 - (4) The relocation of any such adult entertainment business.
- (b) **Specified anatomical areas.** As used herein, "specified anatomical areas" shall mean and include any of the following:
- (1) Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (c) **Specified sexual activities.** As used herein, "specified sexual activities" shall mean and include any of the following:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
 - (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) Masturbation, actual or simulated;
 - (4) Excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (3) of this subsection.

- (d) **Adult Entertainment Businesses.** "Adult entertainment businesses" means any one of the following:
- (1) **Adult arcade.** The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
 - (2) **Adult bookstore.** The term "adult bookstore" as used in this chapter, is an establishment that has thirty (30) percent or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.
 - (3) **Adult cabaret.** The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
 - (4) **Adult hotel/motel.** The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer

generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

- (5) **Adult motion picture theater.** The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (6) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.
- (7) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

- (e) **Church.** The term "church" as used in this article, is a structure which is used primarily for religious worship and related religious activities.
- (f) **Distinguished or characterized by an emphasis upon.** As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).
- (g) **Regularly Features.** The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within a one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.
- (h) **School.** The term "school" as used in Section 10-2.2403, is any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.
- (i) **Semi-nude.** Means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEC. 10-2.2403. MINIMUM PROXIMITY REQUIREMENTS.

No adult entertainment business shall be established or located in any zone in the City other than Light Industrial (M-1) Zone or Heavy Industrial (M-2) Zone, or within certain distances of certain specified land uses or zones as set forth below:

- (a) No such business shall be established or located in any zone in the City other than Light Industrial (M-1) Zone or Heavy Industrial (M-2) Zone, or within five hundred (500) feet of any other adult entertainment business.
- (b) No such business shall be established or located in any zone in the City other than Light Industrial (M-1) Zone or Heavy Industrial (M-2) Zone, or within three hundred (300) feet from any existing residential zone or use, park, church, school.
- (c) The distances set forth above shall be measured as a radius from the primary entrance of the adult business to the property lines of the property so zoned or used without regard to intervening structures.

SEC. 10-2.2404. AMORTIZATION OF NONCONFORMING ADULT BUSINESS USES.

Any use of real property existing on November 2, 1995, which does not conform to the provisions of Section 10-2.2403, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use which may be continued until November 3, 1996. (One (1) year after the effective date of this ordinance.) On or before such latter date, all such nonconforming uses shall be terminated unless an extension of time has been approved by the Board of Zoning Adjustment in accordance with the provisions of Section 10-2.2405.

- (a) **Abandonment.** Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an adult entertainment business shall result in a loss of legal nonconforming status of such use.
- (b) **Amortization – annexed property.** Any adult entertainment business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 10-2.2403 shall be

terminated within one (1) year of the date of annexation unless an extension of time has been approved by the Board of Zoning Adjustment in accordance with the provisions of Section 10-2.2405.

SEC. 10-2.2405. EXTENSION OF TIME FOR TERMINATION OF NONCONFORMING USE.

The owner or operator of a nonconforming use as described in Section 10-2.2404 may apply under the provisions of this section to the Board of Zoning Adjustment for an extension of time within which to terminate the nonconforming use.

- (a) **Time and manner of application.** An application for an extension of time within which to terminate a use made nonconforming by the provisions of Section 10-2.2403, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the Community Development Director at least ninety (90) days but no more than 180 (one hundred eighty) days prior to the time established in Section 10-2.2404 for termination of such use.
- (b) **Content of application; fees.** The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.
- (c) **Hearing procedure.** The hearing procedure for the consideration of such applications for an extension of time shall be as set forth in Section 10-2.2507 of the Modesto Municipal Code.
- (d) **Approval of extension; findings.** An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the Board of Zoning Adjustment makes all of the following findings:
 - (1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to July 5, 1994;

- (2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and
- (3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section 10-2.2403.

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

CHAPTER 9. ADULT ENTERTAINMENT BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

SEC. 5-9.101. LEGISLATIVE PURPOSE.

It is the purpose of this ordinance to regulate adult oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

SEC. 5-9.102. DEFINITIONS.

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

- (a) **Adult Entertainment Businesses.** "Adult entertainment businesses" means any one of the following:
 - (1) **Adult arcade.** The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty (30) percent or

more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

- (2) **Adult bookstore.** The term "adult bookstore" as used in this chapter, is an establishment that has thirty (30) percent or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.
- (3) **Adult cabaret.** The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (4) **Adult hotel/motel.** The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

- (5) **Adult motion picture theater.** The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
 - (6) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.
 - (7) **Escort bureau.** The term "escort bureau" as used in this chapter, means a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.
 - (8) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."
- (b) **Adult entertainment business operator.** "Adult entertainment business operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult entertainment business or the conduct or activities occurring on the premises thereof.

- (c) **Applicant.** A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an "adult entertainment business."
- (d) **Bar.** For the purposes of this ordinance [chapter], a bar is defined as any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.
- (e) **Distinguished or characterized by an emphasis upon.** As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).
- (f) **Escort.** "Escort" means a person who, for pecuniary compensation, monetary or other consideration, hire or reward, (i) escorts or accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place or public resort or within any private quarters, or (iii) who agrees or offers to privately model lingerie or to privately perform a striptease for another person, or (iv) who agrees to provide any service which is distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities.
- (g) **Figure model.** "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.
- (h) **Health Officer.** The Health Officer of the City of Modesto or his or her duly authorized representative.
- (i) **Nudity or a state of nudity.** "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, or

buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

- (j) **Operate an adult entertainment business.** As used in this article "operate an adult entertainment business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult entertainment business or activities within an adult entertainment business.
- (k) **Permittee.** "Permittee" means the person to whom an adult entertainment business permit is issued.
- (l) **Person.** Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.
- (m) **Police Chief.** The Police Chief of the City of Modesto or the authorized representatives thereof.
- (n) **Regularly Features.** The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within a one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.
- (o) **Semi-nude.** Means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- (p) **Specified anatomical areas.** As used herein, "specified anatomical areas" shall mean and include any of the following:
 - (1) Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female

breast below a point immediately above the top of the areola; and

- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (q) **Specified sexual activities.** As used herein, "specified sexual activities" shall mean and include any of the following:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
 - (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) Masturbation, actual or simulated;
 - (4) Excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (3) of this subsection.

SEC. 5-9.103. PERMITS REQUIRED.

- (a) It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Modesto, the operation of an adult entertainment business unless the person first obtains and continues to maintain in full force and effect a permit from the City of Modesto as herein required. (Adult Entertainment Business Regulatory Permit)
- (b) It shall be unlawful for any persons to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult entertainment business unless the person first obtains and continues in full force and effect a permit from the City of Modesto as herein required. (Adult Entertainment Business Performer Permit)
- (c) It shall be unlawful for any person to act as an escort, figure model, or to take any other position of employment with an escort bureau or modeling studio in the City of Modesto unless the person first obtains and continues to maintain in full force and effect a permit from the City of Modesto as herein required. (Escort Permit, Figure Model Permit)

ARTICLE 2. APPLICATION AND PERMITS

SEC. 5-9.201. ADULT ENTERTAINMENT BUSINESS REGULATORY PERMIT REQUIRED.

- (a) Every person who proposes to maintain, operate or conduct an adult entertainment business in the City of Modesto shall file an application with the Police Chief upon a form provided by the City of Modesto and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable.

SEC. 5-9.202. APPLICATIONS.

- (a) Adult Entertainment Business Regulatory Permits are nontransferable, except in accordance with Section 5-9.205. Therefore, all applications shall include the following information:
 - (1) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen (18) years of age.
 - (2) If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
 - (3) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.
- (b) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten (10) percent or greater interest in the business entity shall sign the application.
- (c) If the applicant intends to operate the Adult Entertainment Business under a name other than that of the applicant, the

applicant shall file the fictitious name of the Adult Business and show proof of registration of the fictitious name.

- (d) A description of the type of Adult Entertainment Business for which the Permit is requested and the proposed address where the Adult Business will operate, plus the names and addresses of the owners and lessors of the Adult Entertainment Business site.
- (e) The address to which notice of action on the application is to be mailed.
- (f) The names of all employees required by Section 5-9.206 to obtain an Adult Entertainment Business Performer License (for ongoing reporting requirements see Section 5-9.206).
- (g) A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult Entertainment Business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (h) A certificate and straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the Adult Entertainment Business, and:
(1) the property line of any other Adult Entertainment Business within 500 feet of the primary entrance of the Adult Entertainment Business for which a Permit is requested; and
(2) the property lines of any church, school, park, residential zone or use within 300 feet of the primary entrance of the Adult Entertainment Business.
- (i) A diagram of the off-street parking areas and premises entries of the Adult Entertainment Business showing the location of the lighting system required by Section 5-9.301(c).
- (j) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Police Chief to act on the application. The time period for

granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

- (k) The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining an Adult Entertainment Business Regulatory Permit.

SEC. 5-9.203. INVESTIGATION AND ACTION ON APPLICATION.

- (a) Upon receipt of a completed application and payment of the application and Permit fees, the Police Chief shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an Adult Entertainment Business Regulatory Permit.
- (b) Within thirty (30) days of receipt of the completed application, the Police Chief shall complete the investigation, grant or deny the application in accordance with the provisions of this Section, and so notify the applicant as follows:
 - (1) The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the Police Chief shall attach to the application an Adult Entertainment Business Regulatory Permit.
 - (4) The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- (c) The Police Chief shall grant the application and issue the Adult Entertainment Business Regulatory Permit upon findings that the proposed business meets the locational criteria of Section 10-2.2403; and that the applicant has met all of the development and performance standards and requirements of Section 5-9.301, unless the application is denied for one or more of the reasons

set forth in Section 5-9.204. The Permittee shall post the Permit conspicuously in the Adult Entertainment Business premises.

- (d) If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within thirty (30) days after it is stamped as received (except as provided in Section 5-9.202 (j)), the applicant may begin operating the Adult Entertainment Business for which the Permit was sought, subject to strict compliance with the development and performance standards and requirements of Sections 5-9.301.

SEC. 5-9.204. PERMIT DENIAL.

The Police Chief shall deny the application for any of the following reasons:

- (a) The building, structure, equipment, or location used by the business for which an Adult Entertainment Business Regulatory Permit is required do not comply with the requirements and standards of the health, zoning, fire and safety laws of the City and the State of California, or with the locational or development and performance standards and requirements of these regulations.
- (b) The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an Adult Business Regulatory Permit.
- (c) An applicant is under eighteen (18) years of age.
- (d) The required application fee has not been paid.

Each Adult Entertainment Business Regulatory Permit shall expire one (1) year from the date of issuance, and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the Annual Permit Fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for Permits.

SEC. 5-9.205. TRANSFER OF ADULT ENTERTAINMENT REGULATORY PERMITS.

- (a) A permittee shall not operate an Adult Entertainment Business under the authority of an Adult Entertainment Business Regulatory Permit at any place other than the address of the Adult Entertainment Business stated in the application for the Permit.
- (b) A permittee shall not transfer ownership or control of an Adult Entertainment Business or transfer an Adult Entertainment Business Regulatory Permit to another person unless and until the transferee obtains an amendment to the Permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with Sections 5-9.201 and 5-9.202, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines in accordance with Section 5-9.203 that the transferee would be entitled to the issuance of an original Permit.
- (c) No Permit may be transferred when the Police Chief has notified the permittee that the Permit has been or may be suspended or revoked.
- (d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the Permit shall be deemed revoked.

SEC. 5-9.206. ADULT ENTERTAINMENT BUSINESS PERFORMER PERMIT.

- (a) No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult Entertainment Business, without a valid Adult Entertainment Business Performer Permit issued by the City. All persons who have been issued an Adult Entertainment Business Regulatory Permit shall promptly supplement the information provided as part of the application for the Permit required by Section 5-9.201, with the names of all Performers required to obtain an Adult Entertainment Business Performer Permit, within thirty (30) days of any change in the information originally submitted. Failure to submit such changes shall be

grounds for suspension of the Adult Entertainment Business Regulatory Permit.

- (b) The Police Chief shall grant, deny and renew Adult Entertainment Business Employee Permits.
- (c) The application for a Permit shall be made on a form provided by the Police Chief. An original and two copies of the completed and sworn permit application shall be filed with the Police Chief.
- (d) The completed application shall contain the following information and be accompanied by the following documents:
 - (1) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
 - (2) Age, date and place of birth;
 - (3) Height, weight, hair and eye color;
 - (4) Present residence address and telephone number;
 - (5) Whether the applicant has ever been convicted of:
 - (i) Any of the offenses set forth in Sections 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(a), 647(b) and 647(D) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.
 - (ii) The equivalent of the aforesaid offenses outside the State of California.
 - (6) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.

- (7) State driver's license or identification number;
 - (8) Satisfactory written proof that the applicant is at least eighteen (18) years of age;
 - (9) The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
 - (10) If the application is made for the purpose of renewing a License, the applicant shall attach a copy of the License to be renewed.
- (e) The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the City Council.
 - (f) Upon receipt of an application and payment of the application fees, the Police Chief shall immediately stamp the application as received and promptly investigate the application.
 - (g) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the City Manger to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

SEC. 5-9.207. INVESTIGATION AND ACTION ON APPLICATION.

- (a) Within five (5) days after receipt of the properly completed application, the Police Chief shall grant or deny the application and so notify the applicant as follows:
 - (1) The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

- (3) If the application is granted, the Police Chief shall attach to the application an Adult Entertainment Business Employee Permit.
 - (4) The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.
- (b) The Police Chief shall grant the application and issue the Permit unless the application is denied for one or more of the reasons set forth in subsection (d) of this section.
 - (c) If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within five (5) days after it is stamped as received (except as provided in Section 5-9.206(g)), the applicant may begin performing in the capacity for which the License was sought.
 - (d) The Police Chief shall deny the application for any of the following reasons:
 - (1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a Permit or in any report or document required to be filed with the application;
 - (2) The applicant is under eighteen (18) years of age;
 - (3) The Adult Entertainment Business Employee Permit is to be used for performing in a business prohibited by State or City law.
 - (4) The applicant has been registered in any state as a prostitute.
 - (5) The applicant has been convicted of any of the offenses enumerated in Section 5-9.206(d)(5) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A Permit may be issued to any person convicted of the described crimes if the conviction occurred more than five (5) years prior to the date of the application.

- (e) Each Adult Entertainment Business Performer Permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the application fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for applications for Permits.

SEC. 5-9.208. SUSPENSION OR REVOCATION OF ADULT ENTERTAINMENT BUSINESS REGULATORY PERMITS AND ADULT ENTERTAINMENT BUSINESS PERFORMER PERMITS.

An Adult Entertainment Business Regulatory Permit or Adult Entertainment Business Employee Permit may be suspended or revoked in accordance with the procedures and standards of this Section.

- (a) On determining that grounds for Permit revocation exist, the Police Chief shall furnish written notice of the proposed suspension or revocation to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the Permittee, or shall be delivered to the Permittee personally, at least ten (10) days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Police Chief, but at a minimum shall include the following:
 - (1) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness. The Police Chief's decision may be appealed in accordance with Section 5-9.209.

- (b) A Permittee may be subject to suspension or revocation of his Permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the Permittee, or an employee, agent, partner, director, stockholder, or manager of an Adult Entertainment Business:
- (1) In the case of a Permittee of an Adult Entertainment Business Regulatory Permit only, the building, structure, equipment, or location used by the Adult Entertainment Business fails to comply with all applicable building, fire, electrical, plumbing, health, and zoning requirements of the Modesto City Code, all applicable State and federal requirements of a similar nature which are customarily enforced by the City, and all provisions of these regulations and this Code relating to Adult Entertainment Businesses, including the Adult Entertainment Business Development and Performance Standards contained in Section 5-9.301.
 - (2) The Permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a Permit, or in any report or record required to be filed with the City.
 - (3) The Permittee, employee, agent, partner, director, stockholder, or manager of an Adult Entertainment Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult Entertainment Business, or in the case of an Adult Entertainment Business Performer, the permittee has engaged in one of the activities described below while on the premises of an Adult Entertainment Business:
 - (i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.
 - (ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
 - (iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

- (iv) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code.
 - (v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.
 - (vi) Any conduct prohibited by this chapter.
- (4) Failure to abide by an disciplinary action previously imposed by an appropriate City official.
- (c) After holding the hearing in accordance with the provisions of this Section, if the Police Chief finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Police Chief shall impose one of the following:
- (1) A warning;
 - (2) Suspension of the Permit for a specified period not to exceed six months;
 - (3) Revocation of the Permit.

