

Clark
10

ORDINANCE NO. 2883-C.S.

AN ORDINANCE AMENDING SECTIONS 5-8.103, 5-8.501, AND 5-8.702 OF CHAPTER 8 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO SMOKING POLLUTION CONTROL.

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

SECTION 1. AMENDMENT OF CODE. Sections 5-8.103, 5-8.501, and 5-8.702 of Chapter 8 of Title V of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 5-8.103. DEFINITIONS.

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

- (a) "Bar" means a business which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises. The serving of food, if any, shall be limited to appetizers.
- (b) "Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
- (c) "City of Modesto" includes all entities of which the Council of the City of Modesto is the governing body.
- (d) "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.
- (e) "Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, who employs the services of one (1) or more individual persons.
- (f) "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor

to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures.

- (g) **"Nonprofit Entity"** means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "nonprofit entity" within the meaning of this section.
- (h) **"Person"** shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (i) **"Place of Employment"** means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care or health care facility.
- (j) **"Public Place"** means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, shopping malls, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, hotels and motels, theaters and waiting rooms. A private residence is not a "public place" unless it is used as a child care or health care facility.
- (k) **"Restaurant"** means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, including any associated outdoor eating area, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in Section 5-8.103(a). A "restaurant" for the purposes of this definition includes a bar area, if any, within a restaurant.

- (l) **"Retail Tobacco Store"** means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (m) **"Service Line"** means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (n) **"Smoking"** means lighting, inhaling, exhaling, burning or carrying any lighted cigar, pipe, cigarette, weed, plant or other combustible substance in any manner or in any form.
- (o) **"Sports Arena"** means enclosed or unenclosed sports pavilions, gymnasiums, health spas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

SEC. 5-8.501. SMOKING OPTIONAL AREAS.

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article.
 - (1) Bars.
 - (2) Private residences, except when used as a child care or health care facility.
 - (3) Retail tobacco stores.
 - (4) A maximum of fifty (50) percent of hotel and motel rooms (provided, however, that each hotel and motel shall designate not less than fifty (50) percent of their hotel/motel rooms as nonsmoking rooms. The hotel/motel rooms designated as nonsmoking rooms will be posted as smoking prohibited and ashtrays removed).
 - (5) Restaurant, hotel or motel banquet, conference or meeting rooms and public and private assembly rooms, when used for private functions.
 - (6) Private clubs during events attended exclusively by members of the organization and their invited guests and from which members of the general public are excluded. An organization shall be deemed to be a private club

where such organization has drafted and filed Articles of Incorporation and Bylaws with the California Secretary of State and such Articles of Incorporation and Bylaws specify the purpose of such organization to be a private club not open to the general public and/or is a non-profit organization. The organization shall be in good standing with the California Secretary of State.

- (7) Smoking may be permitted at bingo game establishments but only in a separate, enclosed room away from lobby and rest rooms.
- (b) It shall not constitute a violation for a person to smoke in a location where smoking has been authorized in the manner prescribed by this section.
- (c) The foregoing places in subsection (a) are not considered places of employment subject to the provisions of Section 5-8.401. Employers will, however, attempt to find a reasonable alternative accommodation where feasible for nonsmoking employees who do not wish to be assigned to work in a smoking permissible area.

Notwithstanding any provision in this ordinance which permits smoking in a place of employment, any nonsmoking employee may object to his or her employer about smoking in his or her work place. The employer shall attempt to reach a reasonable accommodation, insofar as possible. If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached within a particular place of employment, the employer who employs the nonsmoking employees shall formulate, promulgate and implement restrictions or prohibitions upon smoking in a manner which accommodates the reasonable preferences and needs of the nonsmoking employees in relation to the nuisance and health impacts of the smoking upon the nonsmokers. The area in which smoking is prohibited shall be posted by "no smoking" signs in the manner prescribed by the provisions of Section 5-8.601(a).

- (d) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of January, 1994, 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

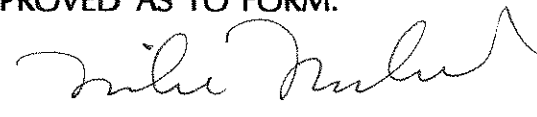
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2883-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 January, 19 94, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: Cogdill, McClanahan

ABSENT: Councilmembers: Patterson

APPROVED: 
Mayor Richard A. Lang

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 18, 1994

Clerk

ORDINANCE NO. 2884 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.1706 OF ARTICLE 17 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.1706 of Article 17 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1706. AREA.

Every P-D Zone shall have a minimum area of one (1) acre except certain qualified affordable residential developments specified below and any developments located in the downtown area bordered by Needham Avenue, Downey Avenue, Burney Street, Grand Street, Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99 and Kansas Avenue.

All residential P-D Zones of less than one (1) acre outside the downtown area shall meet the qualifications of and provide for housing affordability in accordance with the Density Bonus Provisions of Chapter 3 of Title X of the Modesto Municipal Code.

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 January, 1994, by Councilmember Muratore, 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

Ord. No. 2884-C.S.

FINAL ADOPTION CLAUSE

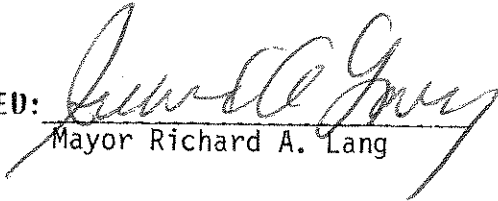
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of January, 19 94, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Murature, Patterson

APPROVED:


Mayor Richard A. Lang

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 17, 1994

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ORDINANCE NO. 2885-C.S.

AN ORDINANCE AMENDING SECTIONS 6-1.101 AND 6-1.223 OF CHAPTER 1 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO ITINERANT VENDORS.

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

SECTION 1. AMENDMENT OF CODE. Sections 6-1.101 and 6-1.223 of Chapter 1 of Title VI of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 6-1.101. DEFINITIONS.

For the purpose of this chapter, the words and phrases used herein shall have the following meaning unless the context shows a different meaning.

- (a) **Commission Broker.** One who, for a commission or fee, handles the buying and/or selling of commodities, or an agent or an agency for marketing manufactured goods or other commodities, but who does not take ownership of commodities sold.
- (b) **Business.** All professions, trades and occupations and all and every kind of calling carried on for profit or livelihood.
- (c) **Business District.** Any area zoned for business purposes by the zoning regulations of the City.
- (d) **Director.** The Finance Director, or his duly authorized deputies or assistants who may be charged with the collection of license taxes and the issuance of licenses.
- (e) **Fixed Place of Business.** A place of business in the City of Modesto occupied for the particular purpose of conducting the business thereat and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to said business.
- (f) **Gross Receipts.** The total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service, or employment for whatever nature it may be, for which a charge is made or credit allowed. Included in gross receipts shall be all receipts, cash, credits and property of any

kind or nature and any amount for which credit is allowable by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid or payable, or losses or other expenses whatever.

The following shall be excluded from gross receipts:

- (1) Cash discounts allowed and taken on sales;
 - (2) Value of property accepted as part of the purchase price;
 - (3) Any taxes collected which are separately stated and collected for and paid to a governmental agency;
 - (4) Such part of the sale price of property returned by the purchaser upon rescision of the contract of sale as is refunded either in cash or by credit;
 - (5) Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
 - (6) Collection for others where the business is acting as an agent or trustee to the extent that payments are made to those for whom collected;
 - (7) Sales of real estate by an agent or sales of commodities by a commission broker, except that portion of the sale which represents commissions or other income to the agent;
 - (8) That portion of the receipts of a general contractor which represents payments to subcontractors, providing such subcontractors are licensed under Article 2 of this chapter and further provided that the general contractor furnishes the Director with the names and addresses of the subcontractors and the amounts paid each subcontractor; and
 - (9) The amount of gross receipts which has been subject to a license tax paid to any other city.
- (g) **Itinerant Vendor.** Any person who shall travel from town to town, house to house, apartment to apartment, office to office, place to place, person to person, or any combination thereof for the purpose of selling, offering for sale, or soliciting orders for,

goods, wares, or merchandise at retail, but shall not include selling and delivering, or offering to sell and deliver, items of food and drink for human consumption by a vendor to regular customers along established routes in accordance with invitations previously made to such vendor to make regular calls at specific intervals at such premises for said purpose.

An itinerant vendor shall include but not be limited to a hawker, peddler, street vendor, sidewalk vendor, flower vendor, arts or crafts vendor, or a vendor from a truck or vehicle. An itinerant vendor shall not include any authorized agent or representative of a person having a fixed place of business in the City of Modesto, nor shall it include a charitable institution which sponsors an occasional bazaar, festival, or rummage sale at which the goods, wares or merchandise have been purchased by, prepared by, or donated to the charitable institution and at which no other person makes a profit, nor shall it include youth and senior part-time occupations as set forth in Section 6-1.106.

- (h) **Manufacturing.** One who engages in the business of manufacturing, fabricating or processing any materials, raw or partly wrought, into goods, wares or merchandise, or assembling or packaging any manufactured or processed materials, whether such manufactured or processed goods are sold or distributed to wholesalers, brokers, or other channels for the purpose of resale.
- (i) **Person.** All domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business, or common law trusts, societies, and individuals transacting and carrying on any business in the City of Modesto, other than as an employee.
- (j) **Processor.** One who engages in business of converting an article, substance or commodity into marketable form for the purpose of resale by changing its physical or chemical composition.
- (k) **Public Utility.** Any person furnishing the public with communication, water, light, heat, power or other public utility or service subject to regulation by the Public Utilities Commission of the State of California.
- (l) **Vehicle.** Every device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway.

- (m) **Wholesaler.** One who engages in the business of selling or soliciting the sale of goods, wares, merchandise, or services for the purpose of resale and not to consumers or users thereof.

SEC. 6-1.223. ITINERANT VENDORS.

Any person who does not maintain a fixed place of business in the City, who is not otherwise specifically licensed under other sections of this chapter, and who is conducting, carrying on, or managing the business of an itinerant vendor, shall pay a business license tax in the sum of two hundred dollars (\$200.00) for each location in advance for a period not to exceed one (1) quarter (90 calendar days) except as provided hereafter.

Any person, group of persons, business, corporation, shopping center, or charitable institution which sponsors a bazaar, fair, trade show, swap meet, or similar occasional event in which any person conducts, carries on or maintains the business of an itinerant vendor may purchase a single license in advance for all itinerant vendors participating in any such event at the following scheduled rates:

Number of Itinerant Vendors	Daily Group Rate
1 to 10	\$10.00 each
11 to 15	100.00
16 to 20	125.00
21 to 30	150.00
31 to 40	175.00
41 to 50	200.00
51 to 60	225.00
61 to 70	250.00
71 to 80	275.00
81 to 90	300.00
91 to 100	325.00
100 and above	350.00

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 18th day of January, 1994, 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, 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. 2885-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 25th day of January, 1994, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


MARJORIE COYLE, City Clerk

EFFECTIVE DATE: February 24, 1994

ORDINANCE NO. 2886 -C.S.

AN ORDINANCE AMENDING SECTION MAP 10-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF COFFEE ROAD AND MABLE AVENUE. (STONE & ASSOCIATES)

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

SECTION 1. ZONING CHANGE. Section 10-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-O:

All that certain real property situate in a portion of the Northwest quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of Lots 7, 8, 9, 10, 13, 14, 15, 16, and 17 in Block 12587 of Sylvan Meadows No. 4, as per map filed January 25, 1977 in Volume 26 of Maps, Page 50, Stanislaus Records.

Including also all of the southern portion of Mable Avenue and the Eastern portion of Coffee Road located between the North and West Section lines of said Section 10 and the northern one half of 50.00 foot wide Fernview Drive and all immediately adjacent to the above described property.

SECTION 2. ZONING MAP. Section 10-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 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 18th day of January, 1994, 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:

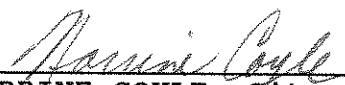
AYES: Councilmembers: Cogdill, Dobbs, Friedman,
McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: 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 
Department of Planning and
Community Development

Ord. No. 2886-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of February, 1994, 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: None
ABSENT: Councilmembers: Muratore, Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 10, 1994

ORDINANCE NO. 2887 -C.S.

AN ORDINANCE AMENDING SECTION MAP 12-3-8 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(181), AS AN ADDITION AND AN AMENDMENT TO P-D(181), PROPERTY LOCATED AT 3048 HAHN DRIVE ON THE EAST SIDE OF HAHN DRIVE SOUTH OF STANDIFORD AVENUE AND NORTH OF THE HETCH HETCHY RIGHT-OF-WAY (BETHANY CHRISTIAN SERVICES).

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 Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(181), as an addition and an amendment to P-D(181):

R-2 to P-D(181)

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:

All of Parcel A as shown on that Parcel Map filed August 17, 1977, in Book 25 of Parcel Maps at Page 83, Stanislaus County Records.

Including the easterly 30.00 feet of Hahn Drive and the northern 55.00 feet of the 110.00-foot wide Hetch Hetchy right-of-way and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(181) Zone, as an addition and an amendment to P-D(181), 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. Residential care facility for unwed mothers.
2. Adoption/counseling offices.
3. Off-street parking as shown on the approved development 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 25th day of January, 1994, 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: 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 
Department of Planning and
Community Development

Ord. No. 2887-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of February, 1994, 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: None

ABSENT: Councilmembers: Muratore, Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


MARRIE COYLE, City Clerk

EFFECTIVE DATE: March 10, 1994

Clerk
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ORDINANCE NO. 2888-C.S.

AN ORDINANCE ADDING ARTICLE 19 TO CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO SPECIFIC PLAN-OVERLAY (SP-O) ZONE, AND REPEALING ARTICLE 19 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO SPECIFIC PLAN ZONE (SP).

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

SECTION 1. AMENDMENT OF CODE. Article 19 is hereby added to Chapter 2 of Title X of the Modesto Municipal Code to read as follows:

ARTICLE 19. SPECIFIC PLAN-OVERLAY (SP-O) ZONE

SEC. 10-2.1901. PURPOSE AND INTENT.

The purpose and intent of the SP-O zone is to permit residential, industrial, and commercial development through Specific Plans, pursuant to Government Code Section 65450, et seq. The intent of this "overlay zone" is to supplement regulations established by the "principal underlying zones" with certain uses, standards, and development review processes adopted through the Specific Plan process.

SEC. 10-2.1902. APPLICATION OF THE SP-O ZONE.

The SP-O Overlay Zone shall be applied on the zoning map, in the manner specified by, and appropriate to, the relevant Specific Plan which it is intended to implement. Once the SP-O is applied to the zoning map, the general public shall be guided to the appropriate Specific Plan, which shall determine the means to comply with the SP-O Zone.

SEC. 10-2.1903. RELATIONSHIP TO PRINCIPAL UNDERLYING ZONES.

The SP-O Overlay Zone shall be applied concurrently with the adoption of "Principal Underlying Zoning", and only on property which has received approval of a Specific Plan. The method and process of adopting Principal Underlying Zone shall be as determined by each Specific Plan. For the purpose of this section, "Principal underlying Zone" shall mean those zones (such as R-1, R-3, C-1, etc.) set forth in Title X of the Modesto Zoning Code.

SEC. 10-2.1904. EFFECT OF THE SP-O OVERLAY ZONE.

Once property is rezoned to an SP-0 Overlay Zone and principal underlying zoning, all subsequent development shall comply with the uses, standards, and development review procedures of the principal underlying zone, the SP-O Overlay Zone, and the adopted Specific Plan, including all implementation actions thereof. In the event of a conflict between the uses, standards, and development review processes of the underlying principal zoning (such as R-1, R-2, R-3, C-1, etc.) and those of an adopted Specific Plan, those of the Specific Plan, and its subsequent implementation actions, shall prevail.

SEC. 10-2.1905. USES, STANDARDS, AND DEVELOPMENT REVIEW PROCEDURES MAY BE MODIFIED THROUGH THE SP-O ZONE.

The SP-O Zone shall serve as an indicator to the general public that development standards of the principal underlying zones have been modified through the adoption of a Specific Plan and/or through subsequent implementation actions consistent with the Specific Plan.

SECTION 2. REPEALS. Article 19 of Chapter 2 of Title X of the Modesto Municipal Code is hereby repealed.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 1994, 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, 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. 2888-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 15th day of February, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
MORRINE COYLE, CITY CLERK

EFFECTIVE DATE: March 17, 1994

Clark

ORDINANCE NO. 2889 -C.S.

AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO SPECIFIC PLAN-HOLDING ZONE (SP-H)

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

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

ARTICLE 4. SPECIFIC PLAN-HOLDING ZONE (SP-H)

SEC. 10-2.401. PURPOSE AND INTENT.

The purposes of the SP-H Zone are to:

- (a) Assist in the orderly transition of property from long-term agricultural use to urban development in areas to be developed as a part of the City's Specific Plan process.
- (b) Provide reasonable opportunities to use property that has been annexed to the City of Modesto prior to full implementation of an adopted Specific Plan.

SEC. 10-2.402. PERMITTED USES.

The following are permitted uses:

- (a) The growing of fruit and nut trees, vines, row crops and horticultural stock, and the maintenance of livestock and other farm animals excluding pig farming, dairies, and feed lots.
- (b) One (1) single-family dwelling per lot.
- (c) The provision of lodging and/or boarding to a maximum of three (3) persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities.

- (d) The operation of a bed and breakfast home, provided that not more than two (2) bedrooms may be used for the lodging of guests and that the property owner shall reside on the premises.
- (e) Adult day care for three (3) or fewer persons in addition to members of the family.
- (f) Twenty-four-hour care for six (6) or fewer persons in addition to members of the family. Twenty-four-hour care is not permitted where there are two (2) dwellings on a lot except as allowed by a conditional use permit.
- (g) Child day care for twelve (12) or fewer children in addition to members of the family. Only one (1) day care business is permitted per lot.
- (h) Parks owned and operated by a governmental agency.
- (i) A dish-type, satellite antenna, subject to the following conditions:
 - (1) A satellite antenna shall be located at least five (5) feet from the rear lot line and entirely outside of any required front yard and side yard. A satellite antenna shall not be located in the area between a required front yard and the front of a main building on a lot if the satellite antenna will be visible from the front lot line. A satellite antenna shall not be located in the area between a required side-street side yard and a main building on a lot if the satellite antenna will be visible from the side street lot line.
 - (2) A satellite antenna shall not exceed thirteen (13) feet in diameter.
 - (3) A satellite antenna shall be ground-mounted and shall not exceed a height of fifteen (15) feet at the highest point of the antenna.
- (j) Signs subject to the provisions of the R-1 Zone specified in Article 21.
- (k) Accessory uses and structures customarily incidental to the above permitted uses.

SEC. 10-2.403. PLOT PLAN USES.

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

- (a) A dish-type, satellite antenna, subject to the setback, size, and Code requirements for a dish-type, satellite antenna as a permitted use but higher than fifteen (15) feet subject to these conditions:
 - (1) Evidence, satisfactory to the Board, that a low, ground mounting of a satellite antenna will not produce a usable satellite signal.
 - (2) The satellite antenna shall not exceed a height of thirty-five (35) feet at the highest point of the antenna.
 - (3) The satellite antenna shall have rear yard or rear-of-house orientation unless their options preclude a usable satellite signal.
 - (4) Evidence, satisfactory to the Board, that available technologies have been explored such as the feasibility of smaller dishes to reduce the visual mass; use of perforated metals, radar mesh, or wire screen to reduce the visual mass; and selection of a subdued flat color to minimize the visual impact.
- (b) For uses permitted subject to conditional use permit by subsections (a), and (b) of Section 10-2.404 and dish-type satellite antenna not meeting the provisions of Section 10-2.402(i) and not larger than thirteen (13) feet in diameter and not exceeding a height of thirty-five (35) feet at the highest point of the antenna.

SEC. 10-2.404. CONDITIONAL USES.

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

- (a) Church.
- (b) Public buildings or grounds operated by any governmental agency which are not a permitted use.
- (c) Buildings, facilities or grounds operated by a utility company.

- (d) Private recreational grounds and facilities not open to the general public and to which no admission charge is made.
- (e) Storm drainage basins and related facilities.
- (f) Adult day care for four (4) or more persons in addition to members of the family.
- (g) Twenty-four-hour care for seven (7) or more persons in addition to members of the family.
- (h) Child day care for thirteen (13) or more children in addition to members of the family.
- (i) The provision of lodging and/or board to four (4) or more persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities.

SEC. 10-2.405. FINDING FOR APPROVAL OF CONDITIONAL USE PERMIT, SUBDIVISION, OR PARCEL MAP.

In approving a Conditional Use Permit, Subdivision Map, or Parcel Map, the Board, Planning Commission, or City Council shall make the following finding:

- (a) The Conditional Use Permit, Subdivision Map, or Parcel Map is consistent with the Modesto General Plan; and
- (b) The Conditional Use Permit, Subdivision Map, or Parcel Map would not inhibit the full implementation of the adopted Specific Plan which covers this development approval.

SEC. 10-2.406. HOME BUSINESS.

- (a) Conducting a business in or from a dwelling is a permitted use of an accessory nature which is subject to the following conditions:
 - (1) The person conducting the business shall reside on the premises on a regular full-time basis and the business shall be clearly incidental and secondary to the residential use.

- (2) The residential appearance of the premises shall not be altered through remodeling or new construction so as to give the appearance of other than normal residential premises or to call attention to the premises.
- (3) The business shall be conducted entirely within buildings designed and built for normal residential use and there shall be no outside activity, storage or display.
- (4) No parking or traffic shall be generated by the business in greater volumes than would normally be expected for a residence.
- (5) No trucks or construction equipment shall be parked or stored on or near the premises.
- (6) No more than one (1) business vehicle shall be parked or used in connection with the business on or near the premises. All business pickups and deliveries to and from the premises shall be only by the one (1) allowed business vehicle. "Business vehicle" means a car, pickup or small van used for home business purposes and driven by a person living on the premises.
- (7) Employees shall not work at or be dispatched from the premises nor otherwise be on or about the premises for business purposes.
- (8) There shall be no delivery of merchandise to customers at the premises other than that incidental to a service conducted on the premises.
- (9) Sales or services conducted away from the premises may be advertised in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
- (10) Sales or services conducted on the premises shall not be listed in any commercial telephone directory (yellow pages) nor be advertised in any newspaper, circular or other commercial media, including radio and television.

- (11) Signs shall not be used to identify the business, its products or services.
 - (12) The business shall not create a disturbance or nuisance by reason of noise, odor, fumes, dust, vibration, smoke, electrical interference or other causes.
 - (13) Notwithstanding the above limitations, any person who is severely impaired or handicapped as defined by State law may employ a maximum of two (2) people on the premises who do not reside there and may advertise in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
- (b) All businesses conducted in and from a dwelling shall comply with the licensing requirements for businesses in the City.
 - (c) Prior to receipt of a license to conduct a business in or from a dwelling, a permit shall be obtained from the Director.
 - (d) It shall be unlawful and punishable as an infraction for any person to conduct a home business not in compliance with the provisions of this Section.

SEC. 10-2.407. GARAGE SALES.

Garage sales are permitted uses subject to these conditions:

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

SEC. 10-2.408. ANIMALS AND FOWL.

- (a) There shall be a minimum of forty (40) feet between the window or door of any building used

for human habitation and pens, coops, cages or similar housings where animals and fowl, except household pets, are kept.

- (b) There shall be a minimum separation equal to the required side yard between any property line and any pens, coops, cages or similar housings for animals and fowl.
- (c) All animals and fowl shall be kept in conformance with all other laws, ordinances and regulations governing them, including licensing regulations.
- (d) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.409. HEIGHT.

- (a) No structure shall exceed two (2) stories or thirty (30) feet whichever is the lesser height, and no wall or fence shall exceed eight (8) feet except when permitted by a conditional use permit.
- (b) Any second-story portion of any dwelling or accessory building, including additions or alterations to the exterior portions of an existing dwelling or accessory building, shall be subject to plot plan approval by the Director or designee in accordance with Article 27, except as hereinafter specifically excepted. In conducting the plan review, the Director shall consider:
 - (1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sun decks, etc. with the privacy of the neighbors.
 - (2) The relationship of building mass with the neighbors' views and use and enjoyment of their yards.
 - (3) The relationship of building mass with the neighbors' accessories such as solar collectors and satellite antennas.
- (c) A second-story development is not subject to second-story plan review if at least one (1) of the following two (2) conditions is met:

- (1) A building permit is issued on the subject lot within seven (7) years of the recordation of the final subdivision map creating the subject lot, and providing that each adjacent residential lot meets at least one (1) of the following criteria:
 - (a) The adjacent residential lot was created by a final subdivision map recorded within the past seven (7) years.
 - (b) The adjacent residential lot is greater than one (1) acre in size and contains no dwelling units within forty (40) feet of any lot line abutting the subject lot.
- (2) All second-story portions of any dwelling unit on the subject lot meet the following setback provisions in relation to any adjacent residential lot:
 - (a) Twelve (12) feet where no glazing other than fixed, translucent type is proposed.
 - (b) Forty (40) feet where any clear glazing or decks/balconies are proposed. This forty-foot setback shall be measured from the outside edge of the deck or balcony to the respective property line.
- (3) The term "adjacent residential lot" as used in this subsection (c) means each lot zoned or used residentially, even if separated by an alley, that abuts the side or rear lot line of the subject lot, including those which touch only at a corner.

SEC. 10-2.410. FRONT YARD.

- (a) Every building shall have a minimum front yard of fifteen (15) feet except for garages, carports and required parking spaces opening onto the front street which shall have a minimum yard of twenty (20) feet.
- (b) On through lots every building shall have a front yard as required above on both frontages. If vehicular access is denied and a minimum six-foot wall is maintained across one (1) frontage,

necessary structures no higher than the wall are permitted in the yard area adjacent to that frontage.

- (c) Front yard areas shall be unobstructed unless otherwise provided, except that walls and fences outside the clear vision triangle are permitted a maximum of forty-two (42) inches in height.
- (d) A trash enclosure up to fifty-two (52) inches in height serving individual cans may be permitted in the front yard setback where there is no practical alternative, subject to the approval of the Director. Such enclosures shall be located as far from the front property line as feasible and shall fully screen the trash cans.

SEC. 10-2.411. SIDE YARDS.

- (a) The minimum side yard for a garage, carport, required parking space or accessory structure shall be five (5) feet except when located to the rear and at least five (5) feet from the dwelling(s), in which case no side yard is required. This minimum five-foot area between a dwelling and accessory building or use shall be unobstructed from the ground upward. In no case shall any portion of a building overhang a property line.
- (b) Side street side yards shall be unobstructed except that walls and fences outside the clear vision triangle are permitted a maximum of forty-two (42) inches in height.
- (c) On corner lots, the side street side yard shall be a minimum of fifteen (15) feet for a dwelling or accessory building except for lots legally existing or on an approved tentative subdivision map prior to July 7, 1955, which shall have a minimum side street side yard of seven and one-half (7.5) feet. Garages, carports and required parking spaces opening onto a side street shall have a minimum twenty-foot yard.
- (d) If a legally existing lot has less than the required lot width, the side yard shall be a minimum of ten (10) percent of the lot width, but in no case shall an interior side yard be less than three (3) feet and a side street side yard be less than seven and one-half (7.5) feet.