SEC. 5-9.209. APPEAL OF DENIAL. SUSPENSION OR REVOCATION.

After denial of an application for an Adult Entertainment Business Regulatory Permit or an Adult Entertainment Business Performer Permit, or after denial of renewal of a Permit, or suspension or revocation of a Permit, the applicant or person to whom the Permit was granted may seek review of such administrative action by the City Council in accordance with the provisions of Chapter 4 of Title I of the Modesto Municipal Code. If the denial, suspension or revocation is affirmed on review, the applicant, Permittee may seek prompt judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.5. The court shall promptly review the action taken by the City Council.

SEC. 5-9.210. ADDITIONAL PERMITS REQUIRED.

- (a) No person shall act as an "escort" unless an escort permit is first obtained.
- (b) No person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained. The issuance of a business license pursuant to Section 6-1.103 of the Modesto Municipal Code shall not authorize acting as an "escort," or as a "figure model" in a modeling studio until the necessary regulatory permit has been lawfully granted.

SEC. 5-9.211. APPLICATION FOR ESCORT OR FIGURE MODEL PERMIT.

- (a) An applicant for an "escort" or "figure model" permit shall make an application under penalty of perjury to the Police Chief or his authorized representative upon a form provided by the City of Modesto. A nonrefundable fee, as established by resolution adopted by the City Council from time to time, shall be paid to the City of Modesto to reimburse the City for the cost of the investigation. A copy of the receipt issued by the City of Modesto Finance Department shall accompany the application. The permit fee required under this section is in addition to any other license or permit fee required by the Modesto Municipal Code.
- (b) The application for permit does not authorize the applicant to act as an "escort" or as a "figure model" until such permit has been granted.
- (c) Every application submitted to the Police Chief shall include the following information:
 - (1) The applicant's full name, any other names used, date of birth, California driver's license number or California identification number, social security number, present resident address, telephone number, sex, height, weight, color of hair, and color of eyes.
 - (2) Previous two (2) residence addresses of the applicant and the inclusive dates at each address.

- (3) The applicant's business, occupation, and employment history for five (5) years preceding the date of application and inclusive dates of same.
- (4) The permit history of the applicant; whether such person ever had any permit or license issued to him or her by any other public entity in this state; the date of issuance of any such permit or license, whether any such permit or license has ever been revoked or suspended; and if any such license or permit has been revoked or suspended, the reason therefor.
- (5) All convictions for any crimes involving conduct which requires registration under any state law similar to and including California Penal Code Section 290, or of conduct which is a violation of the provisions of any state laws similar to and including California Penal Code Sections 243.4, 261, 261.5, 262, 266a, 266b, 266c, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 309, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10, 311.11, 313.1, 314, 315, 316, 318, 647(a), 647(b), 647(d), or 647.6.
- (6) Any offense requiring registration under provisions of Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered.
- (7) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.

- (8) Acceptable written proof that the applicant is at least eighteen (18) years of age.
- (9) A complete set of fingerprints acceptable to the Police Chief.
- (10) The applicant shall make himself or herself available to the Modesto Police Department in order to be photographed.
- (11) Authorization for the City of Modesto, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application.

SEC. 5-9.212. ISSUANCE AND DENIAL OF PERMITS.

- (a) The Police Chief or his authorized representative shall have thirty (30) days from the date the application is accepted as complete in which to investigate the application and background of the applicant. Upon completion of the investigation, the Police Chief or his designated representative shall approve or deny the permit. The Police Chief may refuse to issue permit for "escort" or "figure model" for any of the following reasons, which reasons will be set forth fully in writing and delivered to the applicant:
 - (1) The applicant has been convicted of any of the offenses enumerated in the paragraphs (c)(5) and (6) of Section 5-9.211, or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of any of the crimes described if such conviction occurred more than five (5) years prior to the date of the application.
 - (2) The applicant has been licensed or registered in any state as a prostitute.
 - (3) Any false statements made in the initial application for "escort" or "figure model" permit.
 - (4) That the applicant has had an "escort" or "figure model" permit denied or revoked for cause by this City within the last five (5) years.

- (5) That the applicant is not at least eighteen (18) years of age.
 - (6) That the applicant has not paid the required fee to the City of Modesto Finance Department.
- (b) Any refusal to issue a permit pursuant to this section or the suspension, or revocation of a permit under the provisions of Section 5-9.213 is appealable to the City Council in accordance with the provisions of Chapter 4 of Title I of the Modesto Municipal Code. After the denial of any such appeal, the applicant may seek prompt judicial review of such administrative action in any court of competent jurisdiction pursuant to California Code of Civil Procedure Section 1094.5. The court shall promptly review the action taken by the City Council.

SEC. 5-9.213. REVOCATION OR SUSPENSION OF PERMITS.

After following the procedure in Section 5-9.205, the Police Chief may revoke or suspend an "escort" or "figure model" permit for conviction of any of the crimes specified in Section 5-9.211(c)(5) and (6). The decision of the Police Chief shall be in writing and shall be mailed postage prepaid to the escort or figure model.

SEC. 5-9.214. TERM OF PERMIT.

- (a) Permits issued under the provisions of the section shall be valid for a period of one (1) year from the date of issuance and shall be renewable annually.
- (b) An application for renewal for an "escort" or "figure model" permit shall be accompanied by a nonrefundable filing fee, as established by resolution adopted by the City Council from time to time.

ARTICLE 3. FACILITIES AND EMPLOYEES.

SEC. 5-9.301. ADULT ENTERTAINMENT BUSINESS DEVELOPMENT AND PERFORMANCE STANDARDS.

- (a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Modesto.

- (b) No Adult Entertainment Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- (c) All off-street parking area and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- (d) The premises within which the Adult Entertainment Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.
- (e) Except for those businesses also regulated by the California Department of Alcoholic Beverage Control, an Adult Entertainment Business shall be open for business only between the hours of 8:00 a.m. and midnight on any particular day.
- (f) Any Adult Entertainment Business which is also a "picture arcade" pursuant to Section 4-1.1302 of this code shall comply with Sections 4-1.1303 and 4-1.1304.
- (g) The building entrance to an Adult Entertainment Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Community Development Director or designee.

No person under the age of eighteen (18) years shall be permitted within the premises at any time.

- (h) All indoor areas of the Adult Entertainment Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.
- (i) The Adult Entertainment Business shall provide and maintain separate rest room facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from any Adult Material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult Entertainment Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore or Adult Video Store, and which does not provide rest room facilities to its patrons or the general public.
- (j) The following additional requirements shall pertain to Adult Entertainment Businesses providing live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities:
 - (1) No person shall perform live entertainment for patrons of an Adult Entertainment Business except upon a stage at least twenty-four (24) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the Adult Entertainment Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult Entertainment Business.

- (2) The Adult Entertainment Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
 - (3) The Adult Entertainment Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.
 - (4) The Adult Entertainment Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult Business shall provide a minimum three-foot (3') wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
 - (5) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult Entertainment Business.
 - (6) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.
 - (7) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.
- (k) Adult Entertainment Businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:
- (1) Adult Entertainment Businesses featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an additional security guard shall be on duty.

- (2) Security guards for other Adult Entertainment Businesses may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in Section 5-9.208(b)(3) from occurring on the premises.
- (3) Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult Entertainment Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the Permit issued pursuant to these regulations.

SEC. 5-9.302. REGISTER AND PERMIT NUMBER OF EMPLOYEES.

- (a) Every permittee of an "adult entertainment business" which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons so performing on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the City of Modesto.

SEC. 5-9.303. DISPLAY OF PERMIT AND IDENTIFICATION CARDS.

- (a) Every "adult entertainment business" shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such "adult entertainment business" in a conspicuous place so that the same may be readily seen by all persons entering the "adult entertainment business."
- (b) The Police Chief shall provide each Adult Entertainment Business Performer required to have a Permit pursuant to the chapter,

with an identification card containing the name, address, photograph and permit number of such performer.

- (c) The Police Chief shall provide each "escort" or "figure model" granted a permit with an identification card containing the name, address, photograph, and permit number of the "escort" or "figure model."
- (d) An "escort" shall carry such card at all times while providing escort services.
- (e) A "figure model" shall have such card available for inspection at all times during the hours of operation of the model studio.
- (f) An Adult Entertainment Business Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult Entertainment Business.

SEC. 5-9.304. EMPLOYMENT OF PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS PROHIBITED.

It shall be unlawful for any permittee, operator, or other person in charge of any "adult entertainment business" to employ any person who is not at least eighteen (18) years of age.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SEC. 5-9.401. INSPECTION.

An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City Departments or Agencies to inspect the premises of an Adult Entertainment Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult Entertainment Businesses, at any time it is occupied or opened for business. A person who operates an Adult Entertainment Business or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

SEC. 5-9.402. REGULATIONS NONEXCLUSIVE.

The provisions of this article regulating Adult Entertainment Businesses are not intended to be exclusive and compliance therewith shall not

excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Modesto.

SEC. 5-9.403. EMPLOYMENT OF PERSONS WITHOUT PERMITS UNLAWFUL.

- (a) It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of an "adult entertainment business" which provides live entertainment depicting specified anatomical areas or involving specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked Adult Entertainment Business Performer Permit.
- (b) No permittee or operator of an escort service shall allow or permit a person to act as an "escort" for such service unless said person possesses a valid escort permit under the provisions of this article. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as an "escort" shall first have obtained a valid permit pursuant to this article.
- (c) No permittee or operator of a model studio shall allow or permit a person to act as a "figure model" for such studio unless the person possesses a valid figure model permit under the provisions of this article. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a "figure model" shall first have obtained a valid permit pursuant to this article.

SEC. 5-9.404. TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

All persons who possess an outstanding business license heretofore issued for the operation of an "adult entertainment business" and all persons required by this chapter to obtain an Adult Entertainment Business Performer Permit, or an Escort Permit, or a Figure Model Permit must apply for and obtain such a permit within ninety (90) days of the effective date of this chapter. Failure to do so and continued operation of an "adult entertainment business", or continued employment as an "escort" or "figure model", or the continued performances depicting specified anatomical areas or specified sexual activities in an "adult entertainment business" after such time without a permit shall constitute a violation of this chapter.

SEC. 5-9.405. CERTAIN CONDUCT IN BARS PROHIBITED.

The City Council of the City of Modesto finds that barroom nudity is a direct cause of increased demand for police services in and about such establishments, and finds further that the activities commonly engaged in by both employees and patrons of such establishments are inimical to the public welfare in that nudity in such establishments has been demonstrated to increase the occurrence of illegal activity in and occurring around such establishments. Accordingly, the following acts or conduct on the premises of any bar are deemed contrary to the public interest and welfare and the best interests of the community and, therefore:

- (a) No bar owner or operator or an employee thereof shall permit any person on the premises to display or expose his or her genitals, pubic hair, buttocks, anal region, or any portion of the female breast at or below the areola thereof.
- (b) No bar owner or operator or employee thereof shall permit any person on the premises to perform "specified sexual activities" as defined in Section 5-9.102.

Any bar owner, operator or employee thereof who permits any of the above while alcoholic beverages are being sold or in the presence of anyone who has consumed any alcoholic beverages on the premises at any time during the four (4) hours immediately preceding the act or display referred to above shall be guilty of a misdemeanor.

Any person who exposes his or her genitals, pubic hair, buttocks, anal region, or any portion of the female breast at or below the areola thereof on the premises while alcoholic beverages are being sold, or on the premises and in the presence of anyone who has consumed any alcoholic beverages on such premises at any time during the four (4) hours immediately preceding such display or exposure shall be guilty of a misdemeanor.

SEC. 5-9.406. ADDITIONAL REGULATIONS.

- (a) It shall be unlawful for any person to appear in any Adult Entertainment Business in a state of nudity.
- (b) It shall be unlawful for a person to appear in a semi-nude condition in any Adult Entertainment Business unless the person appearing while semi-nude is on a stage at least twenty-four (24)

inches above the level of the floor and at least ten (10) feet from any patron or customer.

- (c) It shall be unlawful for any person who engages in or participates in any live performance which is distinguished or characterized by an emphasis upon the display or depiction of specified anatomical areas or specified sexual activities in an Adult Entertainment Business, or who appears semi-nude in an Adult Entertainment Business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any such person.
- (d) It shall be defense to any prosecution for violation of Section 5-9.406(a) and/or 5-9.406(b) that the person appeared nude or semi-nude during the person's bona fide use of a rest room or during the bona fide use of a dressing room by an employee or independent contractor of the Adult Entertainment Business.

SEC. 5-9.407. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING.

The City Council finds that this ordinance is enacted in order to mitigate the threat posed to the public peace, health, or safety by adult entertainment businesses. In this regard, the findings set forth in Section 1 of this ordinance are incorporated herein by reference. This ordinance either provides for the amendment of existing regulations applicable to adult entertainment businesses or, for the first time, provides for zoning regulations which are specifically applicable to adult

entertainment business uses. Such uses are already allowed under the City's existing zoning regulations. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA guidelines.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2953-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of October, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: November 2, 1995

ORDINANCE NO. 2954 -C.S.

AN ORDINANCE AMENDING SECTION 12-4.202 OF ARTICLE 2 OF CHAPTER 4 OF TITLE XII OF THE MODESTO MUNICIPAL CODE RELATING TO USE OF PARK AND RECREATION AREAS AND FACILITIES.

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

SECTION 1. AMENDMENT OF CODE. Section 12-4.202 of Article 2 of Chapter 4 of Title XII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 12-4.202. GENERAL REGULATIONS GOVERNING USE OF PARKS.

- (a) Except as otherwise authorized by law, it shall be unlawful and an infraction for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.
 - (1) To enter or trespass in any area, building or facility which is fenced and locked or enclosed and locked.
 - (2) To ride or bring any horse or other similar animal or to propel a vehicle in or upon any area of a park, except those areas specifically provided and designated for such purposes, unless prior written permission is obtained from the Director.
 - (3) To ride a bicycle unless on trails or pathways designated for bicycle use.
 - (4) To drive or operate any motor vehicle in any park in excess of fifteen (15) miles per hour.
 - (5) To park any automobile or other vehicle in any park at any place other than designated parking areas. Places where parking is permitted shall be designated by appropriate signs.
 - (6) To drive or operate any automobile, gasoline-powered go-carts, model airplanes, boats or midget cars in any

park except in designated areas or unless prior written permission is obtained from the Director.

- (7) To clean, wash, polish or make other than emergency repairs upon any automobile, motorcycle or self-driven vehicle in any park.
- (8) To carry, bring into or ignite, fire or otherwise set off any firearms, air guns, slingshots, firecrackers or fireworks in any park except those fireworks which are part of organized and permitted special events for which prior written permission to use fireworks has been obtained from the Director.
- (9) To make a fire in any park other than in stoves, pits or braziers provided by the City unless prior written permission is obtained from the Director and a permit is obtained from the Air Pollution Control District for burning in open pits.
- (10) To bring into any park any material which will, if spilled or spread, be injurious to the turf or plant growth.
- (11) To cut or remove any wood, turf, rock, tree, flower, shrub, sand or gravel from any park unless prior written permission is obtained from the Director.
- (12) To throw or dispose of in any park any bottles, tin cans, broken glass, paper, clothes, cast iron, rubbish, soil, tree trimmings, garbage, ashes or other debris of any kind except in approved containers provided by the City.
- (13) To remove, damage or destroy any athletic equipment provided by the City, normal wear and tear excepted.
- (14) To move or remove from one location to another any part or parts of field equipment.
- (15) To move or remove from one location to another any equipment used for park maintenance.
- (16) To open or close any valve pertaining to the water mains or sprinkler system or to expose or interfere with

any gas pipe, hydrant, stopcock, sewer, catch basin, backflow preventer, or other similar device in any park.