SEC. 10-2.412. REAR YARD.

Rear yards are not required except as follows:

- (a) A reversed corner lot shall have a minimum rear yard of five (5) feet.
- (b) Any building used for human habitation shall have a minimum rear yard equal to the required side yard for a dwelling.

SEC. 10-2.413. STREET FRONTAGE.

Every lot shall have frontage on a street.

SEC. 10-2.414. AREA.

Every lot shall have a minimum area of ten (10) acres except that those lots existing as of date of annexation shall not be deemed nonconforming by virtue of lot size alone.

SEC. 10-2.415. LOT WIDTH.

- (a) Every interior lot shall have a minimum width of fifty (50) feet at the front yard setback line and forty (40) feet at the front lot line.
- (b) Every corner lot shall have a minimum width of sixty (60) feet at the front yard setback line and fifty (50) feet at the front lot line.

SEC. 10-2.416. LOT COVERAGE.

All buildings and required parking spaces shall not cover more than fifty (50) percent of the area of an interior lot and fifty-five (55) percent of a corner lot.

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 1st day of February, 1994, 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, 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. 2889-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 15th day of February, 1994, 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,
Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 17, 1994

ORDINANCE NO. 2890-C.S.

AN ORDINANCE AMENDING SECTIONS 4-1.801 AND 4-1.802 OF ARTICLE 8 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO ACCESS TO CANALS.

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

SECTION 1. AMENDMENT OF CODE. Sections 4-1.801 and 4-1.802 of Article 8 of Chapter 1 of Title IV of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 4-1.801. PERMISSIBLE HOURS.

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

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

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

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of February, 1994, 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:

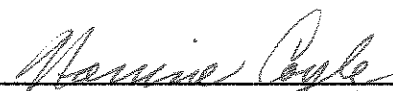
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

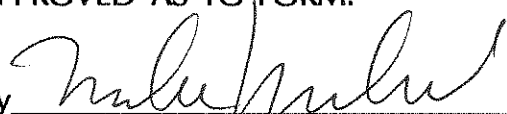
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2890-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of March, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 31, 1994

Clock

ORDINANCE NO. 2891 -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(479), AS AN ADDITION TO P-D(479), PROPERTY LOCATED ON THE WEST SIDE OF CONANT AVENUE, SOUTH OF THE HETCH HETCHY RIGHT-OF-WAY. (STANISLAUS COUNTY HOUSING AUTHORITY)

WHEREAS, a verified application for an amendment to Section 12-3-8 of the Zoning Map was filed by the Stanislaus County Housing Authority on November 18, 1993, to rezone from Low Density Residential Zone, (R-1), to Planned Development Zone, P-D(479), as an addition to P-D(479), a ten-foot wide strip of land to cause the P-D Zone line to coincide with the south property line of the approved elderly housing development, property located on the west side of Conant Avenue, south of the Hetch Hetchy right-of-way, and

WHEREAS, after a public hearing held January 10, 1994, and continued to January 24, 1994, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 94-2, adopted on January 24, 1994, the Planning Commission recommended to the Council that the application of the Stanislaus County Housing Authority to amend Section 12-3-8 of the Zoning Map to reclassify the hereinafter described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(479), as an addition to P-D(479), be approved,

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

SECTION 1. After a public hearing held on March 1, 1994, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the requested rezoning should be granted as consonant with public necessity, convenience general welfare for the following reasons:

1. The proposed rezoning from R-1 to P-D(479) will cause the south boundary of an elderly housing project to coincide with the newly established parcel line.
2. The proposed P-D(479) zone will allow a development that conforms to the General Plan.

SECTION 2. 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(479), as an addition to P-D(479):

R-1 to P-D(479)

Being a portion of Parcel "A" as shown in Book 46 of Parcel Maps at Page 18, Stanislaus County Records, lying in Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the southeast corner of said Parcel "A"; thence South 89°21'21" West along the south line of said Parcel "A"; a distance of 737.55 feet to the southwest corner of said Parcel "A"; thence North 00°14'46" West along the west line of said Parcel "A", a distance of 10.00 feet; thence North 89°21'21" East along a line 10 feet north of and parallel with the south line of said Parcel "A", a distance of 737.55 feet to the east line of said Parcel "A"; thence South 00°15'05" East along said east line, a distance of 10.00 feet, more or less, to the point of beginning.

Including the west one-half of 60.00-foot wide Conant Avenue immediately adjacent to the above-described property.

SECTION 3. ZONING MAP. Section 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 1st day of March, 1994, by Councilmember Muratore, 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 
Department of Planning and
Community Development

Ord. No. 2891-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of March, 1994, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST: 
MORRINE COYLE, City Clerk

EFFECTIVE DATE: April 7, 1994

Clerk

ORDINANCE NO. 2892-C.S.

AN ORDINANCE AMENDING SECTIONS 2-1.01, 2-1.03, 2-1.08, 2-1.10, 2-1.11, 2-1.13, 2-1.14, AND 2-1.18 OF CHAPTER 1 OF TITLE II OF THE MODESTO MUNICIPAL CODE; AND REPEALING SECTIONS 2-1.08.1, 2-1.21, AND 2-1.23 THEREOF RELATING TO CITY COUNCIL ORGANIZATION AND PROCEDURE.

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

SECTION 1. AMENDMENT OF CODE. Sections 2-1.01, 2-1.03, 2-1.08, 2-1.10, 2-1.11, 2-1.13, 2-1.14, and 2-1.18 of Chapter 1 of Title II of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 2-1.01. REGULAR MEETINGS.

- (a) **Time.** Regular meetings of the City Council shall be held on the first, second, third and fourth Tuesday of each month. The meetings held on the first and third Tuesday shall commence at the hour of 7:00 p.m., and the meetings held on the second and fourth Tuesday shall commence at the hour of 4:00 p.m. Whenever the day fixed for any regular meeting of the Council falls upon a day designated by the City of Modesto as a holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.
- (b) **Place.** All regular meetings of the Council shall be held in the Council Chambers in the City Hall located at 11th and H Streets, Modesto, California. If, due to an emergency it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor.
- (c) **Public.** All meetings of the Council shall be open to the public; provided, however, the City Council may hold executive sessions as provided by the laws of the State of California.

SEC. 2-1.03. AGENDA.

In order to facilitate the orderly conduct of the business of the Council, the City Clerk shall be notified no later than 5:00 p.m. of the Wednesday immediately preceding a regular Council meeting of all reports, communications, ordinances, resolutions, contract documents

or other matters to be submitted to the Council at such meeting. Immediately thereafter the City Clerk shall arrange a list of such matters according to the order of business and furnish each member of the Council, the City Manager, and the City Attorney and each department head with a copy of the same prior to the Council meeting and as far in advance of the meeting as time for preparation will permit.

The City Clerk shall mark with the word "Consent" those items on the agenda regarding which it can reasonably be expected that there will be no discussion by members of the City Council, the City staff or interested persons in the audience. The Council shall consider all of the items on the agenda marked "Consent" at one time by a roll call vote after a motion has been duly made and seconded. If any member of the City Council or City staff or any interested person in the audience requests that a consent item be removed from the list of consent items, such item shall be taken up for consideration and disposition in the order in which it is listed on the agenda.

SEC. 2-1.08. ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the Council, the City Clerk, City Attorney and City Manager shall take their regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition in the following order except that by "order of the chair" the Mayor or other presiding officer may take any item out of order as the public necessity and convenience may require:

1. Roll Call.
2. Pledge of allegiance to the flag.
3. Invocation.
4. Consent items.
5. Acknowledgements.
6. Presentations.
7. Minutes.
8. Oral communications.
9. Unfinished business.
10. Hearings.
11. Bids.
12. New business.
13. Written communications.
14. Miscellaneous:
 - a. Legislation.
 - b. Appointments.
 - c. Other.
15. Matters too late for the agenda.

16. Adjournment.

SEC. 2-1.10. PROCEDURAL RULES FOR COUNCIL MEETINGS.

- (a) **Rules of Debate.** The Mayor or such other member of the Council as may be presiding may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed upon all members. The Mayor shall not be deprived of any of the right and privileges of a Councilmember by acting as the Presiding Officer.
- (1) **Getting the Floor.** Every member desiring to speak shall address the chair, and, upon recognition by the Presiding Officer, shall address only the question under debate, avoiding all personalities and indecorous language.
 - (2) **Interruptions.** A member once recognized, shall not be interrupted when speaking other than by the Presiding Officer to call the member to order, or as herein otherwise provided. If a member, while speaking, be called to order, the member shall cease speaking until the question of order be determined, and, if in order, the member shall be permitted to proceed.
 - (3) **Privilege of Closing Debate.** The Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.
 - (4) **Remarks of Councilmember.** A Councilmember may request through the Presiding Officer, the privilege of having an abstract of the member's statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.
 - (5) **Synopsis of Debate.** The Clerk may be directed by the Presiding Officer, with the consent of the Council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Council.
- (b) **Rules for Processing of Motions.**
- (1) **Making and Withdrawing Motions.** When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made, it may be stated by the presiding officer before debate. A motion may be withdrawn by the

mover without the consent of the remaining councilmembers.

- (2) Divisible Propositions. If the question contains two or more divisible propositions, the presiding officer may, and upon request of a Councilmember shall, divide the same.
- (3) Precedence of Motions. When a motion is before the Council, no motion shall be entertained except (precedence in order indicating):
 - (aa) To adjourn.
 - (ab) To fix hour of adjournment.
 - (ac) To lay on the table.
 - (ad) For the previous question.
 - (ae) To postpone to a certain day.
 - (af) To refer.
 - (ag) To amend.
 - (ah) To postpone indefinitely.
- (4) Motion to Adjourn. A motion to adjourn shall be in order any time except as follows:
 - (aa) When repeated without intervening business or discussion.
 - (ab) When made as an interruption of a member while speaking.
 - (ac) When the previous question has been ordered.
 - (ad) While a vote is being taken.

A motion to adjourn to "another time" is debatable only as to the time to which the meeting is adjourned.

- (5) Motion to Table. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by a successful motion to add it to the agenda at a subsequent meeting, to be discussed at the following regular meeting.
- (6) Motion for Previous Question. A motion for previous question shall close debate on the main motion and shall

be undebatable. The statement by a Councilmember "I call for the question" does not accomplish the same purpose. If a motion fails, debate is reopened, if motion passes, then vote shall be taken on the main motion.

- (7) Motion to Amend. A motion to amend shall be in order and is debatable only as to the proposed amendment. A motion to amend an amendment shall not be in order. Amendments are to be voted first, then the main motion as amended.
- (8) Motion to Postpone. A motion to postpone indefinitely shall be fully debatable and if the same is adopted the principal motion shall be declared lost. A motion to postpone to a definite time shall be amendable and debatable as to propriety of postponement and time set.
- (9) Motion to Refer. A motion to refer to staff or to a Council committee shall not be debatable except for the propriety of referring.
- (10) Motion to Reconsider. A motion to reconsider any action taken by the Council may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and shall be debatable. Nothing herein shall be construed to prevent a Councilmember of the prevailing side from remaking the same motion at a subsequent meeting of the Council. In such an event, the person desiring to remake the motion for reconsideration shall submit a written request for reconsideration to the City Clerk who shall place the matter on the agenda for the next regular meeting of the Council.

When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, held not less than one (1) week after the meeting at which such motion was made.

(c) **Parliamentarian.**

The Mayor, acting with the advice of the City Attorney, shall decide all questions of interpretation of these rules and any other

questions of a parliamentary nature which may arise at a City Council meeting.

SEC. 2-1.11. ADDRESSING THE COUNCIL.

Any person desiring to address the Council at a meeting shall first secure the permission of the Presiding Officer so to do; provided, however, that under the following headings of business, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the Presiding Officer:

- (a) **Written Communications.** Interested persons or their authorized representatives may address the Council by written communications on any matters concerning the City's business, or any matters over which the Council has control. Such written communications shall be delivered to the City Clerk no later than 5:00 p.m. of the Wednesday immediately preceding the regular Council meeting the agenda for which such written communications are intended.
- (b) **Oral Communications.** Interested persons in the audience or their authorized representatives may address the Council orally on any matters concerning the City's business or any matters over which the Council has control under the "oral communications" portion of the regular Council agenda.
- (c) **Procedures for Persons Addressing the Council.** The following procedures shall be applicable to persons addressing the Council whether during the "oral communications" portion of the agenda or at any other time:
 - (1) Persons shall not address the Council on matters over which the Council has no jurisdiction.
 - (2) During public hearings and discussions of other matters where numerous persons wish to address the same or similar point of view, the Mayor may request that one or more spokespersons be selected to speak for all of said persons. The spokesperson(s) may ask for a show of hands to indicate others in the audience who support the point of view of the spokesperson(s).
 - (3) The Mayor may, "by order of the chair", limit the total amount of time that will be allocated for persons who wish to speak at a public hearing or discussion of an issue being considered by the Council. The Mayor may also, "by order

of the chair", limit the total amount of time that individual speakers may use while speaking at a public hearing or discussion of an issue being considered by the Council. The amount(s) of time set by the Mayor shall take into account the number of persons who want to speak on the issue, the complexity of the issue, the length of the Council's agenda, the hour at which the issue is being heard and other relevant considerations.

- (4) Persons addressing the Council during public hearings and discussions of other matters shall be allowed to address the Council only once during the hearing or discussion unless the Mayor allows them to speak more than once; provided, however, that spokespersons shall be allowed to address the Council twice during the hearing or discussion, once to initially address the issue(s) under consideration and a second time to address issues raised by other speakers. When unusual circumstances exist, the Mayor may allow persons to speak additional times during a public hearing or discussions of other matters.
- (5) The Mayor may, "by order of the chair", limit the total amount of time that persons addressing the Council under "written communications" may use while speaking on the issue(s) raised by the written communications.
- (6) Persons addressing the Council under "oral communications" may speak only once and shall speak no longer than a total of five (5) minutes.
- (7) During the discussion of any matter under consideration by the Council, the amount of time spent answering questions asked by members of the Council or when directed by the Mayor to answer questions asked by other persons shall not be counted against such person(s) under the provisions of the above listed procedures.
- (8) The Council may, by four (4) affirmative votes, modify any "order of the chair" made by the Mayor under the provisions of the above-listed procedures.

SEC. 2-1.13. MANNER OF ADDRESSING COUNCIL.

Each person addressing the Council shall stand and give the person's name and address in an audible tone of voice for the records. All remarks shall be addressed to the Council as a body and not to any

member thereof. No person, other than the Council and person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked a Councilmember except through the Presiding Officer.

SEC. 2-1.14. VOTING.

- (a) All members of the Council, when present, must vote, except as hereinafter provided.
- (b) A member of the Council who has a conflict of interest regarding any matter being considered by the Council shall declare the conflict and abstain from participating in the Council's deliberations and decision regarding that matter. A Councilmember so abstaining may either temporarily leave the Council Chambers or take a seat in the audience during the Council's deliberations and decision, and shall not be required to vote on such matter.
- (c) Any member of the Council once having answered the call of the roll or having been noted by the City Clerk as being present at a meeting, shall advise the Presiding Officer prior to leaving the Council Chambers for the remainder of a meeting.
- (d) A member of the Council once having answered the call of the roll or having been noted by the City Clerk as being present at a meeting, and not excused as herein provided, has an obligation to vote on each and every matter considered by the Council even though that member may temporarily be absent from the Council Chambers.
- (e) The vote on any matter being considered by the Council may be delayed by the Presiding Officer until all members of the Council present for a meeting, and not excused as herein provided, are present at the Council table.

SEC. 2-1.18. STANDING COMMITTEES.

The standing committees of the Council shall be a Community Development and Housing Committee, a Economic Development, Community and Intergovernmental Relations Committee; a Financial Policy Committee; a Human Services Committee; a Public Safety Committee; a Transportation Policy Committee; and a Utility Services and Franchises Committee each of which committees shall consist of three (3) members of the Council appointed by the Mayor.

SECTION 2. REPEALS. Sections 2-1.08.1, 2-1.21, and 2-1.23 of Chapter 1 of Title II of the Modesto Municipal Code are hereby repealed.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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:

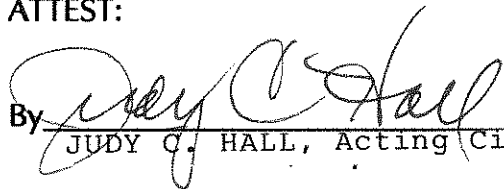
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

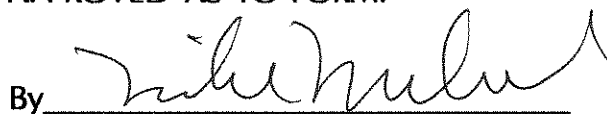
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2892-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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: 
MORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

Clark

110

ORDINANCE NO. 2893-C.S.

AN ORDINANCE AMENDING SECTION 6-7.207 OF ARTICLE 2 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO MOTOR BUS LICENSEE INSURANCE, AND REPEALING SECTION 6-7.301 OF ARTICLE 3 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO TRANSIT BUS INSURANCE.

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

SECTION 1. AMENDMENT OF CODE. Section 6-7.207 of Article 2 of Chapter 7 of Title VI of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 6-7.207. REGULATIONS.

In order to insure the safety of the public and in order to insure reasonably adequate service of any such grantee of a permit or license, the grantee of any such permit or license shall comply with each and all of the following requirements, the breach of any of which requirements shall be unlawful and shall be cause for the revocation or suspension of such permit or license in the discretion of the Council.

- (a) Each motor bus licensee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.
- (b) Any motor bus operating under the authority of such permit or license shall comply with all of the provisions established by the laws of the State.
- (c) Every motor bus operated under the authority of such license or permit shall stop to take on and let off passengers at specified points, and wherever provisions shall be made therefor by the Council, shall stop next to the curb at spaces reserved for that purpose.

SECTION 2. REPEALS. Section 6.7-301 of Article 3 of Chapter 7 of Title VI of the Modesto Municipal Code is hereby repealed.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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: Patterson

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. 2893-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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: 
HARRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

ORDINANCE NO. 2894-C.S.

AN ORDINANCE AMENDING SECTION 11-4.33 OF CHAPTER 4 OF TITLE XI OF THE MODESTO MUNICIPAL CODE RELATING TO CABLE SYSTEM GRANTEE INSURANCE.

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

SECTION 1. AMENDMENT OF CODE. Section 11-4.33 of Chapter 4 of Article XI of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 11-4.33. INDEMNIFICATION AND INSURANCE REQUIREMENTS.

- (a) The grantee shall indemnify and save harmless the City, its officers, agents, and employees, from and against any and all liability, claims, demands, actions, suits and proceedings by others, including reasonable attorney's fees, for loss or damage for bodily injury, sickness and disease, including death resulting therefrom, and for property damage, occasioned by the construction, operation or maintenance of the grantee's system under this chapter and its franchise granted hereunder.
- (b) The grantee shall indemnify and save harmless the City, its officers, agents and employees, from and against any and all liability claims, demands, actions, suits, and proceedings by others, and against any loss, cost, expense and damages resulting therefrom, including reasonable attorney's fees, arising out of the construction, operation or maintenance of the grantee's system or failure by the grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the grantee's cable system.
- (c) The cable system grantee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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

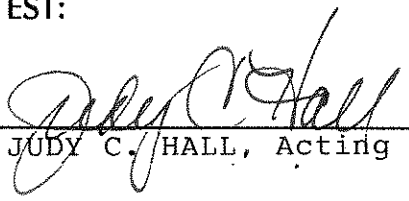
NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

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. 2894-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 19 94, 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: May 5, 1994

Clerk

ORDINANCE NO. 2895 -C.S.

AN ORDINANCE AMENDING SECTION 5-5.28 OF CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO LICENSEE INSURANCE FOR THE COLLECTION OF GARBAGE AND INDUSTRIAL GARBAGE.

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

SECTION 1. AMENDMENT OF CODE. Section 5-5.28 of Chapter 5 of Title V of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 5-5.28. INSURANCE.

Each licensee engaging in the collection of garbage and industrial garbage shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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:

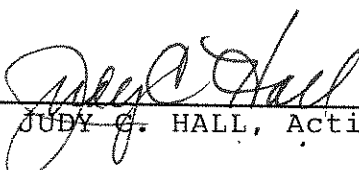
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
JUDY G. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

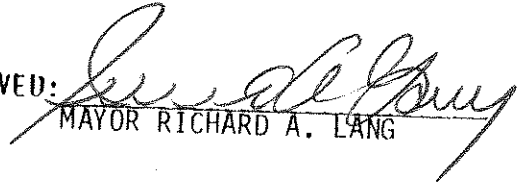
By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2895-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 19 94, 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: 
HURRIE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

Clerk 13

ORDINANCE NO. 2896-C.S.

AN ORDINANCE AMENDING SECTION 4-1.1206 OF ARTICLE 12 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO SIDEWALK FOOD VENDOR PERMITTEE INSURANCE, AMENDING SECTION 4-3.07 OF CHAPTER 3 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO MOVING BUILDING PERMITTEE INSURANCE, AMENDING SECTION 4-6.901 OF ARTICLE 9 OF CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICAB OPERATOR INSURANCE, AMENDING SECTION 4-7.1609 OF ARTICLE 16 OF CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TRAMPOLINE OPERATOR INSURANCE, AND REPEALING SECTION 4-7.1610 OF ARTICLE 16 OF CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO CANCELLATION OF INSURANCE.

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

SECTION 1. AMENDMENT OF CODE. Section 4-1.1206 of Article 12 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-1.1206. INSURANCE.

Each sidewalk food vendor permittee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 2. AMENDMENT OF CODE. Section 4-3.07 of Chapter 3 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-3.07. INSURANCE.

Each moving building permittee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 3. AMENDMENT OF CODE. Section 4-6.901 of Article 9 of Chapter 6 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-6.901. INSURANCE.

Each taxicab operator shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 4. AMENDMENT OF CODE. Section 4-7.1609 of Article 16 of Chapter 7 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-7.1609. INSURANCE.

Each trampoline operator shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 5. REPEALS. Section 4-7.1610 of Article 16 of Chapter 7 of Title IV of the Modesto Municipal Code is hereby repealed.

SECTION 6. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 7. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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: Patterson

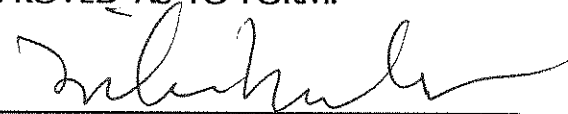
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2896-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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: Richard A. Lang
MAYOR RICHARD A. LANG

ATTEST: Morrine Coyle
MORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

ORDINANCE NO. 2897 -C.S.

AN ORDINANCE AMENDING SECTION 3-8.06 OF CHAPTER 8 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO AMBULANCE OPERATOR PERMITTEE INSURANCE, AMENDING SECTION 3-9.09 OF CHAPTER 9 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO LIMITED AMBULANCE OPERATOR PERMITTEE INSURANCE, AND AMENDING SECTION 3-10.23 OF CHAPTER 10 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO TOWING SERVICE INSURANCE.

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

SECTION 1. AMENDMENT OF CODE. Section 3-8.06 of Chapter 8 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-8.06. INSURANCE.

Each ambulance operator permittee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 2. AMENDMENT OF CODE. Section 3-9.09 of Chapter 9 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-9.09. INSURANCE.

Each permittee for the operation of a limited ambulance shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 3. AMENDMENT OF CODE. Section 3-10.23 of Chapter 10 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-10.23. BUSINESS AND STORAGE LOT REQUIREMENTS FOR TOWING SERVICE OPERATORS.

- (a) Vehicle Storage: Each towing service operator shall have a storage lot and/or building located within the City limits of the

City of Modesto or within two (2) miles thereof which is adequate to store not less than five (5) vehicles. Such storage lot or building shall be enclosed by a fence or wall which is of sufficient height and strength to be capable of protecting stored vehicles and their contents from pilfering or tampering. All gates or buildings shall be securely locked when not in use and storage lots shall be screened from public view.

- (b) Hours: Each towing service operator shall have an attendant on call, capable of responding within one (1) hour to requests from the Modesto Police Department for towing service and to citizens' requests for release of vehicles, twenty-four (24) hours each day, seven (7) days per week, including holidays.
- (c) Insurance: Each towing service operator shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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:

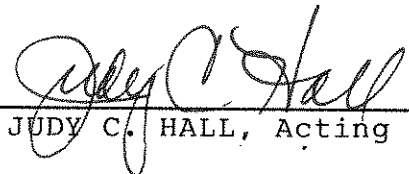
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

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. 2897-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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: 
HORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

ORDINANCE NO. 2898 -C.S.

AN ORDINANCE AMENDING SECTION 7-1.109 OF ARTICLE 1 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO PUBLIC WORKS STREET IMPROVEMENTS PERMITTEE INSURANCE; AMENDING SECTION 7-2.29 OF CHAPTER 2 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO PUBLIC WORKS STREET CUTS PERMITTEE INSURANCE; AMENDING SECTIONS 7-3.108, 7-3.108.1, 7-3.108.2, AND 7-3.108.3, OF ARTICLE 1 OF CHAPTER 3 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO AIRCRAFT PERMITTEE INSURANCE; AND REPEALING SECTION 7-3.108.4 OF ARTICLE 1, OF CHAPTER 3 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO INSURANCE MAINTENANCE.

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

SECTION 1. AMENDMENT OF CODE. Section 7-1.109 of Article 1 of Chapter 1 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-1.109. RESPONSIBILITY FOR ACCIDENTS: INSURANCE.

Permittee shall be responsible for any and all claims and liabilities for damages caused by any of the work herein permitted or caused by permittee's failure to perform his obligations under the permit. In the event any such claim or liability for damages is made against or imposed upon the City or any department, officer or employee thereof, permittee shall and by acceptance of the permit agrees to defend, indemnify and hold each of them harmless from such claim or liability. Each Public Works street improvements permittee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager, except property owners constructing, repairing or removing any curb, gutter, sidewalk or driveway themselves along the street frontages of property owned by them. Insurance amounts shall be set forth from time to time by resolution of the City Council.

SECTION 2. AMENDMENT OF CODE. Section 7-2.29 of Chapter 2 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-2.29. RESPONSIBILITY FOR ACCIDENTS: INSURANCE.

Permittee shall be responsible for any and all claims and liabilities for damages caused by any of the work herein permitted or caused by permittee's failure to perform his obligations under the permit. In the event any such claim or liability for damages is made against or imposed upon the City or any department, officer, or employee thereof, permittee shall and by acceptance of the permit agrees to defend, indemnify, and hold each of them harmless from such claim or liability. Each Public Works street cuts permittee shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 3. AMENDMENT OF CODE. Sections 7-3.108, 7-3.108.1, 7-3.108.2, and 7-3.108.3 of Article 1 of Chapter 3 of Title VII of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 7-3.108. INSURANCE REQUIREMENTS: COMMERCIAL AIRCRAFT.

All commercial aircraft owners or operators permitted use of Modesto City-County Airport/Harry Sham Field shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SEC. 7-3.108.1. INSURANCE REQUIREMENTS: PERMANENTLY BASED PRIVATE AIRCRAFT.