- (17) To cut, break or deface in any way buildings, equipment, grounds or other facilities of any park.
- (18) To wound, kill or catch any bird or other wild animal in any park.
- (19) To indulge in indecent or riotous conduct or language or to otherwise make noises in such a manner as to disturb any picnic, meeting, concert or exhibition in any park.
- (20) To operate a public address system without prior written permission of the Director. This prohibition shall not include the use of small portable radios used to receive regularly broadcasted programs, as long as such radios are operated at such a volume as not to disturb other persons present in the park.
- (21) To disturb or interfere with any employee of the City of Modesto acting within the scope of his employment, or to disturb or interfere with any spectator or participant in any event or activity conducted in any park, or to enter any park for the purpose of committing any such disturbance or interference.
- (22) To camp or lodge in or upon any park unless prior written permission is obtained from the Director.
- (23) To sell refreshments, foodstuffs or novelties in any park or on any street immediately adjacent thereto without the prior written permission of the Director or the City Council.
- (24) To practice, carry on, conduct or solicit for any trade, occupation, business or profession in any park without the prior written permission of the City Council.
- (25) To play or engage in any game or contest in any park except in such places as are specially provided or designated for that purpose.

- (26) To play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes.
- (27) To refuse to open any tennis court being used for singles play to doubles play at the end of the set being played when other persons are waiting, unless prior written permission is obtained from the Director.
- (28) To refuse to relinquish any tennis court being used for doubles play at the end of the set being played when other persons are waiting unless prior written permission is obtained from the Director.
- (29) To use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Director or the City Council.
- (30) To play or engage in the hitting of golf balls in any park, except on driving ranges and golf courses.
- (31) To ride bicycles through any children's playground area.
- (32) To discard lighted or unlighted cigars or cigarettes in children's playground areas.
- (33) To wade or swim in any pool in any park except when supervised.
- (34) To use any park facility for which a charge is now or hereafter made without first having paid the fee requested and having received the required permit.
- (35) To enter any park facility for which a charge is made without first paying the full legal charge made for such entrance unless such entrance is by the consent or permission of the person or persons in charge.
- (36) To use any park facility or equipment which has been reserved or which is indicated by an authorized or official sign to have been reserved without first having received the written permission of the Director.

- (37) To remove any authorized or official sign indicating that any park facility or equipment is reserved.
 - (38) For any male person to resort to any toilet set apart for women, and for any female person to resort to any toilet set apart for men, provided that this prohibition shall not apply to children accompanied by their father, mother or guardian.
 - (39) It shall be unlawful to climb onto any building or structure in a park not designated for such activity.
 - (40) To possess any container made of glass in any park or to bring, carry or transport any container made of glass into any park except that the sponsor of an organized event may obtain permission from the department to possess glass containers.
 - (41) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above sections.
- (b) Except as otherwise authorized by law, it shall be unlawful and a misdemeanor for any person, firm or corporation to do or cause or permit to be done any of the acts hereinafter specified within any park owned or operated by the City of Modesto.
- (1) No person shall remain in any park between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
 - (2) The prohibitions contained in Section 12-4.202(b)(1) will not apply to:
 - (i) Special use facilities, as may be posted by the department extending use hours;
 - (ii) Any person attending a meeting, entertainment event, recreation activity, dance or similar activity in such park, provided such activity is sponsored or co-sponsored by the department or permit therefor, has been issued by the department;

(iii) Any person exiting such park immediately after the conclusion of any activity set forth in Section 12-4.202(b)(2)(ii);

(iv) Any peace officer or employee of the City while engaged in the performance of his/her duties.

(c) The City of Modesto hereby designates all of its public parks as drug-free zones pursuant to and within the meaning of Health & Safety Code Section 11380.5.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney

Ord. No. 2954-C.S.


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of October, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: November 2, 1995

ORDINANCE NO. 2955-C.S.

AN ORDINANCE AMENDING SECTION 11-6.15 OF CHAPTER 6 OF TITLE XI OF THE MODESTO MUNICIPAL CODE RELATING TO REFUNDS OF COLLECTED UTILITY FUNDS.

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

SECTION 1. AMENDMENT OF CODE. Section 11-6.15 of Chapter 6 of

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

SEC. 11-6.15. MANAGEMENT AND ADMINISTRATION OF UNCOLLECTIBLE UTILITY SERVICE CHARGES AND REFUNDS OF COLLECTED UTILITY FUNDS.

- (a) The Finance Director or designee (Director) shall have the discretion to write-off utility service charges that the Finance Director deems uncollectible or refund utility services charges of any type.
- (b) In order to receive a refund, a city-utility customer must:
 - (1) File a sufficient claim within two (2) years of the questioned payment on a form provided by the Director, unless waived by the Director.
 - (2) Satisfy the Director both: (A) That the refund is appropriate, and (B) That the claimant was the utility-user of record who paid the funds subject to refund.
 - (3) Refunds may be requested either in cash or account credit.

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 3rd day of October, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

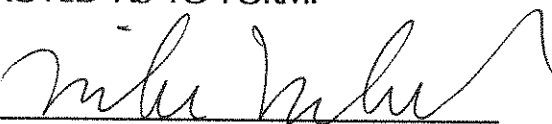
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2955-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 10th day of October, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

Effective Date: November 9, 1995

Clark
7,

ORDINANCE NO. 2956 -C.S.

AN ORDINANCE ADDING SECTION 11-6.16 TO CHAPTER 6 OF TITLE XI OF THE MODESTO MUNICIPAL CODE RELATING TO MANAGEMENT AND COLLECTION OF GARBAGE SERVICE CHARGES BY CITY-LICENSED GARBAGE COMPANIES.

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

SECTION 1. AMENDMENT OF CODE. Section 11-6.16 is hereby added to Chapter 6 of Title XI of the Modesto Municipal Code to read as follows:

SEC. 11-6.16. MANAGEMENT AND COLLECTION OF GARBAGE SERVICE CHARGES BY CITY-LICENSED GARBAGE COMPANIES.

Only Sections 11-6.12 and 11-6.13, above, and this section of Chapter 6, shall apply to private garbage collection licensees.

- (a) Owners of real property shall ultimately be responsible for garbage service charges, and associated administrative charges, if any, for services to their premises.
- (b) Garbage service charges may be billed directly to tenants or lessees of real property. In that event, the following billing/collection procedures shall apply to licensees, tenants/lessees, and property owners:
 - (1) Billing for all garbage services including services for prorated (less than one month) periods, shall be monthly or bimonthly, and upon completion of the first month's garbage service in the event billing is bimonthly. Licensees shall give thirty (30) days written notice to tenants/lessees and property owners, and sixty (60) days written notice to the City of Modesto prior to changing their billing cycle from monthly to bimonthly or from bimonthly to monthly.
 - (2) Each licensee may collect a deposit equivalent to two (2) months' service charge from a tenant/lessee prior to directing its billing to that tenant/lessee. At the property owner's option, the property owner may pay all or a portion of the deposit on behalf of a tenant/lessee. The

licensee shall credit the account of any tenant/lessee or property owner in the full amount of the deposit, in the event the tenant/lessee or property owner shall not have been issued more than two (2) notices as provided in (b)(3) below, within eighteen (18) months of initiation of service.

- (3) In the event a tenant/lessee fails to pay a licensee's bill, tendered in accordance with the foregoing, within thirty (30) days after that bill is mailed to the tenant/lessee, the licensee shall be obligated to do the following:
 - (i) Mail notice of the delinquency to the tenant, which notice may include an administrative charge, sufficient to defray the cost of the notice, as established from time to time by the City Council. The notice shall include a statement that the delinquent sum is immediately due.
 - (ii) Simultaneously mail a copy of the notice provided to the tenant/lessee to the property owner.

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 October, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

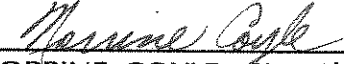
NOES: Councilmembers: Cogdill

ABSENT: Councilmembers: None

APPROVED:



RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2956-C.S.

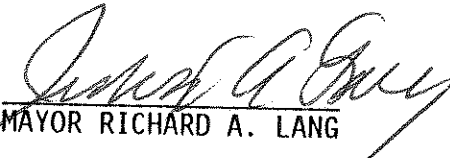
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of October, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore,
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: November 16, 1995

Clerk
6

ORDINANCE NO. 2957 -C.S.

AN ORDINANCE AMENDING SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(510), PROPERTY LOCATED ON THE WEST SIDE OF CARVER ROAD SOUTH OF STANDIFORD AVENUE, 3401 CARVER ROAD (ISADORE KURLAND).

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

SECTION 1. ZONING CHANGE. Section 7-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(510):

R-1 to P-D(510)

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

Beginning at the Northeast corner of Parcel 1 as shown on that certain official Parcel Map filed in the office of the Recorder of Stanislaus County, California, on August 31, 1979, in Volume 29 of Parcel Maps, at Page 88; thence along the North line of said Parcel 1, North 88°16'03" West 229.99 feet to the Northwest corner of said Parcel 1; thence North 200.00 feet; thence South 88°16'03" East 250.00 feet to the center line of original 40.00 foot wide Carver Road; thence along said center line South 200.00 feet to the Easterly prolongation of said north line of Parcel 1; thence along said prolongation 30.00 feet to the Northeast corner of said Parcel 1 and the point of beginning of this description.

SECTION 2. USES. The following uses shall be permitted in said P-D(510) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required

by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. 22-unit, one-story senior housing development.
2. Off-street parking area.

SECTION 3. ZONING MAP. Section Map 7-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17th day of October, 1995, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 

Community Development Department
Development Services

Ord. No. 2957-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of November, 1995, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Friedman

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

Effective Date: December 7, 1995

Clerk

ORDINANCE NO. 2958 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2004-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 22-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (OAKWOOD BUILDERS)" AS PREVIOUSLY AMENDED BY ORDINANCE NO. 2060-C.S. (ARCHITECTURE PLUS).

SECTION 1. AMENDMENT OF ORDINANCE NO. 2004-C.S.

Section 2 of Ordinance No. 2004-C.S. as previously amended by Ordinance No. 2060-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(287) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

Residential condominiums, professional office condominiums, financial institution, and a radio station."

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17th day of October, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: *Richard A. Lang*
RICHARD A. LANG, Mayor

ATTEST:

By *Norrine Coyle*
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Michael D. Milich*
MICHAEL D. MILICH, City Attorney

Ord. No. 2958-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of November, 1995, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Friedman

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

Effective Date: December 7, 1995

Clark

ORDINANCE NO. 2959 -C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(511), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF EAST ORANGEBURG AND COLLIER AVENUES (SHERMAN R. GLENN).

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

SECTION 1. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(511):

R-1 to P-D(511)

ALL that certain real property situate in a portion of the Northwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of lots 1 through 3, of Block 1134 as shown on the Mensinger Tract No. 4 subdivision map filed in the office of the Recorder of Stanislaus County, California, on August 1, 1946, in Volume 14 of Maps, at Page 68.

Including also all of the south 40.00 feet of East Orangeburg and the west 30.00 feet of Collier Avenues and a 10.00- foot-wide alley, all as shown on the above-described subdivision map and all immediately adjacent to the above-described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(511) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the

Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Medical/Professional office.
2. Accessory off-street parking area.

SECTION 3. ZONING MAP. Section Map 21-3-9 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 November, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, McClanahan, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Friedman

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Development Services

Ord. No. 2959-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, McKinsey,
Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

Effective Date: December 15, 1995

Clark

BUS BENCH FRANCHISE ORDINANCE

ORDINANCE NO. 2960-C.S.

AN ORDINANCE EXTENDING BUS BENCH FRANCHISE FOR A PERIOD OF UP TO ONE YEAR, PROVIDING FOR THE LEASE OF BENCHES, AND ADDING TO AND AMENDING ORDINANCE NO. 2747-C.-S. ENTITLED " AN ORDINANCE GRANTING AN EXCLUSIVE FIVE YEAR BENCH FRANCHISE TO COMPUTER PATHWAYS, INC., FOR THE RIGHT, PRIVILEGE AND PERMISSION TO PLACE, CONSTRUCT AND MAINTAIN BENCHES BEARING PRINTED MATTER OR SIGNS THEREON AT DESIGNATED LOCATIONS ALONG THE STREETS IN THE CITY OF MODESTO."

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

SECTION 1. EXTENSION OF FRANCHISE: Pursuant to SECTION 28 of Ordinance No. 2747-C.S., the City of Modesto hereby grants to COMPUTER PATHWAYS INC. an extension for a period of up to one (1) year commencing on January 1, 1996, of the exclusive franchise for the right, privilege and permission to lease and maintain benches, and to place and maintain printed matter or signs on benches at designated locations along the streets in the City of Modesto in accordance with the provisions of this Franchise. This Franchise is granted upon and subject to each and all of the conditions set forth in the following sections.

SECTION 2. AMENDMENTS AND ADDITIONS TO ORDINANCE NO. 2747-C.S. Ordinance No. 2747 is hereby amended to read as follows:

SECTION 3. DEFINITIONS.

(a) "Grantee" means COMPUTER PATHWAYS, INC., a California corporation, hereinafter called Grantee.

(b) "The City" means and refers to the City of Modesto.

(c) "Bench" means and refers to benches presently located and in the future placed by or on behalf of the City upon public property along the public way for the accommodation of persons awaiting public

transportation.

(d) "Street" means and refers to any public thoroughfare or way including the sidewalk, the parkway and other public property fronting upon a public way in the City.

(e) "Franchise" means and refers to this Ordinance and all of the rights, privileges, obligations, terms, conditions and restrictions set forth herein.

SECTION 4. BENCHES PROHIBITED. No person shall install or maintain any bench bearing printed matter or a sign along any street in the City except in accordance with the provisions of this franchise.

SECTION 5. SCOPE AND TERM OF FRANCHISE.

(a) **Scope.** Grantee shall have the exclusive franchise for the right, privilege and permission to lease from the City and to maintain benches and to place and maintain printed matter or signs on benches at designated locations along the streets in the City of Modesto in accordance with the provisions of this Franchise.

(b) **Term/Termination for Convenience.** The term of the Franchise shall commence on January 1, 1996, and shall end no later than December 31, 1996. The City shall have the right to terminate the Franchise for convenience at any time by providing Grantee with written notice of such termination at least ninety (90) days in advance of the date of termination. Notice of termination of Franchise shall be in writing and may be served by regular United States mail. Service of notice of termination of Franchise for convenience shall be deemed complete upon the mailing of the notice to Donald Langman, COMPUTER PATHWAYS INC., 937 N. Emerald Avenue, Modesto, CA 95351. Grantee is

responsible for notifying the City in writing of any change of address. Failure of Grantee to give the City written notice of change of address shall not toll or otherwise prevent the commencement of the ninety (90) day notice period. Should the City terminate for convenience, it shall return to the Grantee a sum of money as described in Section 6.

SECTION 6. LEASE OF BENCHES/PAYMENT. For the exclusive rights and privileges set forth herein, Grantee shall lease benches from the City for a period of no greater than one (1) year.

For the right and privilege of leasing the benches, Grantee shall pay to the City seven thousand fifty-five and 00/100 dollars (\$7,055.00), which sum shall be pre-paid to the City prior to the commencement of the Franchise.

Should the City terminate this Franchise, the City shall reimburse Grantee a sum of money determined by the following formula:

$$a = \frac{b}{c} \times \$7,055.00$$

WHERE:

a = The sum to be returned to the Grantee.

b = The number of days left in the one year franchise period after the effective date of termination.

c = The total number of days in the one year franchise period (three hundred fifty-three, 353).

SECTION 7. PLACEMENT OF BUS PASSENGER SHELTERS BEARING PRINTED MATTER OR SIGNS THEREON. The City shall have the authority to place bus passenger shelters bearing printed matter on signs thereon at up to five locations within the City of Modesto selected by the City Manager or his

designee. Where such shelters are placed, Grantee shall remove benches unless otherwise directed by the City Manager or his Designee.

SECTION 8. BENCH RESTRICTIONS. Grantee shall utilize only the front surface of the bench backrest for the placement of printed matter or signs. No other material whatsoever shall be permitted on any portion of the bench except as specified by CITY. Printed matter or signs shall be placed in accordance with the following stipulations:

(1) No printed matter other than bus schedules shall be placed on any benches erected and maintained adjacent to property zoned by the CITY as R-1, R-2 or as P-D where land use resembles an R-1 or R-2 Zone. The City Manager or his designee's determination of which P-D zoned properties resemble R-1 or R-2 zones shall be conclusive.