All owners or operators of private passenger aircraft, including owners or operators of corporate aircraft which are permitted use of permanent tie-down or hangar space at Modesto City-County Airport/Harry Sham Field, shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SEC. 7-3.108.2. INSURANCE REQUIREMENTS: MOTOR VEHICLES AND MOTORIZED EQUIPMENT ON AIR OPERATIONS AREAS OF AIRPORT PREMISES.

Every person or entity permitted to operate a motor vehicle or motorized equipment upon the air operations areas of Modesto City-County Airport/Harry Sham Field, as such air operations are

designated in the Airport Security Plan adopted by the City Council, shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SEC. 7-3.108.3. INSURANCE REQUIREMENTS: FIXED-BASE OPERATORS.

All fixed-base operators shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 4. REPEALS. Section 7-3.108.4 of Article 1 of Chapter 3 of Title VII of the Modesto Municipal Code is hereby repealed.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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: Patterson

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. 2898-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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: 
MARRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

2899

ORDINANCE NO. 2899-C.S.

AN ORDINANCE ADDING CHAPTER 9 ENTITLED
"ADULT-RELATED ESTABLISHMENTS" TO TITLE V OF THE
MODESTO MUNICIPAL CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 9 entitled
"Adult-Related Establishments" is hereby added to Title V of the Modesto Municipal
Code to read as follows:

CHAPTER 9. ADULT-RELATED ESTABLISHMENTS

ARTICLE 1. GENERAL PROVISIONS

SEC. 5-9.101. LEGISLATIVE PURPOSE.

The purpose and intent of the City Council in enacting this Chapter is to protect the health, safety, and welfare of the public and of patrons of establishments regulated herein by requiring the licensing and regulation of the establishments, services, and persons herein defined.

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-Related Establishment:** "Adult-Related Establishment" means a bathhouse, escort bureau, modeling studio or sexual encounter center, as defined by this section. "Adult-related establishment" also includes any other business or establishment which has available for or offers any patron, for pecuniary compensation, monetary or other consideration, hire or reward, services or entertainment or activities which involve "specified sexual activities" or the display of "specified anatomical areas" as defined herein. "Adult-related establishment" does not include a bookstore, motion picture theater, mini motion picture theater, hotel or motel, or cabaret, which sells, displays, offers for sale, furnishes, or features books, movies, or other materials which depict "specified anatomical area" or "specified sexual activities" as herein defined. The term "Adult-Related Establishment" does not include a bar.

- (b) **Adult-Related Establishment Operator:** "Adult-Related Establishment 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-related establishment 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-related establishment".
- (d) **Bona Fide Nonprofit Organization:** Any fraternal, charitable, religious, benevolent, or other nonprofit organization having a regular membership association primarily for mutual, social, mental, political, and civic welfare which sponsors events to which admission is limited to members and guests, and revenue accruing therefrom is used or designated for use exclusively for the purposes of said organization, and which organization or agency is exempt from taxation, under the Internal Revenue Laws of the United States, as a bona fide fraternal, charitable, religious, benevolent, or other nonprofit organization, and in which any services, entertainment, or activities involving "specified sexual activities" or the display of "specified anatomical areas" are incidental to its primary operation.
- (e) **Bar:** For the purposes of this ordinance, 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.
- (f) **Bathhouse:** "Bathhouse" means an establishment whose primary business is to provide, for pecuniary compensation, monetary or other consideration, hire or reward, access to any kind of bath facility, including but not limited to showers, saunas, and hot tubs.
- (g) **Cabaret:** Any nightclub, theater, or other establishment which features live performances by topless or bottomless dancers, 'Go-Go' dancers, exotic dancers, strippers, or similar entertainers where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. The term "Cabaret" does not include a bar.

- (h) **City Manager:** The City Manager of the City of Modesto or authorized representative thereof.
- (i) **Entertainment:** Any act, play, revue, pantomime, scene, song, dance act, or song and dance act, which involve "specified sexual activities" as herein defined or the display of "specified anatomical areas", conducted by or participated in by one or more persons, whether or not such person or persons are compensated for such performance. "Entertainment" also includes a fashion or style or lingerie show.
- (j) **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.
- (k) **Escort Bureau:** "Escort Bureau" means a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.
- (l) **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.
- (m) **Health Officer:** The Health Officer of the City of Modesto or his or her duly authorized representative.
- (n) **Modeling Studio:** "Modeling Studio" means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purpose 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".
- (o) **Operate an Adult-Related Establishment:** As used in this article "operate an Adult-Related Establishment" 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-related establishment or activities within an adult-related establishment.

- (p) **Permittee:** "Permittee" means the person to whom an adult-related establishment permit is issued.
- (q) **Person:** Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.
- (r) **Police Chief:** The Police Chief of the City of Modesto or the authorized representatives thereof.
- (s) **Sexual Encounter Center:** "Sexual Encounter Center" means a business which provides two or more persons, for pecuniary compensation, monetary or other consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas". "Sexual encounter center" does not include hotels or motels, or 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".
- (t) **Specified Anatomical Areas:** "Specified Anatomical Areas" shall include the following:
 - (1) Less than completely and opaquely covered (i) human genitals or pubic region; (ii) buttock; 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.
- (u) **Specified Sexual Activities:** "Specified Sexual Activities" shall include the following:
 - (1) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship; or the use of excretory functions in the context of a sexual relationship, and any of

the following depicted sexually oriented acts or conduct: anilingus, sodomy, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal, or tumescence; or,
- (3) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or,
- (4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or,
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,
- (6) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or,
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

SEC. 5-9.103. PERMIT 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-related establishment without first having obtained a permit from the City of Modesto as herein required.
- (b) It shall be unlawful for any person to act as an escort, figure model, or to take any other position of employment with an adult-related establishment in the City of Modesto without first having obtained a permit from the City of Modesto as herein required.

ARTICLE 2. APPLICATION AND PERMITS

SEC. 5-9.201. FILING AND FEE PROVISIONS.

- (a) Every person who proposes to maintain, operate or conduct an adult-related establishment in the City of Modesto shall file an application with the City Manager 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.

- (b) Every person who proposes to be employed by an adult-related establishment shall file an application with the City Manager 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) Every application submitted to the City Manager shall include the following information:
 - (1) The type of permit applied for.
 - (2) The name, including all aliases, by which the applicant is or has ever been known.
 - (3) The applicant's present residence address and the residence addresses and dates thereof for the three (3) years immediately preceding the date of the application.
 - (4) Written proof that the applicant is at least eighteen (18) years of age.
 - (5) The applicant's height, weight, color of eyes and hair.
 - (6) Two (2) portrait photographs of the applicant at least 2" x 2".
 - (7) The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
 - (8) The applicant's social security number and driver's license, if any.
 - (9) The "adult-related establishment" or similar business license or permit history of the applicant including:
 - (aa) Whether such person has previously operated in this or another city or state under license or permit.

- (ab) Whether such person has had such license or permit revoked or suspended and the reason therefor.
 - (ac) The business activity or occupation of such person subsequent to such action of suspension or revocation.
- (10) Whether the applicant has ever been convicted of:
- (aa) An offense involving conduct which requires registration pursuant to Section 290 of the Penal Code.
 - (ab) An offense involving sexual misconduct with children.
 - (ac) An offense involving theft of property.
 - (ad) An offense as defined in California Penal Code Sections 261.5, 262, 243.4, 261, 309, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10, 311.11, 313.1, 314, 315, 316, 318, 266, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(a), 647(b), 647(d), 647, or 647.6.
 - (ae) Any offense requiring registration under the provisions of Section 11590 of the California Health and Safety Code; any felony offense involving the possession, possession for sale, transportation, furnishing, giving away of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered.
 - (af) Conspiracy to commit or an attempt to commit any of the aforesaid offenses.
 - (ag) The equivalent of any of the aforesaid offenses in a jurisdiction outside the State of California.
- (11) 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.

- (12) Whether the applicant, including a corporation or partnership, or former employer of the applicant while so employed, or a building in which the applicant was so employed or a business conducted, was ever subjected to an abatement proceeding under California Penal Code Section 11225 or any similar provisions of law in a jurisdiction outside the State of California.
 - (13) The location at which the permittee is to be employed.
 - (14) Such other identification and information necessary to disclose the truth of matters hereinbefore specified as required to be set forth in the application.
- (b) Every application for a permit to operate an "adult-related establishment" shall give the name and address of the owners and or lessors of the real property upon or in which the business is to be conducted.
 - (c) If an applicant is a corporation, the application shall also set forth the name of the corporation exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding five (5) percent or more of the stock of the corporation. The corporation shall designate one of its officers to act as the responsible managing officer of the "adult-related establishment". Such officer shall complete the application form as an individual applicant under this Chapter.
 - (d) If the applicant is a partnership, the application shall also set forth the name and residence address of each of the partners, including limited partners. The partnership shall designate one of the partners to act as the managing partner of the "adult-related establishment". Such a partner shall complete the application form as an individual applicant under this chapter. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply.

- (e) Every application for a permit shall be verified by affidavit, or by declaration or certification under penalty of perjury as provided in the California Code of Civil Procedure.
- (f) The application for a permit does not authorize conducting an "adult-related establishment" until such permit has been granted. The issuance of a business license pursuant to Section 6-1.103 of the Modesto Municipal Code shall not authorize conducting an "adult-related establishment" until the necessary regulatory permit has been lawfully granted.

SEC. 5-9.203. REFERRAL OF APPLICATION TO OTHER DEPARTMENTS.

- (a) All applications for permits for an "adult-related establishment" shall be referred to the Chief Building Official, the Fire Chief, the Health Officer, the Planning and Community Development Director, and the Police Chief who shall make written recommendations to the City Manager concerning compliance with the laws and ordinances that they administer and enforce.
- (b) All other applications shall be referred to the Health Officer and Police Chief for their written recommendations to the City Manager concerning compliance with the laws and ordinances that they administer and enforce.
- (c) The Police Chief shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant.

SEC. 5-9.204. ISSUANCE REFUSAL.

- (a) The City Manager shall issue all other permits after the application therefore has been reviewed and approved. The City Manager may refuse to issue a permit for an "adult-related establishment", or for any other applicant or permittee for any of the following reasons, which reasons shall be set forth fully in writing and delivered to the applicant or permittee.
 - (1) That the operator as proposed by the applicant, if permitted, will not or does not comply with all applicable laws, including but not limited to ordinances relating to building, health, planning, housing, zoning, and fire protection, and other applicable laws and regulations

which the departments named in this chapter have responsibility to administer.

- (2) That the applicant or any other person who will be directly engaged in the management and operation of an "adult-related establishment" has been convicted of the offenses enumerated in paragraph (a)(10) of Section 5-9.202 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 and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in paragraph (a)(10) of Section 5-9.202.
- (3) That the applicant or any operator has had a permit for an "adult-related establishment" denied or revoked for cause by this city within the last five (5) years.
- (4) That the applicant or operator is not at least eighteen (18) years of age.
- (5) That the applicant has not paid the required fee to the City of Modesto Finance Department.
- (6) That the applicant has been licensed or registered in any state as a prostitute.
- (7) That any of the provisions of this chapter have been violated or that the permittee or any employee, including an "escort" or "figure model" is engaged in any conduct at an "adult-related establishment" which violates any state or local law or ordinances, or that the permittee of an "adult-related establishment" has actual knowledge of such violations, or where such permittee by the exercise of due diligence should have had actual or constructive knowledge of any such violation, or that such permittee or any other person acting on the permittee's behalf has refused to allow any duly authorized building inspector, police officer, or health officer of the City of Modesto to inspect the premises or the operations therein pursuant to the provisions of this chapter.

- (8) Any refusal to issue a permit, or the suspension, or revocation of a permit under the provisions of this section is appealable to the City Council in accordance with the provisions of Chapter 4 of Title I of the Modesto Municipal Code.

SEC. 5-9.205. REVOCATION OR SUSPENSION OF ADULT-RELATED ESTABLISHMENT PERMIT.

- (a) Any permit issued for an adult-related establishment may be revoked or suspended by the City Manager, after a hearing, in any case where any of the provisions of this article are violated, when the permittee, operator, or any employee of the permittee or operator, has engaged in conduct which violates any state law or city ordinance at the adult-related establishment and the operator or permittee knew, or, with the exercise of reasonable diligence, should have known of such violations at the time they occurred, or in any case where the operator refuses to permit any duly authorized city police officer or health inspector at the County of Stanislaus to inspect the premises or the operations therein during the hours such premises are open for business.
- (b) The City Manager shall hold a public hearing prior to the revocation or suspension of any permit under subsection (a). The permittee shall be given at least ten (10) days notice in writing of such hearing, which notice shall contain a brief statement of the grounds to be relied upon for suspending or revoking the permit.
- (c) The decision of the City Manager shall be in writing and shall be mailed postage pre-paid to the permittee.

SEC. 5-9.206. TERM OF PERMIT.

Permits issued under the provisions of Section 5-9.204 of this chapter shall be valid for a period of one (1) year from the date of issuance and shall be renewable annually.

- (a) An application for the renewal of an "adult-related establishment" shall be accompanied by a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable, and shall contain the same information as in paragraph (a) of Section 5-9.202, excluding therefrom subparagraphs (4), (7), (8), and (9).

- (b) All applications for renewal shall be referred to the Police Chief, who may require an applicant to have his or her fingerprints taken and to furnish such additional information as may be necessary to establish the identification of the applicant.

SEC. 5-9.207. SALE, TRANSFER, OR CHANGE OF LOCATION.

Upon the sale, transfer, or relocation of an "adult-related establishment" the permit therefor shall be null and void; provided, however, that upon the death or incapacity of the permittee, an "adult-related establishment" may continue in business for a reasonable period of time, not to exceed three (3) months, to allow for an orderly transfer of the business. No permittee shall operate under any name or conduct his business under any designation or at any location not specified in the permit. Any escort, figure model, or other employee may have a valid and unexpired permit transferred for use at any other "adult-related establishment" upon written application to the City Manager accompanied by a nonrefundable transfer fee, as established by resolution adopted by the City Council from time to time.

SEC. 5-9.208. 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. 5-9.209. 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, or any crime involving dishonesty, fraud, deceit, or moral turpitude.
 - (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) Acceptable written proof that the applicant is at least eighteen (18) years of age.
- (8) A complete set of fingerprints acceptable to the Police Chief.
- (9) The applicant shall make himself available to the Modesto Police Department in order to be photographed.
- (10) 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.
- (11) Such other identification and information as the Police Chief may require.

SEC. 5-9.210. ISSUANCE AND DENIAL OF PERMITS.

- (a) The Police Chief or his authorized representative shall have sixty (60) days from the date a complete application is submitted 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 paragraph (a)(10) of Section 5-9.202, 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, and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in paragraph (a)(10) of Section 5-9.202.

- (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 5-9.211 is appealable to the City Council in accordance with the provisions of Chapter 4 of Title I of the Modesto Municipal Code.

SEC. 5-9.211. REVOCATION OR SUSPENSION OF PERMITS.

After following the procedure in Section 5-9.205, the City Manager may revoke or suspend an "escort" or "figure model" permit for conviction of any of the crimes specified in Section 5-9.202(a)(10). The decision of the City Manager shall be in writing and shall be mailed postage pre-paid to the escort or figure model.

SEC. 5-9.212. 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. REQUIRED FACILITIES.

- (a) Every "adult-related establishment" shall have the following facilities to provide for and protect the health and safety of the patrons thereof:
- (1) Rooms and facilities used for toilets, tubs, steam baths, and showers shall be constructed and installed in accordance with the applicable building regulations of the State of California and City of Modesto.
 - (2) Separate toilet facilities in convenient locations shall be provided for males and females and shall be designated as to the sex accommodated therein.
 - (3) Lavatories or wash basins, provided with both hot and cold running water, shall be installed in every toilet room or the vestibule thereto. All lavatories and wash basins shall be provided with soap in a dispenser and with sanitary towels.
 - (4) No cubicle, room or booth, or other area which is provided or used for patrons' use, other than toilet facilities, shall be fitted with a door capable of being locked.
 - (5) All electrical equipment and plumbing fixtures shall be installed in accordance with the applicable building regulations of the State of California and the City of Modesto.
- (b) No permit to conduct an "adult-related establishment" shall be issued until an inspection has been made of the proposed facilities by representatives of the Chief Building Official, Health Officer, and Police Chief of the City of Modesto, and said officials have determined that the proposed facility meets the requirements of this chapter.

SEC. 5-9.302. OPERATING REQUIREMENTS.

- (a) Every portion of an "adult-related establishment" shall be kept clean and operated in a sanitary condition.

- (b) Cubicles, rooms, booths, toilet rooms, plumbing fixtures, and other patron facilities shall be thoroughly cleaned at least once each day the "adult-related establishment" is in operation. Bathtubs and shower compartments shall be thoroughly cleaned with disinfectant after each use.
- (c) No "adult-related establishment", or any portion of a building in which an "adult-related establishment" is located, shall be used for residential or sleeping purposes.
- (d) If male and female patrons are to be served simultaneously, in an "adult-related establishment", separate rooms, baths, and other patron facilities shall be provided for such male and female patrons.
- (e) "Adult-related establishments" may be open for operation only between the hours of 7:00 a.m. and 12:00 a.m., inclusive, of each day.
- (f) No alcoholic beverage shall be sold, served, furnished, kept or possessed on the premises of any "adult-related establishment".

SEC. 5-9.303. REGISTER AND PERMIT NUMBER OF EMPLOYEES.

- (a) Every permittee of an "adult-related establishment" must maintain a register of all persons employed 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. 5-9.304. DISPLAY OF PERMIT AND IDENTIFICATION CARDS.

- (a) Every "adult-related establishment" shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such "adult-related establishment" in a conspicuous place so that the same may be readily seen by all persons entering the "adult-related establishment".
- (b) 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".
- (c) An "escort" shall carry such card at all times while providing escort services.

- (d) A "figure model" shall have such card available for inspection at all times during the hours of operation of the model studio.

SEC. 5-9.305. 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-related establishment" to employ any person who is not at least eighteen (18) years of age.

SEC. 5-9.306. SERVICES AND RATE SIGN.

Every permittee of an "adult-related establishment" shall post a sign in a conspicuous place so that the same may be readily seen by all persons entering the "adult-related establishment" printed in bold letters not less than one (1) inch in height, listing the services available and the rates to be charged therefor. No services shall be performed and no sums shall be charged for such services other than those shown on the sign posted.

SEC. 5-9.307. INSPECTION SIGN.

Every permittee of an "adult-related establishment" shall post a sign in a conspicuous place so that the same may be readily seen by all persons entering the "adult-related establishment" printed in bold letters not less than one (1) inch in height, with the following thereon: "These premises are subject to inspection without notice by authorized officials of the City of Modesto".

ARTICLE 4. MISCELLANEOUS PROVISIONS

SEC. 5-9.401. INSPECTION.

- (a) The Health Officer, Chief Building Official, and Police Chief shall from time to time, but not less than twice a year, cause an inspection to be made of the premises of each "adult-related establishment" in the City of Modesto for the purpose of determining whether the provisions of this chapter are being complied with.

SEC. 5-9.402. 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-related establishment" to employ any person who is not in possession of a valid, unrevoked permit or to allow such a person to work within an "adult-related establishment".
- (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.
- (d) No permittee or operator of an "adult-related establishment" shall employ at an "adult-related establishment" any person who has been convicted of any offenses enumerated in paragraph (a)(10) of Section 5-9.202, where the offense occurred at the "adult-related establishment" or any "adult-related establishment" owned, controlled, or operated by the permittee or operator.

SEC. 5-9.403. TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

All persons who possess an outstanding business license heretofore issued for the operation of an "adult-related establishment" and all employees thereof must apply for and obtain a permit within ninety (90) days of the effective date of this chapter. Failure to do so and continued operation of an "adult-related establishment" or continued employment as an "escort" or "figure model" or other employee of an "adult-related establishment" without a permit shall constitute a violation of this chapter.

SEC. 5-9.404. 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:

- (1) 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.
- (2) 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. 5-9.405. EXCEPTIONS.

This chapter shall not apply to:

- (a) A bona fide nonprofit organization, as defined herein, the facilities thereof and all persons who provide "entertainment" in said facilities under the auspices and control of said organization.

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SEC. 5-9.406. 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 or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 1994, 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:

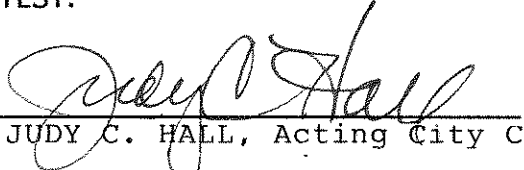
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson


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. 2899-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, Councilmember Cogdill moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 5, 1994

Clark

ORDINANCE NO. ~~2900~~ -C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.1009 AND 10-2.2110 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO OUTDOOR DISPLAYS AND SALES.

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

SECTION 1. AMENDMENT OF CODE. Sections 10-2.1009 and 10-2.2110 of Chapter 2 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

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

- (a) **Purpose.** Visual community character is directly influenced by the built-environment and especially the degree of permissiveness of signs, dealt with in the sign regulations, and the degree to which outdoor display, sales, and promotions are permitted. The regulations that follow are based on the premise that the visual clutter of outdoor display, sales, and promotions on an ongoing basis is not the desired visual community character of the City of Modesto. Consequently, outdoor display, sales, and promotions are limited to:
- (1) Products customarily and continually displayed outdoors on a 24-hour basis such as newspaper vending machines, plants and nursery stock, including bag goods and heavy and (rideable) garden equipment, service stations, vending machines, inventories, recycling collection facilities and seasonal products such as fireworks, pumpkins, and Christmas trees.
 - (2) Products and services very selectively added such as outdoor dining areas, food and drink carts for outdoor dining, and certified farmers markets because of our favorable climate and desired ambiance that these facilities provide.
 - (3) Display or sale of goods or services customarily sold indoors a limited number of times per year, as provided by Subsection (b) of this section.

- (4) Periodic outdoor fund-raisers by nonprofit organizations as provided by Subsection (d) of this Section.
 - (5) Periodic promotions not involving goods or services.
- (b) The display or sale of goods, merchandise or services which are customary indoor uses shall be allowed outdoors, limited to six (6) times in number during any calendar year for each business, subject to these conditions:
- (1) All sales shall be conducted by a business located on the property.
 - (2) All merchandise or services displayed outdoors shall be of the same types ordinarily sold indoors at the business conducting the sale.
 - (3) Each display or sale shall be limited to a maximum of nine (9) consecutive days. Sales may be run consecutively.
 - (4) No display shall encroach on a public right-of-way.
 - (5) Each display or sale shall be subject to the sign regulations of this Chapter.
 - (6) Prior to any display or sale, a permit for such shall be obtained from the Director.
- (c) Outdoor promotions or events are permitted by a licensed business, merchant association, school, charitable or not-for-profit organization. Promotions or events shall not promote or display the goods or services of any business on the premises and shall be subject to all other limitations in the Modesto Municipal Code, including those governing carnivals, circuses, dances and outdoor sound equipment and noise. Examples of such promotions or events are carnivals, circuses, animal rides, car shows, sporting events, and other exhibitions.
- (d) Outdoor fund-raising sales by schools, charitable or not-for-profit organizations are permitted if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, all profits to be derived from the sale. Such sales are not permitted solely by reason of sponsorship by a school, charitable or not-for-profit organization. Outdoor fund-raising sales are limited to six (6) times per calendar year for a maximum duration of nine (9) days each for each such organization.

- (e) Outdoor display or sale of goods or services by itinerant vendors as defined by the Modesto Municipal Code is prohibited.
- (f) Use of an inflatable device for a promotion or event shall be limited to six (6) times in number, of nine (9) days maximum during any twelve-month period for each business, and to a single inflatable device per promotion or event.
- (g) Outdoor display or sale of any items of personal property on vacant or unimproved land is prohibited. This prohibition shall not apply to sales of fireworks, Christmas trees, pumpkins, or other seasonal items as permitted under this Article.
- (h) It shall be unlawful and punishable as an infraction for any person to display, sell, or promote for sale any item in violation of the provisions of this Section.

SEC. 10-2.2110. SPECIFIC REQUIREMENTS FOR TYPE, AREA AND HEIGHT OF SIGNS IN THE C-1, C-2, C-3, C-M, M-1, M-2, B-P AND P-D ZONES.

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) Only one (1) of the following signs for each use or occupancy:
 - (aa) Freestanding identification sign not exceeding seventy-two (72) square feet in area and twenty (20) feet in height; or
 - (ab) Projecting identification sign not exceeding seventy-two (72) square feet in area and thirty-five (35) feet in height; if any portion projects into or overhangs a public street or alley right-of-way, said sign shall not exceed forty-eight (48) square feet in area; or
 - (ac) Marquee identification sign at right angles to a street, not exceeding forty-eight (48) square feet in area and thirty-five (35) feet in height. A second

such marquee identification sign is permitted if the two (2) signs are single-faced, are parallel, and are on opposite ends of a marquee.

- (ad) Exception: Any sign existing on March 1, 1977, in the C or M zones on a pylon which extends above a ridgeline shall be allowed to remain in addition to one (1) of the above signs as a nonconforming sign subject to abatement according to the schedule set forth in Section 10-2.2107.
- (2) One (1) freestanding identification sign for a shopping center, as herein defined, for each street upon which the shopping center fronts, subject to the following provisions:
- (aa) Each shopping center sign shall not exceed seventy-two (72) square feet in area and twenty (20) feet in height.
 - (ab) The identification on each shopping center sign shall be limited to the shopping center name with a reader board or a listing of uses within the center optional. The lettering for the reader board or the listing of such uses shall be of a size not greater than the lettering of the shopping center name.
 - (ac) Any freestanding or projecting identification sign or signs erected at said shopping center on or after July 1, 1972, whether identifying said shopping center or any use or occupancy therein, shall be removed prior to obtaining a building permit for the erection of a shopping center sign.
 - (ad) After erection of a shopping center sign at a shopping center, even in those cases where the shopping center sign installation preceded this Code provision, no additional freestanding or projecting identification sign shall be erected at such shopping center for any use or occupancy therein.
 - (ae) A shopping center, eligible for a freestanding identification sign, is usually characterized by a cluster of retail uses:
 - (i) At one (1) location held out to the public as a distinct shopping area and having a minimum

of five (5) retail uses on the same or adjacent sites.

- (ii) On one (1) or more parcels not normally traversed by any public streets.
 - (iii) With membership in a merchants' association comprising the cluster.
 - (iv) That employ a common advertising program for such a center.
- (3) For a freestanding tourist-oriented hotel, motel, restaurant or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
 - (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this Section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-1 Zone.
 - (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that a bridge over Freeway 99 or ramps thereto obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The applicant shall also present plans illustrating the

means by which the minimum height necessary to clear said visual obstruction was determined.