(2) For benches which have one-piece backrests, bus schedules, which will be supplied by CITY, shall be placed on the front of the bench backrest on every bus bench by Grantee in the upper left or right hand corner of each bench in a space which measures ten (10) inches horizontally by eleven (11) inches vertically. CITY will also supply schedules to fit benches which use two (2) inch by six (6) inch boards for backrests. Bus schedules affixed to benches shall be appropriate for the routes served by the bus stop where the bench is located. Grantee shall place a clear plastic, plexiglass, or polycarbonate cover over the schedules to protect them from weathering and vandalism if said covering material is provided by CITY and after an experimental phase which Grantee and City agree successfully demonstrates that said coverings provide appropriate coverage of schedules. Said coverings shall be affixed to the bench backrest with tamper-resistant fittings

provided by the CITY. Such coverings shall be replaced by Grantee as needed to keep them in "like-new" condition and shall be replaced as required by CITY with covering material provided by CITY.

(3) Grantee shall submit, upon request, to the City Manager or designee copies of all ads proposed to be placed on benches for preplacement approval.

(4) Should CITY, in its sole discretion, determine any advertising placed on any bench to be improper, offensive or a display that is likely to interfere with, mislead, or distract traffic or conflict with any traffic control system, Grantee shall remove all such material within twenty-four (24) hours after the CITY serves a written removal notice upon Grantee. Should the Grantee fail to remedy the situation within the twenty-four (24) hour period, CITY may elect to paint over said material.

(5) Examples of words included in the prohibition stated in the next preceding paragraph are the words, "Stop," "Look," "Drive-in," "Danger," but this list is not inclusive.

(6) No advertising or signs or devices shall be permitted in conjunction with bus bench advertising which comprise rotating, revolving or flashing lighting devices or any other moving parts.

(7) No advertising for beverages containing alcohol, tobacco, or businesses regulated by Modesto Municipal Code 5-9.101 through 5-9.406 shall be permitted.

(8) No advertisement that, in the sole opinion of CITY, contains any depiction of an act of an immoral, violent, or debasing nature, or otherwise not in keeping with the standards and surroundings of the bus

bench locale, shall be permitted.

(9) No advertisement for products or services which compete with any primary products or services offered by any businesses occupying the abutting property where the bench or benches are placed shall be permitted.

(10) No advertising that is either false, misleading, deceptive or clearly defamatory shall be permitted.

(11) Reasonable proof or clarification of statements contained in any advertisement, exhibit material or announcement placed on a bus bench may be required by CITY as a condition of use or continued use of bus bench advertising space.

(12) Advertisements displayed with dated content shall be removed by Grantee within ten (10) working days of the expiration or obsolescence of the ad content unless otherwise mutually agreed upon in advance with CITY.

SECTION 9. APPROVAL OF LOCATION. Benches shall be placed, maintained, relocated, and removed as required by the City Manager or his designee. The benches contemplated are designed for the convenience of those using public transit buses in the CITY and shall be placed only at locations designated as bus stops by the City Manager or his designee. One bench shall be maintained at each bus stop location where a bench is currently in place as of December 31, 1995 so long as a sufficient number of benches are available to do so. No bench shall be installed or maintained:

(a) Without the express written approval of the proposed location of the bench by the City Manager or his designee;

(b) In any alley;

(c) At any location where the distance from the face of the curb to the property line is less than six feet (6'); provided that whenever, in the opinion of the City Manager or his designee, observance of this requirement would result in inconvenience or hardship, this requirement may be waived by the City Manager or his designee; or

(d) At any location when the owner or the person in lawful possession or control of the property abutting upon the public street at the place where the bench is located, requests in writing to the City Manager or his designee that the bench not be placed or maintained at such location; provided that whenever in the opinion of the City Manager or his designee, observance of this requirement would result in inconvenience or hardship, this requirement may be waived by the City Manager.

(e) At any location where a bus passenger shelter with advertising thereon is located, unless otherwise directed by the City.

SECTION 10. RATIO OF BENCHES BETWEEN COMMERCIAL AND RESIDENTIAL AREAS. For each seven (7) benches installed in areas where benches bearing printed matter or signs other than bus schedules are allowed, at least one bench shall be installed in areas where benches bearing printed matter or signs other than bus schedules are not allowed. The specific locations of these latter benches shall be specified by the City Manager or his designee.

SECTION 11. MAINTENANCE OF BENCHES. All benches owned by the City, regardless of location inside or outside of the City of Modesto, must be cleaned regularly and when needed, and must be maintained in

good repair in a safe and sightly condition. Benches shall be inspected and cleaned, as more particularly described in the following section, a minimum of at least once each week including removal of graffiti.

Benches shall be cleaned more frequently as needed. The City Manager or his designee's determination as to the state of repair and condition shall be conclusive. Grantee shall inspect each bench periodically to assure full compliance with the provisions of this section. Grantee shall replace broken seat boards as necessary. Grantee shall provide replacement boards and hardware to secure replacement boards in place. City will provide Grantee with concrete bench ends to replace those that are damaged. City will provide replacement benches to Grantee for those which City and Grantee mutually agree need to be replaced. Grantee shall be responsible for transporting and installing new or replacement benches and disposing of destroyed benches.

SECTION 12. CLEANING AROUND BENCHES. Grantee shall, at least once each week and more often if needed, remove trash and other debris from within five (5) feet of each bench. The City Manager or his designee may specify up to twelve (12) bench locations to be cleaned on a daily basis. Said twelve (12) specific locations may be changed weekly by the City Manager or his designee. The City Manager or his designee's decision as to the need for trash and debris removal shall be conclusive. Grantee shall inspect each bench location periodically to ensure full compliance with the provisions of this section.

SECTION 13. PENALTY FOR IMPROPER MAINTENANCE AND CLEANING. Each bench which has not been maintained, cleaned, or had graffiti removed as required in Section 11, or which has not had the area around it cleaned

as required in Section 12 will subject Grantee to a penalty of Twenty and no/100ths Dollars (\$20.00) for each occurrence. Violation of this section shall be determined by the City Manager or his designee after Grantee has had opportunity to respond. A maximum of Two Hundred and no/100ths Dollars (\$200.00) in penalties under this section may be assessed by the CITY during any one calendar month. Penalties are due and payable to the CITY within fifteen (15) days of mailing of an invoice by CITY in the U.S. Mail. The invoice shall specify the bench numbers and locations which do not meet the cleaning and/or maintenance requirements.

SECTION 14. TRASH RECEPTACLE. At its sole discretion, CITY may install up to twenty (20) trash receptacles at bench locations selected by CITY. If CITY installs said receptacles, Grantee shall maintain up to twenty (20) of said receptacles in a safe and sanitary condition and empty said receptacles as necessary but not less than once each week. Plastic bags for said receptacles will be furnished by City. City will make available to Grantee a facility where Grantee can deposit, at no cost to Grantee, the litter which is collected from said receptacles.

SECTION 15. REMOVAL OF BENCHES. Benches shall be moved or removed only as directed by the City Manager or his designee. The City Manager or his designee may, for a cause considered by him reasonable, order the Grantee to move or remove any bench. When the City Manager or his designee orders the bench moved or removed, the Grantee shall move or remove it within thirty (30) days at its own expense. If the Grantee shall fail to do so, the City Manager or his designee may order the removal of the bench, and in addition, bill the Grantee for the removal

in a sum not in excess of Twenty-five and no/100ths Dollars (\$25.00) per bench.

SECTION 16. LOCATION OF BENCHES AND BENCH SPECIFICATIONS. All benches shall be placed on sidewalks parallel to the curb line and at a distance from the curb to be determined by the City Manager or his designee. No bench shall be placed so as to injuriously obstruct passage on the sidewalk or street. No bench shall be placed within fifteen feet (15') of any fire hydrant. The clearance between the bench and the nearest obstruction on the sidewalk shall be no less than forty-two inches (42"). No more than two benches may be placed at any one bus stop unless approved by the City Manager or his designee.

SECTION 17. EMERGENCY SITUATIONS. Grantee shall be present at the site of an emergency situation within one hour of verbal notification that such an emergency exists. An emergency is defined as damage to or unauthorized movement to a new location of a bench which presents a serious hazard to the public. If the City Manager or his designee determine that an emergency situation exists, their determination shall be conclusive. Failure of Grantee to respond within the prescribed time limit shall result in a penalty of up to Fifty and no/100ths Dollars (\$50.00) for each failure to respond. Penalties are due and payable to the City within fifteen (15) days of mailing an invoice by the City in the U.S. Mail. CITY may, at its discretion, move the bench to a safe location pending arrival of Grantee.

SECTION 18. INDEMNITY AND INSURANCE. The Grantee shall indemnify and hold harmless the City of Modesto, its officers, agents and employees, from and against any and all liabilities, claims, demands,

actions, losses, damages and costs, including costs of defense thereof, caused by, arising from or in any manner connected directly or indirectly with the rights, privileges and permissions granted by this franchise including but not limited to the placement, construction or maintenance of benches on streets and sidewalks in the City of Modesto. Upon demand Grantee shall, at its own expense, defend the City of Modesto, its officers, agents and employees, against all such liabilities, claims, demands, actions, losses, damages and costs. The Grantee shall, at all times during the existence of this franchise, maintain in full force and effect at its own cost and expense a comprehensive general liability insurance policy with minimum limits of public liability protection of One Hundred Thousand and no 100ths (\$100,000.00) Dollars per single occurrence for bodily injury, sickness and disease, including death resulting therefrom (hereinafter called "bodily injury"), and Three Hundred Thousand and no/100ths Dollars (\$300,000.00) in aggregate per occurrence for "bodily injury"; and One Hundred Thousand and no/100ths Dollars (\$100,000.00) for property damage. Grantee may maintain in lieu, thereof, a Combined Single Limits insurance policy with limits of Three Hundred Thousand and no/100ths Dollars (\$300,000.00) per occurrence for both bodily injury and property damage.

The Liability policy and Certificate of Insurance which is to be furnished to the CITY shall declare that contractual liability coverage is in full force and effect and that the policy is extended to cover any liability assumed by the Grantee under the terms of this franchise, and shall also contain a cancellation clause declaring that the insurance

coverage may not be cancelled nor coverage or the limits of liability be reduced until thirty (30) days after receipt by the City Clerk of the City of Modesto of a written notice of such intended cancellation or reduction in the coverage or limits of liability.

SECTION 19. PERFORMANCE BOND/SECURITY. The Grantee shall post a performance bond or other surety approved by CITY'S City Attorney in the sum of Two Thousand and no/100ths to the CITY guaranteeing its performance of the conditions of this franchise and stating that the said sum shall be forfeited to the CITY as liquidated damages in the event that Grantee shall fail to perform the conditions of its franchise. Said bond shall be furnished by a surety company authorized to do business in the State of California and shall be approved by the City Attorney. (Cash, irrevocable letter of credit, or a certified cashiers check may be substituted for a bond.)

SECTION 20. DEFAULT. In the event that either party shall fail or neglect to do or perform each and all of the terms and conditions of this franchise on his or its part to be performed, the aggrieved party may give the party in default thirty (30) days' written notice to correct the conditions in default, and if the party in default refuses or neglects to make such corrections within the thirty (30) day period, the aggrieved party may terminate this franchise. Should Grantee herein default, Grantee agrees to leave all benches in the positions approved per Section 9 herein.

Should Grantee default, and at all times throughout the term of this franchise ordinance, and notwithstanding City's election at any time to exercise any particular remedy described herein or otherwise

available in law or equity, City hereby reserves and retains the right to elect and exercise any and all remedies, whether simultaneously or consecutively, described herein or otherwise available in law and equity.

SECTION 21. INSPECTION OF BOOKS. The CITY shall have the right at all reasonable times to examine all books, papers, and records of the Grantee for the purpose of verifying the statements or reports required and for any other purpose whatsoever connected with this franchise.

SECTION 22. DEFACING BENCHES PROHIBITED. No person shall tamper with or deface any bench placed under the franchise granted by this ordinance.

SECTION 23. PENALTY FOR VIOLATION OF SECTION 22. It shall be unlawful for any person to violate the provisions of SECTION 22 of this franchise, or to cause, permit or suffer the same to be done; and any person who does shall be deemed guilty of a misdemeanor, and upon conviction of any such violation, such person shall be punished by a fine of not more than One Thousand and no/100ths Dollars (\$1,000.00) or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION 24. TRANSFER OR ASSIGNMENT. This franchise may not be sold, transferred, assigned or otherwise disposed of, in whole or in part, without the prior written consent of the City Council. The Council may grant or deny any such request and may impose such conditions as it may deem to be in the public interest. Any attempted disposition made without such consent shall be void.

SECTION 25. REPEALS. Ordinance No. 2747-C.S. is hereby repealed effective January 1, 1996.

SECTION 26. EFFECTIVE DATE. This ordinance shall become effective January 1, 1996 or thirty (30) days from and after its final passage and adoption, whichever is later, provided that Grantee, prior to said effective date, shall have filed with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, and delivers to the City Clerk the bond and insurance policies required to be furnished pursuant to the provisions of Section 18 and 19 thereof.

SECTION 27. 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 28. TAX PROVISION. Grantee shall be responsible for prompt payment of all tax liabilities created by operation of this franchise including but not limited to, a possessory interest tax levied by Stanislaus County. Grantee's continued failure to pay such tax after written notice from CITY shall constitute grounds for revocation of this franchise.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 21st day of November, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,
McKinsey, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


RICHARD A LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

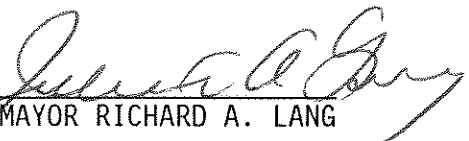
By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2960-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of December, 1995, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Cogdill, Dobbs, Friedman, McClanahan, McKinsey, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

Effective Date: January 4, 1996

ACCEPTANCE OF FRANCHISE

Computer Pathways, Inc., a California corporation, does hereby agree with and accept all of the terms and conditions set forth in Ordinance No. 2960-C.S., introduced by the Council of the City of Modesto on November, 21, 1995, granting a one-year bus bench franchise extension.

Dated: 11/29/95.

COMPUTER PATHWAYS, INC.,

By: [Signature]
Title: PRESIDENT

By: _____
Title: _____

(SEAL)

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney

CERTIFICATE OF CLERK

I hereby certify that the foregoing ACCEPTANCE OF FRANCHISE was received by me at the hour of 2:40 o'clock p.m. on the 29th day of November, 1995.

[Signature]
NORRINE COYLE, City Clerk

*Final Adoption
NOT approved*

ORDINANCE NO. 2961 -C.S.

AN ORDINANCE AMENDING SECTIONS 1-3-8, 5-3-9, 6-3-9, 7-3-9, AND 8-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING CERTAIN PROPERTY LOCATED THEREIN. (PELANDALE/SNYDER)

WHEREAS, pursuant to Modesto Municipal Code Section 10-2.2604, the City of Modesto proposes to initiate a prezoning of the area designated as the Pelandale/Snyder Comprehensive Planning District, described more specifically on Exhibit A, for the purpose of determining the zoning that will apply to the property upon annexation, and

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

WHEREAS, on October 16, 1995, the Planning Commission held a duly noticed public workshop to hear staff presentation on the Specific Plan, the Draft EIR, the Prezone, the Annexation, and received public comment, and

WHEREAS, after a public hearing held on December 4, 1995, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, the Planning Commission made the following findings:

1. That the proposed prezone, together with its recommendation of annexation is consistent with the Specific Plan.
2. That the development of this Specific Plan, General Plan Amendment, Prezone, and reorganization is logical and necessary for the orderly development of the City of Modesto.

3. That the proposed Pelandale/Snyder Specific Plan and the General Plan Amendment are internally consistent with the City of Modesto's current Urban Area General Plan as follows:
 - a. Multi-family housing is located along major streets, and provides an important component of the City's affordable housing goals.
 - b. The designation of the P-O area as shown on the plan to "mixed use" in the General Plan allows for professional offices at the intersection of a major street and a proposed expressway.
 - c. The single-family designation along with the multi-family designation is consistent with the development pattern throughout most of the City and provides a balance of residential land uses.

4. That along with the proposed General Plan Amendment that the proposed prezone request of A-2-10 in the unincorporated county to Professional Office (P-P-O), Single Family Residential (P-R-1), and Multi-family Residential (P-R-3) is consistent with the development goals of the City and that the City Council should adopt an ordinance that prezones these properties accordingly for the following reason:

Prezoning is the first action required pursuant to annexation and development.

WHEREAS, by Resolution No. 95-33, adopted on December 4, 1995, the Planning Commission recommended to the City Council an amendment to Sections 1-3-8, 5-3-9, 6-3-9, 7-3-8, and 8-3-9 of the Zoning Map to prezone the hereafter described property to Prezone Low Density Residential Zone, P-R-1, Prezone Medium High Density Residential Zone P-R-3 and Prezone Professional Office Zone, P-P-O, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 12, 1995, at 4:00 p.m.,

in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on December 12, 1995, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth in Planning Commission Resolution No. 95-33 and quoted above.

SECTION 2. ZONING CHANGE. Sections 1-3-8, 5-3-9, 6-3-9, 7-3-9, and 8-3-9 of the Zoning Map are hereby amended to prezone the following described property to Prezone Low Density Residential Zone, P-R-1, Prezone Medium High Density Residential Zone P-R-3 and Prezone Professional Office Zone, P-P-O:

PREZONE TO R-1

ALL that certain real property being a portion of the South Half of section 1, Township 3 South, Range 8 East, and a portion of the Southwest Quarter of the Southwest quarter of Section 6, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the Southeast corner of said Section 1 with said point being on the existing city limits line; Thence South 89 degrees 07' 00" West along the South line of said Section and along said city limits line, a distance of 4507.44 feet; Thence leaving last said

lines and proceeding North 0 degrees 53' 00" West, a distance of 300.00 feet to the beginning of a curve concave to the Southwest, having a radius of 250.00 feet; Thence Northwesterly 114.39 feet along said curve through a central angle of 26 degrees 13' 02" to the beginning of a curve concave to the Northeast, having a radius of 250.00 feet; Thence Northwesterly along said curve through a central angle of 26 degrees 13' 18"; Thence North 0 degrees 52' 44" West, a distance of 803.69 feet to a point on the South line of the North half of the South half of said Section 1; Thence North 89 degrees 07' 16" East along last said line, a distance of 3940.14 feet to a point on the centerline of the 100.00 foot wide right-of-way for Modesto Irrigation District Lateral No. 6; Thence South 25 degrees 09' 20" East along said centerline, a distance of 1320.39 feet to the beginning of a curve concave to the Northeast, having a radius of 302.90 feet; Thence Southeasterly 158.91 feet along said curve and along said centerline through a central angle of 30 degrees 03' 30" to a point on the south line of the above mentioned Section 6, with said point lying on the existing city limits line; Thence North 88 degrees 36' 20" West along last said Section line and along said city limits line, a distance of 23.61 feet to the POINT OF BEGINNING.

Containing 128.43 Acres, more or less.

ALL that certain real property being a portion of the South half of Section 6 and the North half of Section 7, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the Northeast corner of LOT 6 as shown on the Map of the NASH TRACT, filed for record December 22, 1908 in Book 4 of Maps at Page 10, Stanislaus County Records; Thence South 88 degrees 31' 21" East, along the North line of Lots 7, 9 and 11 of said Nash Tract a distance of 2833.78 feet to the beginning of a curve concave to the Northwest, having a radius of 5000.00 feet, and from which point a radial line bears North 3 degrees 46' 02" West; Thence Northeasterly 394.03 feet along said curve through a central angle of 4 degrees 30' 55" to the beginning of a curve concave to the Southeast, having a radius of 5000.00 feet; Thence Northeasterly 820.38 feet along said curve through a central angle of 9 degrees 24' 03"; Thence South 88 degrees 52' 54" East, a distance of 106.16

feet; Thence South 1 degree 15' 20" East, a distance of 1568.86 feet to a point on the Southerly line of the right-of-way for Modesto Irrigation District Lateral No. 6 and also a point on the existing city limits line; Thence along said right-of-way line and along the existing city limits line the following three (3) courses:

(1) Thence North 88 degrees 36' 03" West, 135.98 feet;
(2) Thence North 0 degrees 29' 50" West, 18.53 feet;
(3) Thence North 88 degrees 36' 20" West, 2,000.88 feet to a point on the East right-of-way line of Carver Road; Thence North 0 degrees 48' 09" West, along said East right-of-way line of Carver Road and the existing city limits line, a distance of 108.06 feet to a point on the South line of said Section 6; Thence North 88 degrees 36' 20" West, along said South line of Section 6, and the centerline of Snyder Avenue and the existing city limits line, a distance of 2008.75 feet to the Southeast corner of said LOT 6; thence North 0 degrees 49' 06" West along the East line of said lot, a distance of 1323.29 feet to the POINT OF BEGINNING.

Containing 133.69 Acres, more or less.

PREZONE TO R-3

ALL that certain real property being a portion of the Southwest quarter of Section 1, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the Southwest corner of the North half of the South half of Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, as shown on the map filed in Volume 8 of Surveys, at Page 26, Stanislaus County Records; Thence North 89 degrees 07' 16" East, along said South line of the North half of the South half of Section 1, a distance of 733.85 feet; Thence leaving last said line and proceeding South 0 degrees 52' 44" East, a distance of 803.69 feet to the beginning of a curve concave to the Northeast, having a radius of 250.00 feet; Thence Southeasterly 114.42 feet along said curve through a central angle of 26 degrees 13' 18" to the beginning of a curve concave to the Southwest, having a radius of 250.00 feet; Thence Southeasterly 114.39 feet along said curve through a central angle of 26 degrees 13' 02"; thence South 0 degrees 53' 00" East, a distance of 300.00 feet to a

point on the South line of said Section 1 and a point on the existing city limits line; Thence South 89 degrees 07' 00" West along last said lines, a distance of 798.14 feet to the Southwest corner of said Section 1 and the centerline of Dale Road; Thence leaving said city limit line North 0 degrees 19' 30" West, along the West line of said Section 1 and the centerline of Dale Road, a distance 1,324.72 feet to the POINT OF BEGINNING.

Containing 23.00 Acres, more or less.

ALL that certain real property being a portion of the Southeast quarter of Section 1, Township 3 South, Range 8 East and the Southwest quarter of Section 6, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at a point on the line common to the above mentioned Sections 1 and 6 with said point marking the Northwest corner of LOT 6 as shown on the Map of the NASH TRACT, filed for record December 22, 1908 in Book 4 of Maps at Page 10, Stanislaus County Records; Thence South 88 degrees 31' 21" East along the North line of said LOT 6, a distance of 649.13 feet to the Northeast corner thereof; Thence leaving last said line and proceeding South 0 degrees 49' 06" East along the East line of said LOT 6, a distance of 1323.29 feet to the Southeast corner thereof, with said point lying on the South line of said Section 6; Thence North 88 degrees 36' 20" West along the South line of said Section 6, a distance of 625.01 feet to a point on the centerline of the 100.00 foot wide right-of-way for Modesto Irrigation District Lateral No. 6 and the beginning of a curve concave to the Northeast, having a radius of 302.90 feet, and from which point a radial line bears North 34 degrees 47' 10" East; Thence leaving said section line and proceeding Northwesterly along said curve and along said centerline a distance of 158.91 feet through a central angle of 30 degrees 03' 30"; Thence North 25 degrees 09' 20" West, along said centerline, a distance of 1320.39 feet to a point on the South line of the North half of the South half of the above mentioned Section 1; Thence leaving said centerline and proceeding North 89 degrees 7' 16" East along said South line of the North half of the South half of Section 1, a distance of 619.71 feet to the POINT OF BEGINNING.

Containing 29.41 Acres, more or less.

ALL that certain real property being a portion of the Southeast quarter of Section 6 and the Northeast quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California being more particularly described as follows:

BEGINNING at the corner common to Sections 5, 6, 7 and 8, above mentioned Township and Range, with said point lying on the centerline of a county road known as Tully Road; Thence South 0 degrees 31' 19" East along said centerline and along the line common to said Sections 7 and 8, a distance of 126.51 feet to a point on the Southerly line of the right-of-way for Modesto Irrigation District Lateral No. 6; Thence North 88 degrees 36' 03" West along said right-of-way line, a distance of 690.33 feet; Thence leaving said right-of-way line and proceeding North 1 degree 15' 20" West, a distance of 1568.86 feet; Thence South 88 degrees 52' 54" East, a distance of 691.81 feet to a point on the above mentioned centerline of Tully Road, with said point lying on the line common to said Sections 5 and 6; Thence South 1 degree 15' 20" East along said centerline and section line, a distance of 1445.68 feet to the POINT OF BEGINNING.

Containing 24.92 Acres, more or less.

PREZONE TO P-O

ALL that certain real property being a portion of the Southwest quarter of Section 5 and the Northwest quarter of Section 8, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California being more particularly described as follows:

BEGINNING at the corner common to Sections 5, 6, 7 and 8, above mentioned Township and Range, with said point lying centerline of a county road known as Tully Road; Thence North 1 degree 15' 20" West along said centerline and along the line common to said Sections 5 and 6, a distance of 1462.69 feet to the Westerly prolongation of the North line of Parcel 1, as shown on the map filed on January 29, 1985 in Book 36 of Parcel Maps, at Page 21, Stanislaus County Records; Thence South 88 degrees 51' 54" East, along last said line and along the North line of Parcels 1 and 2 of aforesaid parcel map and the Easterly prolongation thereof, a

distance of 2,604.35 feet to the intersection with the Westerly right-of-way line of Union Pacific Railroad; Thence South 1 degree 19' 04" East along said Westerly right-of-way line of Union Pacific Railroad right-of-way, a distance of 457.29 feet to the intersection with the Southeasterly right-of-way line of Modesto Irrigation District Lateral No. 6; Thence in a Southwesterly direction along said Southeasterly right-of-way line of Modesto Irrigation District Lateral No. 6 and the existing city limits line, the following nine (9) courses: (1) Thence South 68 degrees 19' 55" West, 732.55 feet to the beginning of a curve, concave to the Southeast, having a radius of 242.90 feet; 2) Thence 81.93 feet along the arc of said curve through a central angle of 19 degrees 19' 35"; 3) Thence South 49 degrees 00' 20" West, 654.01 feet; 4) Thence South 49 degrees 32' 46" West, 208.15 feet; 5) Thence South 40 degrees 27' 14" East, 5.00 feet to the beginning of a curve, concave to the Northwest, having a radius of 367.90 feet from which a radial line bears South 40 degrees 27' 14" East; 6) Thence 175.40 feet along the arc of said curve through a central angle of 27 degrees 19' 00"; 7) Thence South 76 degrees 51' 46" West, 550.72 feet to the beginning of a curve concave to the North and having a radius of 367.90 feet; 8) Thence 96.32 feet along the arc of said curve through a central angle of 15 degrees 00' 01"; 9) Thence North 88 degrees 08' 13" West, 395.19 feet to a point on the above mentioned centerline of Tully Road with said point lying on the line common to said Sections 7 and 8; Thence North 0 degrees 31' 19" West along said centerline and said section line, a distance of 126.51 feet to the POINT OF BEGINNING.

Containing 68.66 Acres, more or less.

SECTION 4. ZONING MAP. Sections 1-3-8, 5-3-9, 6-3-9, 7-3-9, and 8-3-9 of the Zoning Map of the City of Modesto are hereby amended to appear as set forth on the maps attached hereto, which are hereby made a part of this ordinance by reference.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McKinsey, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, McKinsey, Mayor Lang
NOES: Councilmembers: Friedman, McClanahan,
ABSENT: Councilmembers: None

APPROVED: _____
RICHARD A. LANG, Mayor

ATTEST:

By _____
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Development Services

ALL that certain real property being a portion of Section 1, Township 3 South, Range 8 East, Sections 5, 6, 7, and 8, township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California.

BEGINNING at the Southwest corner of the North half of the South half of Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, as shown on the map filed in Volume 8 of Surveys, at Page 26, Stanislaus County Records; thence North 89 degrees 07'16" East, along said South line of the North half of the South half of Section 1, a distance of 5,293.70 feet to a point on the East line of said Section 1, and the Northwest corner of Lot 6, as shown on the Nash Tract, filed in Volume 4 of Maps, at Page 10, Stanislaus County Records; thence South 88 degrees 31'21" East, along the North line of Lots 6, 7, 9, and 11 of said Nash Tract, a distance of 3,482.91 feet to the beginning of a curve concave to the Northwest, having a radius of 5000.00 feet, and from which point a radial line bears North 3 degrees 46' 02" West; thence Northeasterly 394.03 feet along said curve through a central angle of 4 degrees 30' 55" to the beginning of a curve concave to the Southeast, having a radius of 5000.00 feet; thence Northeasterly 820.38 feet along said curve through a central angle of 9 degrees 24' 03"; thence South 88 degrees 52' 54" East, a distance of 797.97 feet to a point on the East line of the above mentioned Section 6, with said point lying on the center line of a county road known as Tully Road; thence North 1 degree 15'20" West, along said centerline and said section line, a distance of 17.01 feet to the Westerly prolongation of the North line of Parcel 1, as shown on the map filed on January 29, 1985, in Book 36 of Parcel Maps, at Page 21, Stanislaus County Records; thence South 88 degrees 52'54" East, along last said line and along the North line of Parcels 1 and 2 of aforesaid parcel map and the Easterly prolongation thereof, a distance of 2,604.35 feet to the intersection with the Westerly right-of-way line of Union Pacific Railroad; thence South 1 degree 19'04" East along said Westerly right-of-way line of Union Pacific Railroad right-of-way, a distance of 457.29 feet to the intersection with the Southeasterly right-of-way line of Modesto Irrigation District Lateral No. 6; thence in a Southwesterly direction along said Southeasterly right-of-way line of Modesto Irrigation District Lateral No. 6 and the existing city limits line, the following twelve (12) courses; 1) thence South 68 degrees 19'55" West, 732.55 feet to the beginning of a curve, concave to the Southeast, having a radius of 242.90 feet; 2) thence 81.93 feet along the arc of said curve through a central angle of 19 degrees 19'35"; 3) thence south 49 degrees 00'20" West, 654.01 feet; 4) thence South 49 degrees 32'46" West, 208.15 feet; 5) thence South 40 degrees 27'14" East, 5.00 feet to the beginning of a curve, concave to the Northwest, having a radius of 367.90 feet from which a radial line bears South 40 degrees 27'14" East; 6) thence 175.40 feet along the arc of said curve through a central angle of 27 degrees 19'00"; 7) thence South 76 degrees 51'46" West, 550.72 feet to the beginning of a curve concave to the North and having a radius of 367.90 feet; 8) thence 96.32 feet along the arc of said curve through a central angle of 15 degrees 00' 01"; 9) thence North 88 degrees 08'13" West, 395.19 feet; 10) thence North 88 degrees 36' 03" West, 844.31 feet; 11) thence North 0 degrees 29'50" West, 18.53 feet; 12) thence North 88 degrees 36'20" West, 2,000.88 feet to a point on the East right-of-way line of Carver Road; thence North 0 degrees 48'09" West, along said East right-of-way line of Carver Road and the existing city limits line, a distance of 108.06 feet

to a point on the South line of said Section 6; thence North 88 degrees 36'20" West, along said South line of Section 6, and the centerline of Snyder Avenue and the existing city limits line, a distance of 2,657.37 feet to the Southwest corner of said Section 6; thence South 89 degrees 07'00" West along the South line of said Section 1 and the existing city limits line, a distance of 5,305.58 feet to the Southwest corner of said Section 1 and the centerline of Dale Road; thence North 0 degrees 19'30" West, along the West line of said Section 1 and the centerline of Dale Road, a distance 1,324.72 feet to the POINT OF BEGINNING.

Containing 408.11 acres, more or less.