- (4) Canopy, marquee, and wall identification signs, provided:
- (aa) That said signs shall be limited to the portion of a building wherein the use or occupancy is conducted.
 - (ab) That the maximum total area for all said signs shall be limited as follows:
 - (i) For the principal frontage of the building as designated by the applicant:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	1 square foot per lineal foot of building frontage

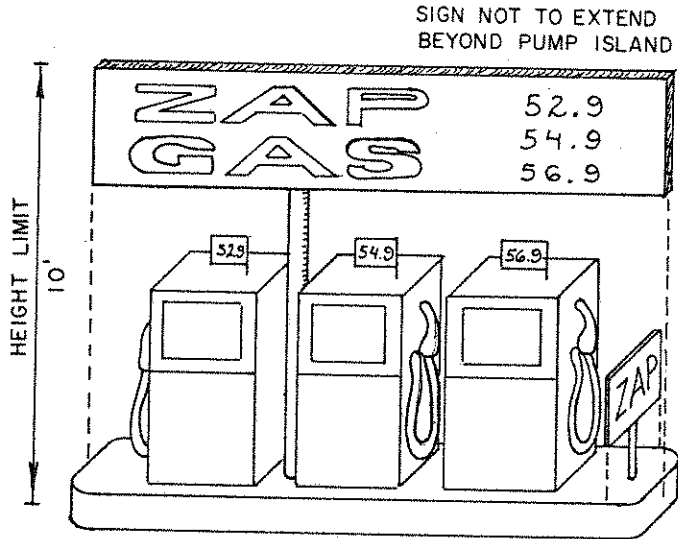
- (ii) For each other frontage of the building:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	0.5 square foot per lineal foot of building frontage

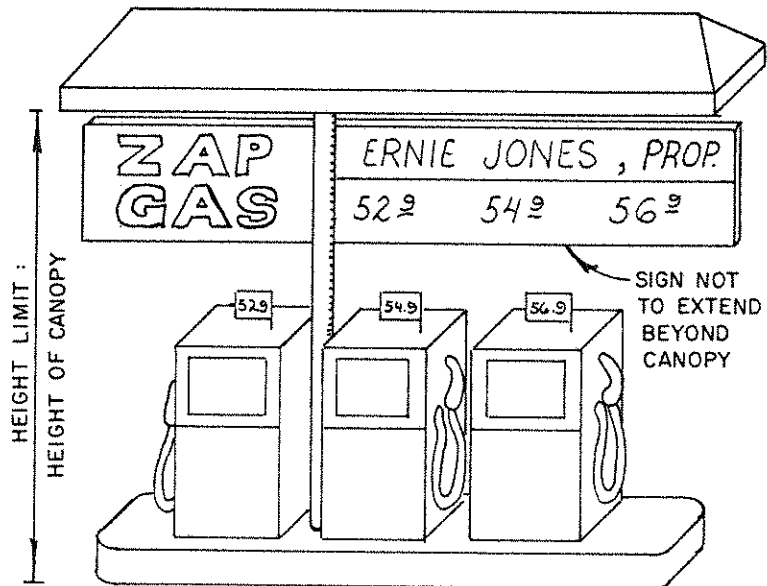
- (ac) That said signs shall not exceed thirty-five (35) feet in height nor project above a ridgeline, except that wall signs above thirty-five (35) feet in height may be approved subject to the securing of a conditional use permit from the Board in accordance with Article 25 of Chapter 2 of Title X of this Code. Said use permit will be dependent upon the following two (2) findings being shown:
 - (i) The building must exceed four (4) stories, or forty-eight (48) feet in height.

- (ii) The applicant must show why wall signs at a thirty-five-foot height limit cannot properly identify and architecturally meet the design of the building. All options to reach a satisfactory solution must have been explored.
- (ad) That signs hung from a canopy shall be not less than eight (8) feet above a private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic.
- (5) 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 thirty (30) square feet in area and eight (8) feet in height.
- (6) One (1) for sale or rent sign, not exceeding sixty-four (64) square feet in area and ten (10) feet in height.
- (7) 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.
- (8) One (1) sign hung from a marquee per street frontage for a given use, not exceeding six (6) square feet in area on any one (1) side or twelve (12) square feet maximum total area. Said sign shall be not less than eight (8) feet above a public sidewalk and may be mounted at an angle to the leading edge of a marquee.

- (9) 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.
- (10) Temporary signs are not permitted.
- (11) Outdoor advertising signs are not permitted except as otherwise provided in this Article.
- (12) Window signs are permitted.
- (13) One (1) freestanding identification sign, not exceeding seventy-two (72) square feet in area and twenty (20) feet in height, which shall be permitted to identify a use without any structures, such as a parking lot. For pumpkin and Christmas tree sale lots, one (1) freestanding identification sign shall be permitted, not exceeding thirty-two (32) square feet in area and twelve (12) feet in height.
- (14) Signs on service station pump islands, canopy uprights, and nonmovable structures on the pump islands, which shall be permitted if the combined area of said signs and all other wall and canopy signs do not exceed the total sign area permitted in subsection (4) above for the building on the site and do not project beyond the canopy roof or raised pump island. Said signs shall not exceed ten (10) feet in height if there is no canopy. For self-service service stations with small attendant booths less than ten (10) feet on any side, a maximum total wall and canopy sign area of one hundred sixty (160) square feet is permitted.



SERVICE STATION WITHOUT A CANOPY



SERVICE STATION WITH A CANOPY

- (15) Freestanding motor fuel price signs are permitted, as hereinafter specified, for businesses dispensing motor fuel to the public. The message on said signs shall be limited to specifying the prices and grades of motor fuel, self-service or full service, and brand name of the motor fuel, as required by the California Business and Professions Code. Motor fuel price signs shall be permitted as follows:

- (aa) One (1) motor fuel price sign per street frontage of the site.
 - (ab) Maximum area shall be twenty-five (25) square feet for the self-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; twenty-five (25) square feet for the full-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; all can be combined as one (1) sign.
 - (ac) Maximum height of sign shall be fourteen (14) feet.
- (16) 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.
- (17) 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.

- (18) 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 10-2.2108(d).
 - (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.
- (b) In the C-3 Zone, the following signs are permitted:
- (1) Any signs allowed in the C-1 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1205 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2110(a)(1) and freestanding shopping center identification signs as allowed in Section 10-2.2110(a)(2) are not permitted in the C-3 Zone.
 - (2) Any signs allowed in the R-3 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1204.

- (3) For a freestanding tourist-oriented hotel, motel, restaurant, or service station located on property within two hundred (200) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
- (i) That the use or occupancy is a freestanding use. For the purposes of this Section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
- (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The applicant shall also present plans illustrating the means by which the minimum height necessary to clear said visual obstruction was determined.
- (4) For any other freestanding use or occupancy, one (1) freestanding identification sign not to exceed seventy-two (72) square feet in area and twenty (20) feet in height may be approved 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. Said use permit will be dependent upon the following two (2) findings being shown:
- (aa) That the use or occupancy is a freestanding use. For the purposes of this Section, a freestanding use

is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.

- (ab) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
- (c) In the B-P Zone, the following signs are permitted:
- (1) Any signs allowed in the C-1 Zone are permitted in the B-P Zone for uses permitted in Section 10-2.1602 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2110(a)(1) and freestanding shopping center identification signs as allowed in Section 10-2.2110(a)(2) are not permitted in the B-P Zone.
 - (2) For each parcel, one freestanding identification sign not exceeding seventy-two (72) square feet in area and six (6) feet in height.
 - (3) One (1) freestanding identification sign for a business park, as herein defined, for each street on which the business park fronts may be approved subject to the approval of a plot plan by the Board of Zoning Adjustment and subject to the following provisions:
 - (aa) Each business park sign shall not exceed seventy-two (72) square feet in area and six (6) feet in height.
 - (ab) The identification on each business park sign shall be limited to the business park name, and logo.
 - (ac) A business park, eligible for a freestanding identification sign, is characterized by a cluster of business park uses:
 - (i) In a contiguous area that can be traversed by public streets, of at least fifty (50) acres held out to the public as a single development.

(ii) Represented by a single association or organization.

(d) For P-D zones the following signs are permitted:

Sign limitations shall be made a condition of each P-D Zone and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the P-D Zone.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

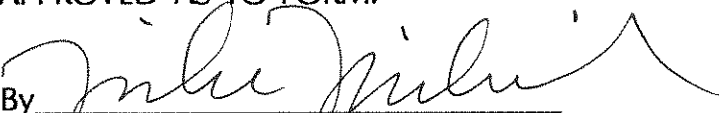
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2900-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 April, 1994, 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: Council Members: Cogdill, Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

NOES: Council Members: None

ABSENT: Council Members: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST: 
MORRINE COYLE, City Clerk

EFFECTIVE DATE: May 12, 1994

ORDINANCE NO. 2901 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.1706 OF ARTICLE 17 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO PLANNED DEVELOPMENT ZONES.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.1706 of Article 17 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1706. AREA.

P-D Zones shall have no minimum nor maximum area except that all residential P-D Zones of less than one (1) acre outside the downtown area bordered by Needham Avenue, Downey Avenue, Burney Street, Grand Street, Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99 and Kansas Avenue shall meet the qualifications of and provide for housing affordability in accordance with the Density Bonus Provisions of Chapter 3 of Title X of the Modesto Municipal Code.

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 April, 1994, 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: 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. 2901-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 19th day of April, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan and Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NARRINE COYLE, City Clerk

EFFECTIVE DATE: May 19, 1994

ORDINANCE NO. 2902 -C.S.

AN ORDINANCE AMENDING SECTION 5-5.14 OF
CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL
CODE RELATING TO HOURS OF COLLECTION.

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

SECTION 1. AMENDMENT OF CODE. Section 5-5.14 of Chapter 5 of
Title V of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 5-5.14. HOURS OF COLLECTION.

- (a) No collections shall be made in residential districts, as shown on the Zoning Map of the City of Modesto, or at schools, churches, hospitals, offices or commercial establishments in or adjacent to said residential district except between the hours of 6:00 a.m. and 6:00 p.m. year-round.
- (b) No collections shall be made in commercial areas when in or adjacent to residential areas except between the hours of 6:00 a.m. and 9:00 p.m. Monday through Sunday.
- (c) No collection shall be made from premises in residential or commercial areas other than described in subsections (a) and (b) above except when prior approval has been given by the Public Works and Transportation Director.

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 April, 1994, by Councilmember Muratore, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, 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. 2902-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 19th day of April, 1994, 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, Muratore,
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan and Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 19, 1994

Clerk

ORDINANCE NO. 2903 -C.S.

AN ORDINANCE AMENDING SECTION MAP 10-3-9 OF THE ZONING MAP TO REPEAL PLANNED DEVELOPMENT ZONE, P-D(428), AND REZONE TO PLANNED DEVELOPMENT ZONE, P-D(211), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF SYLVAN AVENUE AND OAKDALE ROAD. (PLANNING COMMISSION INITIATED-U.S. BY-PRODUCTS)

WHEREAS, the City Council by Ordinance 2547-C.S., effective October 22, 1987, amended Section Map 10-3-9 of the Zoning Map to rezone from a portion of Planned Development Zone, P-D(211), to Planned Development Zone, P-D(428), for a neighborhood shopping center, property located on the southwest corner of Oakdale Road and Sylvan Avenue, and

WHEREAS, the City Council, by Resolution No. 87-1054, adopted on September 15, 1987, approved the development plan for Planned Development Zone, P-D(428), and established the development schedule which specified that the entire construction program be accomplished in two phases, with construction of Phase I to include the supermarket, to begin on or before August 3, 1990, and completion to be not later than August 3, 1991; and construction of Phase II to be the balance of the site, to begin on or before August 3, 1991, and completion to be not later than August 3, 1992, and

WHEREAS, construction in Planned Development Zone, P-D(428), has not proceeded in accordance with the development schedule, and

WHEREAS, on February 14, 1994, by Resolution No. 94-9, the Planning Commission recommended to the City Council, a

rezoning from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(501), for a neighborhood shopping center property located on the northwest corner of Sylvan Avenue and Oakdale Road, and

WHEREAS, on February 14, 1994, by Resolution No. 94-10, the Planning Commission initiated proceedings to repeal Planned Development Zone, P-D(428) and rezone the property to Planned Development Zone, P-D(211), the previous zoning on the subject property, and

WHEREAS, a public hearing was held by the Planning Commission at its regular meeting on March 21, 1994, in the City Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution No. 94-16 found and determined that the repeal of Planned Development Zone, P-D(428), and rezoning the property back to Planned Development Zone, P-D(211), is required by public necessity, convenience and general welfare for the following reasons:

1. P-D(428) did not develop within the time limits of the revised development schedule.
2. Section 10-2.1710(c) of the Municipal Code calls for repeal or modification of expired P-D zones.
3. Longstanding City policy including the General Plan calls for a neighborhood shopping center at this major street intersection and provides for an approval of an alternate shopping center site to supplant this expired development proposal.

WHEREAS, by Resolution No. 94-16, adopted March 21, 1994, the planning Commission recommended to the Council that Section Map 10-3-9 of the Zoning Map be amended to repeal Planned Development Zone, P-D(428), and rezone the property hereafter described to Planned Development Zone, P-D(211), and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 7:30 p.m. on April 19, 1994, at which time evidence, both oral and documentary, was taken and introduced.

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

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended rezoning of Planned Development Zone, P-D(428), to Planned Development Zone, P-D(211), is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 94-16, and quoted above.

SECTION 2. ZONING CHANGE. Section 10-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(428), to Planned Development Zone, P-D(211):

P-D(428) to P-D(211)

ALL that certain real property situate in a portion of the Southeast Quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying within the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the East Quarter corner of said Section 10, said point being the centerline intersection of Sylvan Avenue with Oakdale Road; thence South $0^{\circ}10'55''$ West along the East line of said Section 10, and said centerline of Oakdale Road, a distance of 752.66 feet; thence North $89^{\circ}49'05''$ West, 723.45 feet; thence North $18^{\circ}36'35''$ West, 7.44 feet; thence Northeasterly along an arc of a tangent curve to the right, having a radius of 400.00 feet, through a central angle of $46^{\circ}32'00''$, an arc distance of 324.86 feet to a point of compound curvature; thence Northwesterly along an arc of a compound curve to the left, having a radius of 300.00 feet, through a central angle of $27^{\circ}12'10''$, an arc distance of 142.43 feet; thence tangent to the preceding curve North $0^{\circ}43'15''$ East, 300.00 feet to the intersection with the East-West Quarter Section Line of said Section 10 and said centerline of Sylvan Avenue; thence South $89^{\circ}16'45''$ East along said East-West Line and said centerline of Sylvan Avenue a distance of 663.93 feet to the Point of Beginning.