BASIS OF BEARINGS:

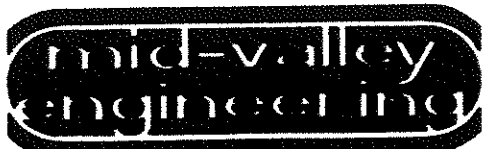
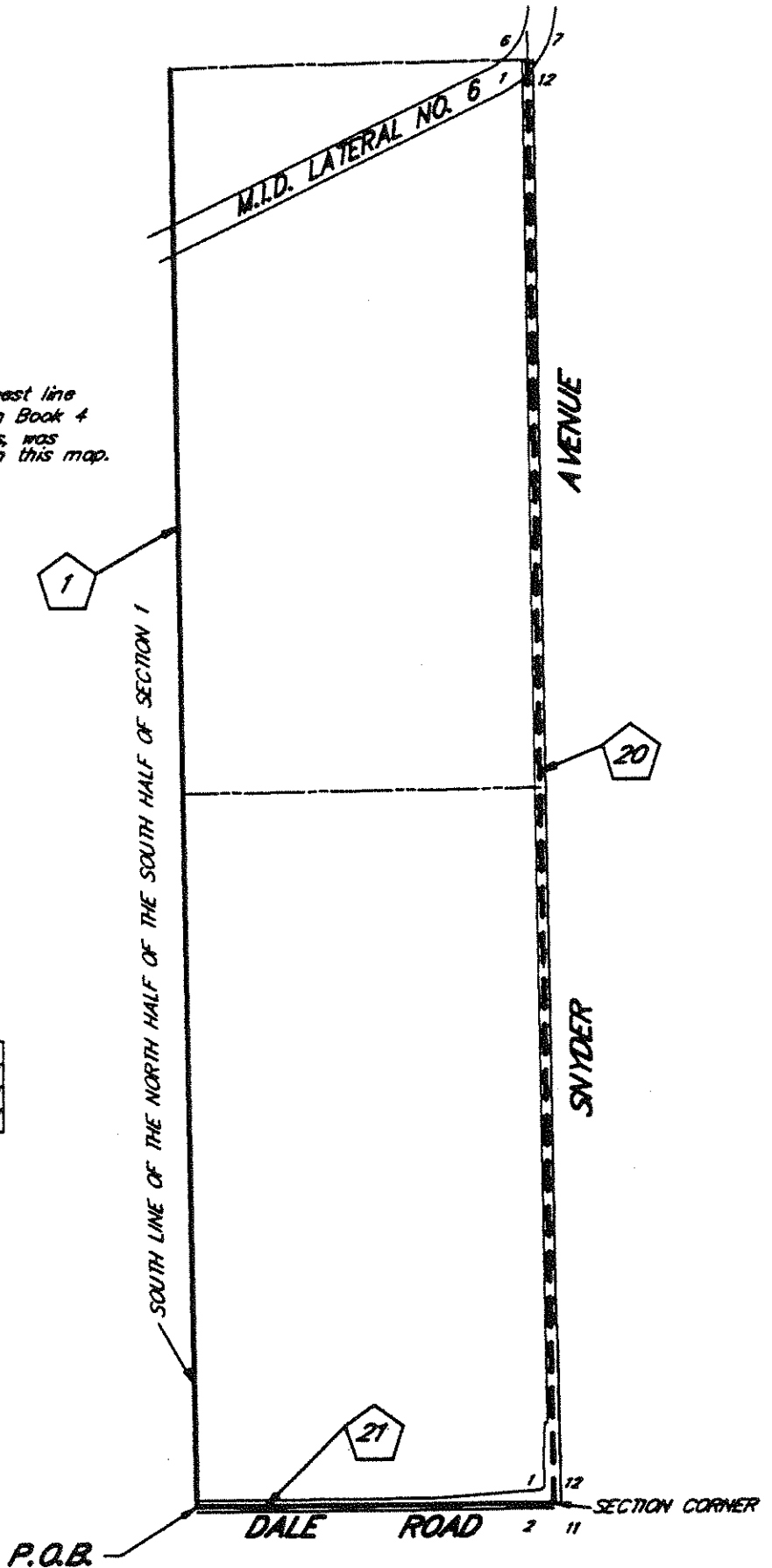
The bearing of N.00° 50'20" W., along the west line of Section 6, as shown on the map filed in Book 4 of MAPS, Pg 10., Stanislaus County Records, was used for the basis of all bearings shown on this map.

--- Existing City Limits Line



LINE TABLE

LINE	DIRECTION	DISTANCE
1	N 89°07'16" E	5293.70'
20	S 89°07'00" W	5305.58'
21	N 00°19'30" W	1324.72'

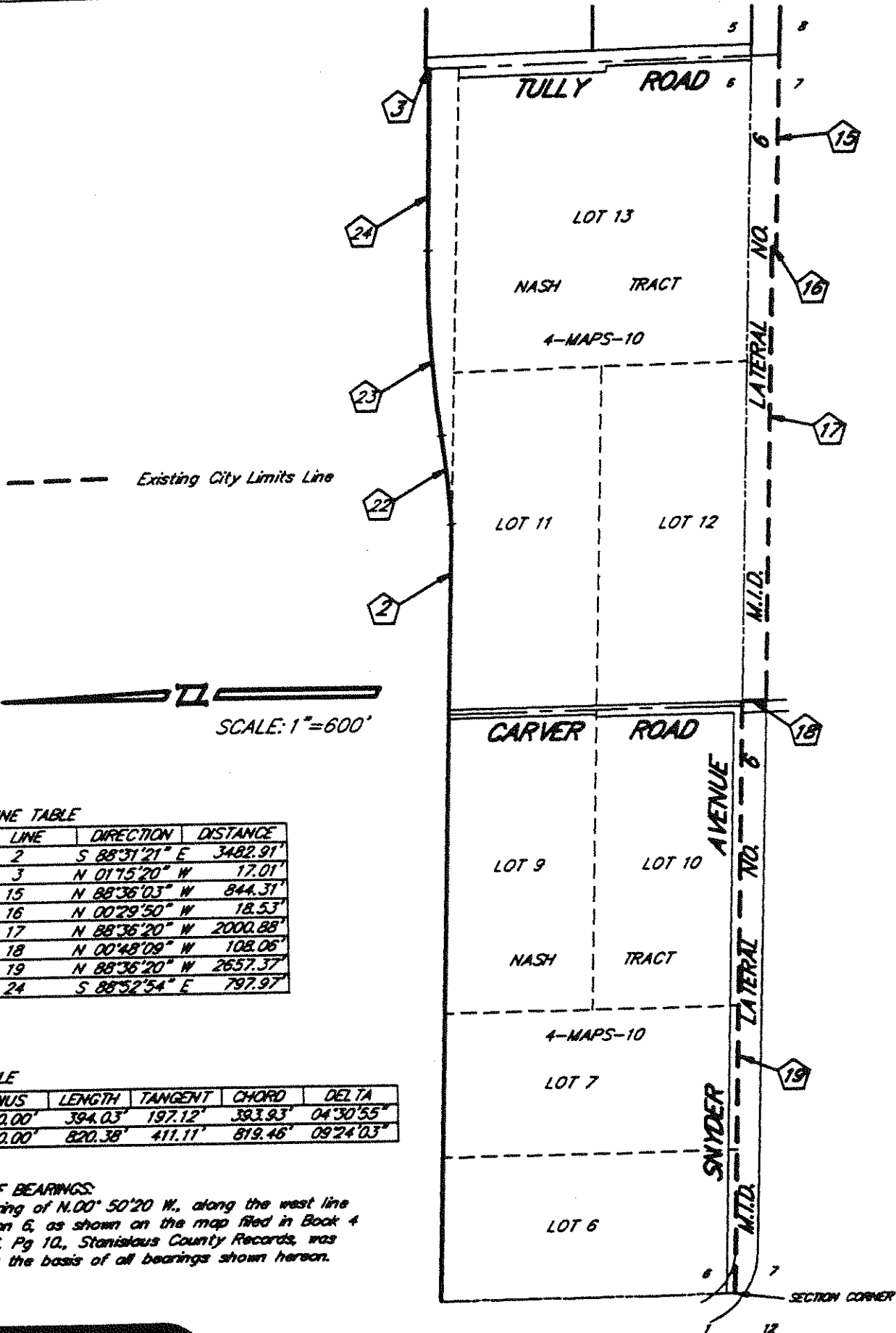


P.O. BOX 816, MODESTO, CALIFORNIA 95353

PELANDALE ANNEXATION

408.11 ACRES

EXHIBIT "A"



LINE TABLE

LINE	DIRECTION	DISTANCE
2	S 88°31'21" E	3482.91'
3	N 01°15'20" W	17.01'
15	N 88°36'03" W	844.31'
16	N 00°29'50" W	18.53'
17	N 88°36'20" W	2000.88'
18	N 00°48'09" W	108.06'
19	N 88°36'20" W	2657.37'
24	S 88°52'54" E	797.97'

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	DELTA
22	5000.00'	394.03'	197.12'	393.93'	04°30'55"
23	5000.00'	820.38'	411.11'	819.46'	09°24'03"

BASIS OF BEARINGS:

The bearing of N.00° 50'20" W., along the west line of Section 6, as shown on the map filed in Book 4 of MAPS, Pg 10, Stanislaus County Records, was used for the basis of all bearings shown hereon.



P.O. BOX 816, MODESTO, CALIFORNIA 95363

PELANDALE ANNEXATION

408.11 ACRES

BASIS OF BEARINGS:

The bearing of N.00° 50'20" W., along the west line of Section 6, as shown on the map filed in Book 4 of MAPS, Pg 10., Stanislaus County Records, was used for the basis of all bearings shown on this map.

--- Existing City Limits Line

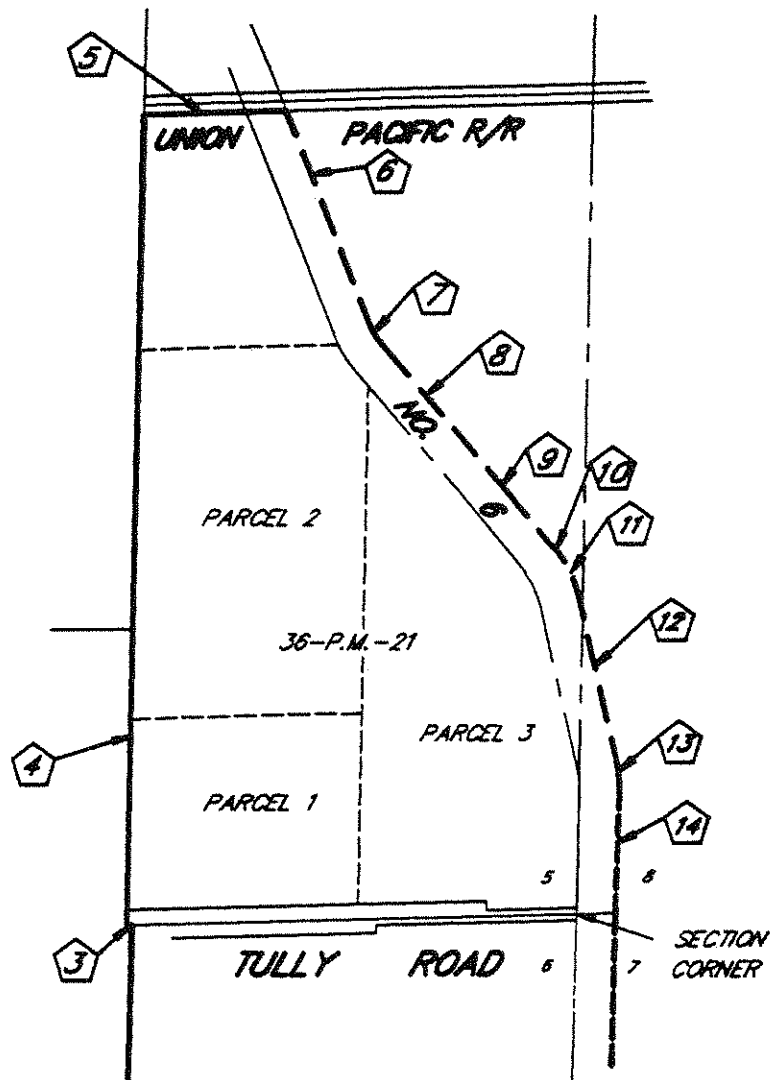
SCALE: 1"=600'

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	DELTA
7	242.90'	81.93'	41.36'	81.54'	1979'35"
11	367.90'	175.40'	89.40'	173.75'	2779'00"
13	367.90'	96.32'	48.44'	96.04'	15'00'01"

LINE TABLE

LINE	DIRECTION	DISTANCE
3	N 01°15'20" W	17.01'
4	S 88°52'54" E	2604.35'
5	S 01°19'04" E	457.29'
6	S 68°19'55" W	732.55'
8	S 49°00'20" W	654.01'
9	S 49°32'46" W	208.15'
10	S 40°27'14" E	5.00'
12	S 76°51'46" W	550.72'
14	N 88°08'13" W	395.19'



PELANDALE ANNEXATION
408.11 ACRES



Clerk

ORDINANCE NO. 2962 -C.S.

AN ORDINANCE AMENDING SECTION 7-4-9, AND PORTIONS OF SECTIONS 18-4-9, 12-4-8, AND 13-4-8 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING CERTAIN PROPERTY LOCATED THEREON. (FAIRVIEW VILLAGE)

WHEREAS, pursuant to Municipal Code Section 10-2.2604, the City of Modesto proposes to initiate a prezoning of the area designated as the Fairview Comprehensive Planning District, described more specifically on Exhibit A, for the purpose of determining the zoning that will apply to the property upon annexation, and

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

WHEREAS, on November 13, 1995, the Planning Commission held a duly noticed public workshop to hear staff presentation on the Specific Plan, the Draft Focused EIR, and receive public comment, and

WHEREAS, after a public hearing held on November 27, 1995, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission that prezoning the Fairview Comprehensive Planning District as requested is in accordance with Government Code Section 65855 for the following reasons:

1. The requested prezoning is required by public convenience and necessity because the proposed Fairview Village Specific Plan will provide needed services and facilities for that area.

2. The requested rezoning will result in orderly planning and use of land resources because the proposed Fairview Village Specific Plan would implement a Community Growth Policy of the General Plan by promoting the expansion of the Modesto Urban Area to the west to ensure that the downtown redevelopment area remains the "central core."
3. The requested rezoning is in accordance with the community's objectives set forth in the Modesto Urban Area General Plan because it provides for the social and economic development to the west side of Modesto.
4. The requested rezoning is in accordance with the policies and goals presented in the Fairview Village Specific Plan.

WHEREAS, by Resolution No. 95-31, adopted on November 27, 1995, the Planning Commission recommended to the City Council an amendment to Section 7-4-9 and portions of Sections 18-4-9, 12-4-8, and 13-4-8 of the Zoning Map to rezone the hereafter described property to Specific Plan Overlay Zone, SP-0; and Section 7-4-9 and a portion of Section 18-4-9 of the Zoning Map to rezone the hereafter described property to Low Density Residential Zone, R-1, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 12, 1995, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on December 12, 1995, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reasons set forth in Planning Commission Resolution No. 95-31 and quoted above.

SECTION 2. ZONING CHANGE. Section 7-4-9 and portions of Sections 18-4-9, 12-4-8 and 13-4-8 of the Zoning Map are hereby amended to prezone the following described property to Specific Plan Overlay Zone, SP-O:

All that certain real property situate in portions of Section 12 and 13, Township 4 South, Range 8 East, and Sections 7 and 18, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, in the County of Stanislaus, State of California described as follows:

BEGINNING at the northwest corner of Lot 30, Block 9210, of "California Glen" according to the Official Map thereof filed for record in Volume 35 of Maps, Page 49, Stanislaus County Records; thence southerly along the west line of said "California Glen" the following 2 courses:

1. South 0° 19' 10" West 1350.01 feet, and
2. South 0° 17' 22" West 189.96 feet to the northwesterly line of 50-foot wide Turlock Irrigation District Lateral No. 1;

thence South 41° 26' 22" West along said northwesterly line of T.I.D. Lateral No. 1 a distance of 242.77 feet to the northerly extension of the west line of the "Fairview Tract" according to the Official Map thereof filed for record in Volume 17 of Maps, Page 16, Stanislaus County Records; thence South 0° 10' 30" West along said west line of the "Fairview Tract" and the northerly and southerly extensions thereof, a distance of 2302.70 feet to the existing south

right-of-way line of Whitmore Avenue; thence westerly along said existing south line of Whitmore Avenue the following 9 courses:

1. North 89° 52' 30" West parallel with and 20.00 feet south of the south line of said Section 7, a distance of 1186.52 feet to the northerly extension of the east line of Parcel B as shown on map recorded in Book 31 of Parcel Maps, Page 78, Stanislaus County Records,
2. South 0° 11' 00" West along said northerly extension of the east line of Parcel B a distance of 35.00 feet,
3. North 89° 52' 30" West along the north lines of said Parcel B and Parcel A of said Parcel Map a distance of 1309.12 feet to the northwest corner of said Parcel A,
4. North 0° 12' 00" East along the northerly extension of the west line of said Parcel A a distance of 35.00 feet,
5. North 89° 52' 30" West parallel with and 20.00 feet south of said south line of Section 7, a distance of 63.95 feet to the northerly extension of the east line of Parcel 1 as shown on map recorded in Book 26 of Parcel Maps, Page 12, Stanislaus County Records,
6. South 0° 05' 34" West along said northerly extension of the east line of Parcel 1 a distance of 30.00 feet to the northeast corner of said Parcel 1,
7. North 89° 52' 30" West along the north line of said Parcel 1 a distance of 148.00 feet to the northwest corner of said Parcel 1,
8. North 0° 05' 34" East along the northerly extension of the west line of said Parcel 1 a distance of 30.00 feet, and
9. North 89° 52' 30" West parallel with and 20.00 feet south of said south line of Section 7, a distance of 1193.48 feet to the southerly extension of the existing west right-of-way line of Carpenter Road;

thence northerly along said existing west line of Carpenter Road the following 11 courses:

1. North 0° 17' 30" West parallel with and 40.00 feet west of the west line of the Southwest Quarter of said Section 7 a distance of 2668.10 feet,
2. North 0° 16' 46" West 329.62 feet to the south line of north half of the south half of the Southeast Quarter of the Northeast Quarter of said Section 12,
3. South 89° 42' 14" West along said south line a distance of 10.00 feet,
4. North 0° 17' 46" West 60.00 feet,
5. North 89° 42' 14" East 10.00 feet,
6. North 0° 17' 46" West 586.45 feet,
7. South 89° 42' 14" West 5.00 feet,
8. North 0° 17' 46" West 200.41 feet,
9. Northerly 197.71 feet along a tangent curve, concave to the west, having a radius of 5955.00 feet and a central angle of 1° 54' 08",
10. North 2° 11' 54" West 400.39 feet, and
11. Northerly 7.99 feet along a tangent curve, concave to the east, having a radius of 6045.00 feet and a central angle of 0° 04' 33" to the westerly extension of the existing southerly right-of-way line of Hatch Road;

thence southeasterly along said existing southerly line of Hatch Road, being also the northerly line of Parcel A as shown on map filed for record in Book 42 of Parcel Maps, Page 2, Stanislaus County Records, and westerly extension thereof the following 4 courses:

1. North 88° 19' 57" East 297.63 feet,

2. Southeasterly 254.69 feet along a tangent curve, concave to the south, having a radius of 450.00 feet and a central angle of 32° 25' 40",
3. South 59° 14' 23" East 401.75 feet, and
4. Southeasterly 642.99 feet along a tangent curve, concave to the north having a radius of 1650.00 feet and a central angle of 22° 19' 40" to the northeasterly corner of said Parcel A;

thence North 0° 32' 31" East along the northerly extension of the easterly line of said Parcel A a distance of 5.05 feet to the existing south right-of-way line of a 90-foot-wide Hatch Road, said point being on a non-tangent curve from which a radial line bears North 8° 27' 23" East to the center; thence easterly along said south line of Hatch Road the following two courses:

1. Southeasterly 295.23 feet along said non-tangent curve, concave to the north, having a radius of 1645.00 feet and a central angle of 10° 16' 58", and
2. North 88° 10' 25" East 2341.00 feet to the northerly extension of said west line of "California Glen;"

thence South 0° 19' 10" West along said northerly extension of the west line of "California Glen" a distance of 22.50 feet to the point of beginning.

Containing: 375.82 Acres

SECTION 3. ZONING CHANGE. Section 7-4-9 and a portion of Section 18-4-9 of the Zoning Map are hereby amended to prezone the following described property to Low Density Residential Zone, R-1:

All that certain real property situate in portions of Section 12, Township 4 South, Range 8 East, and Section 7, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, in the County of Stanislaus, State of California, described as follows:

Commencing at the northwest corner of Lot 30, Block 9210, of "California Glen" according to the official map thereof filed for record in Volume 35 of Maps, Page 49, Stanislaus County Records; thence North 0°19'10" East along the northerly extension of the west line of said "California Glen" a distance of 22.50 feet to the existing southerly line of a 90-foot-wide Hatch Road and the true POINT OF BEGINNING of this description; thence continuing North 0° 19' 10" East along the west line of property described in deed to Lemmie C. McKinsey recorded in Volume 1627 of Official Records, Page 22, Stanislaus County Records, a distance of 245.00 feet more or less to centerline of the Tuolumne River; thence Northwesterly along said centerline of the Tuolumne River the following five courses:

1. North 85° 30' 00" West 790.00 feet,
2. South 85° 00' 00" West 820.00 feet,
3. South 88° 80' 00" West 1,095.00 feet,
4. North 69° 80' 00" West 660.00 feet, and
5. North 56° 00' 00" West 1,009.93 feet more or less to existing west right-of-way line of Carpenter Road;

thence southerly along said existing west line of Carpenter Road and the southerly extension thereof the following four courses:

1. South 0° 17' 20" East 99.94 feet more or less to the northeasterly line of Lot 20, Block 9425, of "Riverdale Park" according to the Official Map thereof filed for record in

Volume 16 of Maps, Page 44, Stanislaus County Records,

2. South 52° 32' 30" East along said northeasterly line of Lot 20 a distance of 31.62 feet,
3. South 0° 17' 20" East 278.53 feet, and
4. Southerly 193.46 feet along a tangent curve, concave to the east, having a radius of 6,045.00 feet and a central angle of 1° 50' 01", to the westerly extension of the existing southerly right-of-way line of Hatch Road;

thence southeasterly along said existing southerly line of Hatch Road, being also the northerly line of Parcel A as shown on map filed for record in Book 42 of Parcel Maps, Page 2, Stanislaus County Records, and westerly extension thereof the following four courses:

1. North 88° 19' 57" East 297.63 feet,
2. Southeasterly 254.69 feet along a tangent curve, concave to the south, having a radius of 450.00 and a central angle of 32° 25' 40",
3. South 59° 14' 23" East 401.75 feet, and
4. Southeasterly 642.99 feet along a tangent curve, concave to the north having a radius of 1,650.00 feet and a central angle of 22° 19' 40" to the northeasterly corner of said Parcel A;

thence North 0° 32' 31" East along the northerly extension of the easterly line of said Parcel A a distance of 5.05 feet to the existing south right-of-way line of a 90-foot-wide Hatch Road, said point being on a non-tangent curve from which a radial line bears North 8° 27' 23" East to the center; thence easterly along said south line of Hatch Road the following two courses:

1. Southeasterly 295.23 feet along said non-tangent curve, concave to the north, having a radius of 1,645.00 feet and a central angle of 10° 16' 58", and
2. North 88° 10' 25" East 2,341.00 feet to the point of beginning.

Containing 28.53 Acres.

SECTION 4. ZONING MAP. Sections 7-4-9, 18-4-9, 12-4-8, and 13-4-8 of the Zoning Map of the City of Modesto are hereby amended to appear as set forth on the maps attached hereto, which are hereby made a part of this ordinance by reference.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McKinsey, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McKinsey, Mayor Lang
NOES: Councilmembers: McClanahan
ABSENT: Councilmembers: None

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

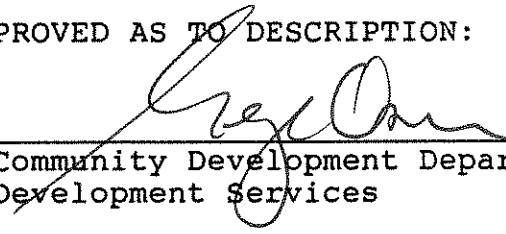
By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Development Services

Ord. No. 2962-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of January, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
JEAN ADAMS, City Clerk

Effective Date: February 1, 1996

ORDINANCE NO. 2963 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2799-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 21-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(363), AS AN ADDITION TO P-D(363), PROPERTY LOCATED ON THE WEST SIDE OF NELSON AVENUE SOUTH OF EAST ORANGEBURG AVENUE (TERRY CARSON)."

SECTION 1. AMENDMENT OF ORDINANCE NO. 2799-C.S.

Section 2 of Ordinance No. 2799-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(363) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Medical/professional office building (P-O Zone) uses.
2. Off-street parking as shown on the approved plan."

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

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


title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember McClanahan, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan, McKinsey, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Dobbs


APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2963-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of January, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


JEAN ADAMS, City Clerk

Effective Date: February 1, 1996

Clerk

ORDINANCE NO. 2964 -C.S.

AN ORDINANCE AMENDING SECTION MAP 31-3-9 OF
THE ZONING MAP OF THE CITY OF MODESTO
PREZONING CERTAIN PROPERTY LOCATED THEREON.
(ALICE BETTENCOURT)

WHEREAS, a verified application for an amendment to
Section 31-3-9 of the Zoning Map was filed by Mr. Glenn
Montgomery, acting as agent for Mrs. Alice Bettencourt, on
September 29, 1995, to prezone to Low Density Residential Zone,
PR-1, property located east of Marshall Avenue, south of
California Avenue, and north of Briggs Avenue, hereinafter
described, and

WHEREAS, after a public hearing held on November 6,
1995, it was found and determined by the Planning Commission that
prezoning of the property as requested is required by public
necessity, convenience and general welfare for the following
reason:

That the proposed prezone is in accordance with the
community objectives as set forth in the General Plan,
which provides for low-density residential development
in the area.

WHEREAS, by Resolution No. 95-22, adopted on
November 6, 1995, the Planning Commission recommended to the
Council that the application of Mr. Glenn Montgomery, acting as
agent for Mrs. Alice Bettencourt to amend Section 31-3-9 of the
Zoning Map to prezone the hereafter described property to Low
Density Residential Zone, PR-1, be approved, and

WHEREAS, said matter was set for a public hearing of
the City Council to be held on December 12, 1995, at 4:00 p.m.,

in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on December 12, 1995, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the reason set forth in Planning Commission Resolution No. 95-22 and quoted above.

SECTION 2. ZONING CHANGE. Section 31-3-9 of the Zoning Map is hereby amended to rezone the following described property to Low Density Residential Zone, PR-1:

All that certain real property situate in a portion of the southeast quarter of Section 31, Township 3 South, Range 9 East Mount Diablo Base and Meridian, in the County of Stanislaus, State of California, described as follows,

Lots 1 and 2 of the RE-SURVEY OF BRICHMANS ADDITION TO THE CITY OF MODESTO, according to the official Map, thereof, filed in the office of the Recorder of Stanislaus County, California, on October 15, 1904, in Volume 2 of Maps at page 1.

EXCEPTING THEREFROM the following described portion of said lots:

Beginning at the Northwest corner of said Lot 1, thence south along the West boundary line of said Lots 1 and 2, 933.36 feet to the southwest corner of said Lot 2, thence Easterly along the South line of said Lot 2,

466.68 feet to the Southeast corner of said Lot 2, thence North along the East boundary line of said Lot 2, 266.31 feet to the center line of a ditch, thence North 88° 44' 30" West along said center line of said ditch 180.43 feet to an angle; thence deflecting an angle of 91° 15' 30", to the right and continuing along the center line of said ditch northerly a distance of 661.53 feet to the North line of said Lot 1, thence westerly along the North line of said Lot 1, 287.0 feet to the point of beginning.

Including also the south 40 feet of California Avenue.

SECTION 3. ZONING MAP. Section 31-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan, McKinsey,
NOES: Councilmembers: None
ABSENT: Councilmembers: Dobbs

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 

Community Development Department
Development Services

Ord. No. 2964-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of January, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, McClanahan, McKinsey, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


JEAN ADAMS, City Clerk

Effective Date: February 15, 1996

ORDINANCE NO. 2965-C.S.

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA 8 OF THE VILLAGE ONE SPECIFIC PLAN, INCLUDING CONDITIONS AND PROVISION FOR A DEVELOPMENT AGREEMENT RELATING TO PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN AVENUE EAST OF LITT ROAD EXTENDED. (INLAND WESTPOINTE PARTNERSHIP-VILLAGE HIGHLANDS)

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

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

WHEREAS, the Inland Westpointe Partnership proposes to develop a 151-lot, single-family subdivision called Village Highlands, and an 8.6-acre multiple-family residential area to be developed as a later phase, all on a 38-acre site which comprises the entire Precise Plan Area No. 8, located on the south side of Sylvan Avenue east of a southerly extension of Litt Road, and which proposal also seeks underlying zoning of R-1 and R-3 which is to be coupled with the Specific Plan, SPO, Overlay Zone in accordance with the requirements of the Specific Plan, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on November 27, 1995, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution 95-25, recommended to the City Council approval of a Precise Plan for Area No. 8 of the Village One Specific Plan, and

WHEREAS, said matter was set for a public hearing of the Council of the City of Modesto to be held on December 12, 1995, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

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

WHEREAS, the Council declares that said Precise Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 8 conforms to the revised Specific Plan in that it follows the previously-established land-use mix, the street layout and development specifications.
2. The proposed Precise Plan for Area No. 8 provides for A.O.B. funding via a Development Agreement between the developer and the City of Modesto.
3. The proposed Rezoning to R-1 and R-3 with an SPO zone overlay is necessary as an integral step toward development under the Village One Specific Plan.

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

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 8 of the Village One Specific Plan and rezoning to R-1 and R-3 as underlying zoning together with an SPO overlay zoning as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, subject to the following conditions:

1. Except as amended herein or by reference, all development shall be in accordance with the Village One Specific Plan and the specifications contained in the booklet entitled "Village One - Precise Plan Area No. 8" and Village Highlands Vesting Tentative Subdivision Map - Modesto, California, prepared for the Inland Westpointe Partnership by Lew-Garcia-Davis, dated received October 2, 1995, and the vesting tentative subdivision map entitled Village Highlands, stamped approved by the Planning Commission on November 27, 1995, and on file in the office of the Community Development Director.
2. Prior to recordation of a final map, the developer shall submit and obtain approval of landscaping and irrigation plans including the Sylvan Avenue median, planter entry medians, the dedicated arterial and connector street planters, and landscaped traffic circles as required by the Parks & Recreation Department Director. All landscaping, irrigation, and maintenance shall be in accordance with the approved plans.
3. Prior to recordation of a final map, the developer shall secure and establish a funding source for both capital improvements and ongoing maintenance of the landscaped areas, including but not limited to landscaping and lighting district, Mello-Roos Community Facilities District, or special assessment district.
4. a. Prior to the recordation of a final map, all subdivision dedications and improvements as required in the Modesto Municipal Code, the cumulative California State Subdivision Law, and the Village One Specific Plan shall be

accepted by the City of Modesto and installed or secured to the satisfaction of the Public Works and Transportation Director. This condition shall include street requirements to implement the appropriate mitigation measures 4.4.1 through 4.4.8 of the Village One Program Environmental Impact Report. This shall also include Public Services and Utilities necessary to implement the appropriate mitigation measures 4.10 through 4.10.14c.

- b. With respect to Sylvan Avenue, Litt Rd. extended (Shady Valley Drive), and Hillglen Drive, prior to recordation of a final map, the developer shall complete, or secure the construction thereof to the satisfaction of the Public Works and Transportation Director, the full frontage improvements up to the off-site curbs.
5. Prior to recordation of a final map, the developer shall advance the necessary infrastructure costs or shall construct the facilities necessary to extend infrastructure service to the area. If temporary measures are utilized, the developer shall also fund the amount necessary to effect a permanent provision when such can be accomplished. The costs shall be determined by the Director of Public Works and Transportation.
6. Prior to approval of the final map, the City and Developer shall negotiate and execute a development agreement specifying the conditions of the development. The development agreement shall be adopted by ordinance as provided in SPA #6 of the Village One Specific Plan.
7. It is anticipated that a portion of the Public Facilities necessary to serve development in Village One will be financed through the formation of an Area of Benefit (AOB) for Village One. This AOB will assign a fair share of certain identified public facility costs needed to serve Village One to each Precise Plan area and ultimately each parcel or lot receiving development entitlements.

In the event that the AOB for Village One is established prior to the issuance of building permits for this project, then developer shall pay

the AOB assessment for each lot prior to the issuance of each building permit.

In the event that the developer seeks issuance of building permits prior to the establishment of the AOB for Village One, then in lieu of the AOB assessment, developer shall pay for each lot an amount to be determined by the City Council after holding a public hearing for that purpose prior to the issuance of any building permit. It is the intent of this condition that the developer fully participate by paying his fair share in the Village One Financing Plan. Any fees paid in excess of the actual AOB assessment shall be reimbursed pursuant to the development agreement.

8. Prior to recordation of a Final Map, all improvement plans, prepared by a registered civil engineer shall be prepared and approved. All improvements shall be in accordance with the approved plans.
9. Prior to recordation of a final map, annexation to the schools Mello-Roos District shall be completed.
10. Public utility easements, as required by the utility companies serving the subdivision, shall be dedicated by the final map.
11. Irrigation lines within the subdivision shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Public Works and Transportation Director. Appropriate easements for irrigation lines to remain shall be dedicated as necessary. The 36-inch irrigation line to be relocated in Shady Valley Drive shall be placed other than in the eight-foot planter between the curb and sidewalk as originally proposed.
12. Prior to recordation of a final map, the developer shall show on the plans submitted to Engineering all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.
13. The applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's

Office on a form available in the Planning and Community Development Department.

14. The subdivider shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code of the State of California. The City of Modesto shall promptly notify the subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless.

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

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


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan,
McKinsey, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED:


RICHARD A. LANG, Mayor

ATTEST:


By


JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By


MICHAEL D. MILICH, City Attorney

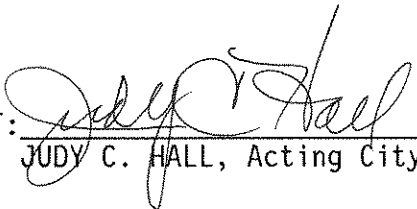
Ord. No. 2965-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of February, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, McClanahan, McKinsey, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
JUDY C. HALL, Acting City Clerk

Effective Date: March 7, 1996

ORDINANCE NO. 2966-C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY TO LOW DENSITY RESIDENTIAL ZONE, R-1, AND MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, AS UNDERLYING ZONING TOGETHER WITH A SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN AVENUE EAST OF LITT ROAD EXTENDED. (PRECISE PLAN FOR AREA NO. 8 - VILLAGE HIGHLANDS)

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

WHEREAS, the Inland Westpointe Partnership proposes to develop a 151-lot, single-family subdivision called Village Highlands, and an 8.6-acre multiple-family residential area to be developed as a later phase, all on a 38-acre site which comprises the entire Precise Plan Area No. 8 located on the south side of Sylvan Avenue east of a southerly extension of Litt Road, and

WHEREAS, in accordance with the requirements of the Village One Specific Plan as amended by SPA No. 6 & SPA No. 7, an application for approval of a Precise Plan for Area No. 8 of the Village One Specific Plan has been filed by the Inland Westpointe Partnership which proposed Precise Plan contains provisions for a development agreement for funding A.O.B. requirements, and

WHEREAS, the application package also seeks underlying zoning of Low Density Residential Zone, R-1, and Medium High Residential Zone, R-3, which is to be coupled with the Specific Plan-Overlay Zone, SP-O in accordance with the requirements of the Specific Plan, and

WHEREAS, after a public hearing held on November 27, 1995, it was found and determined by the Planning Commission that zoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 95-25, adopted November 27, 1995, the Planning Commission recommended that the application of Inland Westpointe Partnership to rezone Village One property to Low Density Residential Zone, R-1, and Medium High Density Residential Zone, R-3, as underlying zoning together with a Specific Plan-Overlay Zone, SP-O, for property located on the south side of Sylvan Avenue east of Litt Road extended, be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 12, 1995, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. After a public hearing held on December 12, 1995, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and

provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. The proposed Precise Plan for Area No. 8 conforms to the revised Specific Plan in that it follows the previously-established land-use mix, the street layout and development specifications.
2. The proposed Precise Plan for Area No. 8 provides for A.O.B. funding via a Development Agreement between the developer and the City of Modesto.
3. The proposed Rezoning to R-1 and R-3 with an SPO zone overlay is necessary as an integral step toward development under the Village One Specific Plan.

SECTION 2. ZONING CHANGE. Section 12-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property to Low Density Residential Zone, R-1, and Medium High Density Residential Zone, R-3, as underlying zoning together with an Specific Plan-Overlay Zone, SP-O,

R-1 (SP-O)

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

Beginning at a point that bears South 00° 49' 00" East, 20.00 feet from the interior quarter corner of said Section 12, said point lying on the south line of a 40-foot wide road known as Sylvan Avenue; thence South 00° 49' 00" East along the west line of the southeast quarter of said Section 12, a distance of 1255.13 feet; thence North 89° 17' 17" East, a distance of 1317.91 feet to the east line of the northwest quarter of the said southeast quarter of said Section 12; thence North 00° 46' 33" West along last said line, a distance of 1255.05 feet to the south line of said Sylvan Avenue; thence South 89° 17' 30" West along the south line of said Sylvan Avenue, a distance of 1318.80 feet to the point of beginning.

Excepting therefrom the "Remainder" as shown on Approved Precise Plan Area No. 8.

R-3 (SP-0)

All that area labeled as "Remainder" as shown in Approved Precision plan for Area No. 8 which is also indicated for multi-family development.

SECTION 3. ZONING MAP. Sections 12-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan,
McKinsey, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 

Planning and Community
Development Department

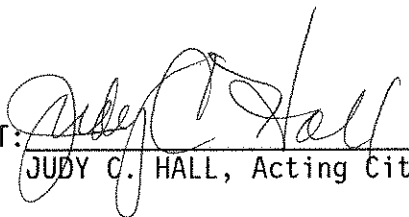
Ord. No. 2966-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of February, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, McClanahan, McKinsey, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:


JUDY C. HALL, Acting City Clerk

APPROVED:


MAYOR RICHARD A. LANG

Effective Date: March 7, 1996

111

ORDINANCE NO. 2967-C.S.

AN ORDINANCE ADOPTING A PRECISE PLAN FOR AREA
32 OF THE VILLAGE ONE SPECIFIC PLAN,
INCLUDING CONDITIONS AND PROVISION FOR A
DEVELOPMENT AGREEMENT RELATING TO PROPERTY
LOCATED ON THE SOUTH SIDE OF MERLE AVENUE
BETWEEN ROSELLE AVENUE AND CLAUS ROAD
(NOTTINGHAM PLACE)

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

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

WHEREAS, Lew-Garcia-Davis, Engineers, have filed a proposal to develop a 119-lot, single-family subdivision called Nottingham Place on a 19.7-acre site which comprises the east half of Precise Plan Area No. 32 located on the south side of Merle Avenue between Roselle Avenue and Claus Road, and

WHEREAS, the application package also seeks underlying zoning of R-1 which is to be coupled with the Specific Plan, SP-0, Overlay Zone, in accordance with the requirements of the Specific Plan, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on November 27, 1995, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution 95-25, recommended to the City Council approval of a Precise Plan for Area No. 32 of the Village One Specific Plan, and

WHEREAS, said matter was set for a public hearing of the Council of the City of Modesto to be held on December 12, 1995, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

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

WHEREAS, the Council declares that said Precise Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan for Area No. 32 conforms to the revised Specific Plan in that it follows the previously-established land-use, the street layout and development specifications.
2. The proposed Precise Plan for Area No. 32 provides for A.O.B. funding via a Development Agreement between the developer and the City of Modesto.
3. The proposed Rezoning to R-1 with an SP-O zone overlay is necessary as an integral step toward development under the Village One Specific Plan.

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

SECTION 1. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 32 of the Village One Specific Plan and rezoning to R-1 as underlying zoning together with an SP-O overlay zoning as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, subject to the following conditions:

1. Except as amended herein or by reference, all development shall be in accordance with the Village One Specific Plan and the specifications contained in the booklet entitled "Village One - Precise Plan Area No. 32" and Nottingham Place Vesting Tentative Subdivision Map - Modesto, California, prepared for the Zagaris Real Estate Partnership by Lew-Garcia-Davis, dated received October 2, 1995, and the vesting tentative subdivision map entitled Nottingham Place, stamped approved by the Planning Commission on November 27, 1995, and on file in the office of the Community Development Director.
2. Prior to recordation of a final map, the developer shall submit and obtain approval of landscaping and irrigation plans including Merle Avenue dedicated landscaping with landscaped cul-de-sac connections and the Sherwood Forest Drive planter as required by the Parks & Recreation Department Director. All landscaping, irrigation, and maintenance shall be in accordance with the approved plans.
3. Prior to recordation of a final map, the developer shall secure and establish a funding source for both capital improvements and ongoing maintenance of the landscaped areas, including but not limited to a landscaping and lighting district, Mello-Roos Community Facilities District, or special assessment district.
4. a. Prior to the recordation of a final map, all subdivision dedications and improvements as required in the Modesto Municipal Code, the cumulative California State Subdivision Law, and the Village One Specific Plan shall be

accepted by the City of Modesto and installed or secured to the satisfaction of the Public Works and Transportation Director. This condition shall include street requirements to implement the appropriate mitigation measures 4.4.1 through 4.4.8 of the Village One Program Environmental Impact Report. This shall also include Public Services and Utilities necessary to implement the appropriate mitigation measures 4.10 through 4.10.14c.

- b. With respect to Merle Avenue at Sherwood Forest Drive, prior to recordation of a final map, the developer shall complete, or secure the construction thereof to the satisfaction of the Public Works and Transportation Director, the full frontage improvements up to the off-site curbs.
5. Prior to recordation of a final map, the developer shall advance the necessary infrastructure costs or shall construct the facilities necessary to extend infrastructure service to the area. If temporary measures are utilized, the developer shall also fund the amount necessary to effect a permanent provision when such can be accomplished. The costs shall be determined by the Director of Public Works and Transportation.
6. Prior to approval of the final map, the City and Developer shall negotiate and execute a development agreement specifying the conditions of the development. The development agreement shall be adopted by ordinance as provided in SPA #6 of the Village One Specific Plan.
7. It is anticipated that a portion of the Public Facilities necessary to serve development in Village One will be financed through the formation of an Area of Benefit (AOB) for Village One. This AOB will assign a fair share of certain identified public facility costs needed to serve Village One to each Precise Plan area and ultimately each parcel or lot receiving development entitlements.

In the event that the AOB for Village One is established prior to the issuance of building permits for this project, then developer shall pay the AOB assessment for each lot prior to the issuance of each building permit.

In the event that the developer seeks issuance of building permits prior to the establishment of the AOB for Village One, then in lieu of the AOB assessment, developer shall pay for each lot an amount to be determined by the City Council after holding a public hearing for that purpose prior to the issuance of any building permit. It is the intent of this condition that the developer fully participate by paying his fair share in the Village One Financing Plan. Any fees paid in excess of the actual AOB assessment shall be reimbursed pursuant to the development agreement.

8. Prior to recordation of a Final Map, all improvement plans, prepared by a registered civil engineer shall be prepared and approved. All improvements shall be in accordance with the approved plans.
9. Prior to recordation of a final map, annexation to the schools' Mello-Roos District shall be completed.
10. Public utility easements, as required by the utility companies serving the subdivision, shall be dedicated by the final map.
11. Irrigation lines within the subdivision shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Public Works and Transportation Director. Appropriate easements for irrigation lines to remain shall be dedicated as necessary.
12. Prior to recordation of a final map, the developer shall show on the plans submitted to Engineering all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.
13. The applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Planning and Community Development Department.
14. The subdivider shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to

attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code of the State of California. The City of Modesto shall promptly notify the subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless.

15. Prior to recordation of Phase II (the south portion of the subdivision), the developer shall provide land for whatever portion up to the full 20-foot bikeway that is not allowed to encroach onto the M.I.D. lateral No. 3 adjoining to the south. Development of the bikeway shall be an AOB matter, the cost to be shared by the entire Village One development.
16. Prior to recordation, the developer shall provide proper street names which have been cleared by Stanislaus County.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th_ day of December, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan,
McKinsey, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

Ord. No. 2967-C.S.

FINAL ADOPTION CLAUSE

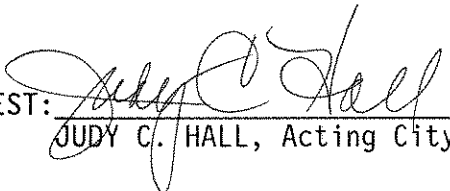
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of February, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, McClanahan, McKinsey, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


JUDY C. HALL, Acting City Clerk

Effective Date: March 7, 1996

Clerk

ORDINANCE NO. 2968-C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY TO LOW DENSITY RESIDENTIAL ZONE, R-1, AS UNDERLYING ZONING TOGETHER WITH A SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE SOUTH SIDE OF MERLE AVENUE BETWEEN ROSELLE AVENUE AND CLAUS ROAD. (PRECISE PLAN FOR AREA NO. 32 - NOTTINGHAM PLACE)

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

WHEREAS, Lew-Garcia-Davis, Engineers, have filed a proposal to develop a 119-lot, single-family subdivision called Nottingham Place on a 19.7-acre site which comprises the east half of Precise Plan Area No. 32 located on the south side of Merle Avenue between Roselle Avenue and Claus Road, and

WHEREAS, in accordance with the requirements of the Village One Specific Plan as amended by SPA No. 6 & SPA No. 7, an application for approval of a Precise Plan for Area No. 32 of the Village One Specific Plan has been filed by Lew-Garcia-Davis Engineers, which proposed Precise Plan contains provisions for a development agreement for funding A.O.B. requirements, and

WHEREAS, the application package also seeks underlying zoning of Low Density Residential Zone, R-1, which is to be coupled with the Specific Plan-Overlay Zone, SP-O in accordance with the requirements of the Specific Plan, and

WHEREAS, after a public hearing held on November 27, 1995, it was found and determined by the Planning Commission that

zoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 95-27, adopted November 27, 1995, the Planning Commission recommended that the application of Lew-Garcia-Davis, Engineers to rezone Village One property to Low Density Residential Zone, R-1, as underlying zoning together with a Specific Plan-Overlay Zone, SP-O, for property located on the south side of Merle Avenue between Roselle Avenue and Claus Road, be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 12, 1995, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held and evidence both oral and documentary was received and considered,

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

SECTION 1. After a public hearing held on December 12, 1995, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. The proposed Precise Plan for Area No. 32 conforms to the revised Specific Plan in that it follows the previously-established land-use, the street layout and development specifications.

2. The proposed Precise Plan for Area No. 32 provides for A.O.B. funding via a Development Agreement between the developer and the City of Modesto.
3. The proposed Rezoning to R-1 with an SP-O zone overlay is necessary as an integral step toward development under the Village One Specific Plan.

SECTION 2. ZONING CHANGE. Section 13-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property to Low Density Residential Zone, R-1, as underlying zoning together with a Specific Plan-Overlay Zone, SP-O,

R-1 (SP-O)

Parcel No. 1 (Nottingham Place)

A portion of the south half of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the northeast corner of Parcel 2 of the Parcel Map recorded January 21, 1974, in Book 18 of Parcel Maps at page 45, Stanislaus County Records, said point lying on the south line of a 40-foot-wide road known as Merle Avenue; thence South $00^{\circ} 59' 49''$, East a distance of 1235.35 feet to the north line of M.I.D. Lateral No. 3; thence along said north line North $89^{\circ} 43' 20''$ East, a distance of 695.00 feet; thence North $00^{\circ} 59' 42''$ West, a distance of 924.34 feet; to the beginning of a curve concave to the west, having a radius of 400.00 feet; thence northerly along the arc of said curve through a central angle of $01^{\circ} 03' 17''$, a distance of 7.36 feet; thence North $02^{\circ} 02' 59''$ West, a distance of 264.29 feet to the beginning of a curve concave to the east, having a radius of 400.00 feet; thence northerly along the arc of said curve through a central angle of $01^{\circ} 03' 17''$, a distance of 7.36 feet; thence North $00^{\circ} 59' 42''$ West, a distance of 36.79 feet to the south line of said Merle Avenue; thence South $89^{\circ} 20' 00''$ West along said south line a distance of 690.00 feet to the point of beginning.

Contains 19.73 acres, more or less

Parcel No. 2 (Future Development):

Parcel 2 of the Parcel Map recorded January 21, 1974, in Book 18 of Parcel Maps at Page 45, Stanislaus County Records.

Contains 17.93 acres, more or less

SECTION 3. ZONING MAP. Sections 13-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 1995, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan,
McKinsey, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Dobbs

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 

JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 

Planning and Community
Development Department

Ord. No. 2968-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of February, 1996, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the ordinance adopted by the following vote:

AYES:	Councilmembers:	Dobbs, Fisher, Friedman, McClanahan, McKinsey, Serpa, Mayor Lang
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
JUDY C. HALL, Acting City Clerk

Effective Date: March 7, 1996