SECTION 3. ZONING MAP. Section 10-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of April, 1994, 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, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan, Patterson, Mayor Lang

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

APPROVED AS TO DESCRIPTION:

By *Alison Proctor*
Planning and Community Development

Ord. No. 2903-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of May, 1994, 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: Patterson

APPROVED: 

MAYOR RICHARD A. LANG

ATTEST: 

NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 2, 1994

Clerk

ORDINANCE NO. 2904 -C.S.

AN ORDINANCE AMENDING SECTION 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(503), PROPERTY LOCATED ON THE WEST SIDE OF MARTIN LUTHER KING DRIVE, NORTH OF VINE STREET (CHARLES CRANE).

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

SECTION 1. ZONING CHANGE. Section 31-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(503):

R-1 to P-D(503)

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

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

Beginning at the Northeast corner of said south half of Lot 9 at a point on the centerline of Martin Luther King Blvd. (Franklin Street), and running thence South 89°58'30" West, 665.58 feet, to the Northwest corner of said south half of Lot 9; thence South 0°10' West, along the West line of said lot and the centerline of the Modesto Irrigation District Canal, 97.05 feet; thence North 89°58'30" East, 125 feet; thence South 0°10' West, 100 feet; thence North 89°59' East, 391.60 feet; thence North 0°10'00" East, 79.00 feet; thence South 89°59'00" West, 20.92 feet; thence North 0°10'00" East, 61.00 feet; thence North 89°59'00" East, 170.00 feet to the centerline of Martin Luther King Blvd. (Franklin Blvd.); thence North along said centerline, 57.05 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(503) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Elderly housing development.

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

SECTION 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 April, 1994, 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: Dobbs, Friedman, McClanahan,
Muratore, Mayor Lang

NOES: Councilmembers: None


ABSENT: Councilmembers: Cogdill, Patterson

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

Ord. No. 2904-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 May, 1994, 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: June 9, 1994

ORDINANCE NO. 2905 -C.S.

AN ORDINANCE AMENDING SECTION MAP 10-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(501), PROPERTY LOCATED ON THE NORTHWEST CORNER OF SYLVAN AVENUE AND OAKDALE ROAD. (HAGOPIAN, LUST, AND CALLAWAY)

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

SECTION 1. ZONING CHANGE. Section 10-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(501):

All that certain real property situate in a portion of the Northeast one-quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, more particularly described as follows:

COMMENCING at the Northeast corner of Parcel "1", as shown on the map, filed in Book 29 of Parcel Maps, at Page 100, Stanislaus County Records, said corner lies on the West Right-of-Way line of Oakdale Road; thence South $0^{\circ}53'20''$ East along said Right-of-Way line, 651.90 feet; thence South $16^{\circ}25'54''$ West, 32.76 feet to the point of beginning of a tangent curve, concave to the Northwest, having a radius of 25.00 feet and a central angle of $2^{\circ}27'24''$; thence Southwesterly along the arc of said curve, 1.07 feet to a point on a curve, from which a radial line bears South $1^{\circ}30'43''$ West, said curve being concave to the South, having a radius of 5050.00 feet and a central angle of $2^{\circ}04'49''$; thence Westerly along the arc of said curve, 183.35 feet; thence South $89^{\circ}25'54''$ West, 375.63 feet to the point of beginning of a tangent curve, concave to the Northeast, having a radius of 15.00 feet and a central angle of $89^{\circ}40'57''$; thence Northwesterly along the arc

of said curve, 23.48 feet; thence North 0°53'09" West, 665.58 feet; thence North 89°23'25" East, 583.89 feet to the point of beginning of this description. Including the East 30.00 feet of 60.00 foot wide Carson Oak Drive, North 50.00 feet of 100.00 foot wide Sylvan Avenue, West 50.00 feet of 100.00 foot wide Oakdale Road and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(501) Zone, if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. A neighborhood shopping center allowing all C-1 Zones uses.
2. Off-site parking as shown on the approved development plan.

SECTION 3. ZONING MAP. Section Map 10-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted

in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance, 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 April, 1994, by Councilmember Muratore, 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: Patterson

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 
Department of Planning and
Community Development


Ord. No. 2905-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of May, 1994, 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: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 2, 1994

ORDINANCE NO. 2906 -C.S.

AN ORDINANCE ADDING SECTION 10-2.2333 TO
ARTICLE 23 OF CHAPTER 2 OF TITLE X OF THE
MODESTO MUNICIPAL CODE RELATING TO GENERAL
PROVISIONS - FEES.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.2333 is
hereby added to Article 23 of Chapter 2 of Title X of the Modesto
Municipal Code to read as follows:

SEC. 10-2.2333. FEES.

Filing fees for any of the procedures authorized by
this title are required to be paid by applicants,
except that public agencies shall be exempt from such
fees. The City Council shall establish these fees by
resolution adopted from time to time.

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.

ORDINANCE NO. 2906 -C.S.

AN ORDINANCE ADDING SECTION 10-2.2333 TO
ARTICLE 23 OF CHAPTER 2 OF TITLE X OF THE
MODESTO MUNICIPAL CODE RELATING TO GENERAL
PROVISIONS - FEES.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.2333 is
hereby added to Article 23 of Chapter 2 of Title X of the Modesto
Municipal Code to read as follows:

SEC. 20-2.2333. FEES.

Filing fees for any of the procedures authorized by
this title are required to be paid by applicants,
except that public agencies shall be exempt from such
fees. The City Council shall establish these fees by
resolution adopted from time to time.

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 May, 1994, 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, 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. 2906-C.S.

FINAL ADOPTION CLAUSE

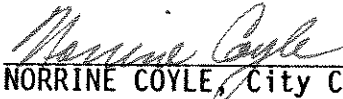
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of May, 1994, Councilmember Friedman moved its final adoption, which motion being duly 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: June 16, 1994

ORDINANCE NO. 2907-C.S.

AN ORDINANCE AMENDING SECTION 2-1.08 OF CHAPTER 1 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO CITY COUNCIL ORDER OF BUSINESS.

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

SECTION 1. AMENDMENT OF CODE. Section 2-1.08 of Chapter 1 of Title II of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 2-1.08. ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the Council, the City Clerk, City Attorney and City Manager shall take their regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition in the following order except that by "order of the chair" the Mayor or other presiding officer may take any item out of order as the public necessity and convenience may require:

1. Roll Call.
2. Pledge of allegiance to the flag.
3. Invocation.
4. Consent items.
5. Acknowledgements.
6. Presentations.
7. Minutes.
8. Unfinished business.
9. Hearings.
10. Bids.
11. New business.
12. Oral communications.
13. Written communications.
14. Miscellaneous:
 - a. Legislation.
 - b. Appointments.
 - c. Other.
15. Matters too late for the agenda.
16. Adjournment.

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 May, 1994, 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:

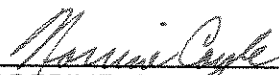
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

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. 2907-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 May, 1994, 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: June 16, 1994

Clark

CORRECTED 6/30/94

ORDINANCE NO. 2908 -C.S.

AN ORDINANCE AMENDING SECTION 5-6.12 OF
CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL
CODE RELATING TO PERMITS.

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

SECTION 1. AMENDMENT OF CODE. Section 5-6.12 of Chapter 6 of
Title V of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 5-6.12. PERMITS.

- (a) **Industrial Users and Liquid Waste Haulers.** Before an industrial waste connection is made to the sewage system, a permit must first be obtained from the Director. Application for a permit to discharge such wastes shall be in writing and shall contain the following information:
- (1) Name and address of applicant.
 - (2) Proposed location of connection.
 - (3) Estimated gallonage of wastes proposed to be discharged, estimated time of discharge, time of peak loads, and other similar data.
 - (4) Character of waste proposed to be discharged.
 - (5) Other information as may be deemed to be necessary by the Director.

Upon receipt of an application as provided, the Director shall promptly make such investigation as he shall deem necessary.

A permit shall be issued to the applicant as requested if the Director finds and determines that:

- (1) The trunk sewer in which the connection is to discharge has sufficient unused carrying capacity for the disposition of these wastes; and
- (2) The character of the wastes proposed to be discharged by the applicant is such that they can successfully be treated; and

- (3) Such wastes will not result in damage to the sewage system.

The Director, at his discretion, and toward the end of fulfilling the intent and purposes of this chapter, may grant a permit in part only and may thereupon prescribe conditions with respect to discharge of such waste into such system, including pretreatment and installation and maintenance of pretreatment facilities, and or maintenance of individual screens to collect waste products, and or may require the construction and use of tanks designed to equalize flow and reduce peak load.

In the event that, after the granting of a permit, there shall develop a change of conditions, such as an increased flow or change of character of discharge or operations or for any cause whatsoever, the permittee must immediately report such changes to the Director. If, in the opinion of the Director, it becomes necessary or desirable to change the conditions prescribed at the time of issuing said permit, then the Industrial Waste Division at the discretion of the Director may change said permit or may impose further conditions with respect thereto, toward the end of remedying such conditions.

- (b) **Capacity Allocation.** Each major industrial user, at the time a permit is issued in accordance with subsection (a) above, shall be assigned a capacity allocation for monthly discharge and annual discharge measured in million gallons (MG).
- (c) **Pretreatment Facilities.** Any facilities required to pretreat industrial wastewater including all effluent monitoring equipment, to a level acceptable to the Director shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for all existing industrial user's facilities as well as before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent changes in the pretreatment facilities or operating procedures shall be reported to and be acceptable to the Director prior to the industrial user's initiation of the changes. All records relating to compliance with pretreatment standards shall be made available to the Director upon request.

- (d) **All Other Users.** Permits for all sewer connections, except industrial users and liquid waste haulers, shall be obtained in accordance with the provisions of the Plumbing Code of the City.
- (e) **Non-Transferable.** A permit issued under this section may not be transferred, assigned, or sold. If ownership or control of a facility changes, the permit is revoked and a new application must be made.

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 June, 1994, 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, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, 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. 2908-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 June, 1994, Councilmember Dobbs 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, Muratore,
Acting Mayor McClanahan

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, Mayor Lang

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: July 14, 1994

2/2/09 (8)

ORDINANCE NO. 2909 -C.S.

AN ORDINANCE AMENDING SECTION 3-2.808 OF ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.808 of Article 8 of Chapter 2 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

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

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

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 1994, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, Mayor Lang

APPROVED: 

RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2909-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 21st day of June, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: July 21, 1994

ORDINANCE NO. 2910 -C.S.

AN ORDINANCE ADOPTING THE OPERATING BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1995, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed budget for the 1994-1995 fiscal year has been submitted to the City Council by the City Manager, and the City Council has made such revisions as it has deemed advisable, and

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

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

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

SECTION 1. That the "City of Modesto Proposed Budget 1994-95", presented by the City Manager to the City Council at its meeting held June 21, 1994, 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 item relating to the Lincoln Lakewood Bridge project, as the budget for the City of Modesto for the fiscal year ending June 30, 1995, 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, 1994, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the budget for the fiscal year 1994-1995 adopted hereby.

SECTION 3. That Capital Projects carried over from fiscal year 1992-1994 are hereby re-appropriated as a part of the budget for the fiscal year 1994-1995 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, 1994.

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 21st day of June, 1994, by Councilmember Friedman, who moved its adoption 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: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

ORDINANCE NO. 2911 -C.S.

AN ORDINANCE ADOPTING THE CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1995.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed Capital Improvement Program (CIP) budget for the 1994-1995 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 CIP budget after due notice, as provided by law, and

WHEREAS, copies of the proposed CIP 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 CIP Budget 1994-95", presented by the City Manager to the City Council at its meeting held June 21, 1994, and as thereafter amended by the City Council, a copy of which CIP budget, as amended, is on file in the office of the City Clerk, is hereby adopted as the CIP budget for the City of Modesto for the fiscal year ending June 30, 1995, excluding the items relating to the Ninth Street Railroad Relocation project and Grade Separation and the Downtown Park, 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, 1994, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the CIP budget for the fiscal year 1994-1995 adopted hereby.

SECTION 3. That Capital Projects carried over from fiscal year 1992-1994 are hereby re-appropriated as a part of the CIP budget for the fiscal year 1994-1995 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, 1994.

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 21st day of June, 1994, by Councilmember Cogdill, who moved its adoption and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: 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

ORDINANCE NO. 2912 -C.S.

AN ORDINANCE APPROVING THE NINTH STREET RAILROAD RELOCATION PROJECT AND GRADE SEPARATION FOR THE CITY OF MODESTO FOR THE CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEAR ENDING JUNE 30, 1995.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed Capital Improvement Program (CIP) budget for the 1994-1995 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 CIP budget after due notice, as provided by law, and

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

WHEREAS, on June 21, 1994, the City Council introduced and adopted Ordinance No. 2911-C.S., entitled "An Ordinance Adopting The Capital Improvement Program For the City Of Modesto For The Fiscal Year Ending June 20, 1995", and

WHEREAS, due to a Councilmember's conflict of interest, said Ordinance No. 2911-C.S. excluded an item relating to the Ninth Street Railroad Relocation project and Grade Separation, and

WHEREAS, said item relating to the Ninth Street Railroad Relocation project and Grade Separation, was then

considered after the adoption of Ordinance No. 2911-C.S. which adopted the 1994-95 Capital Improvement Program,

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

SECTION 1. That the item relating to the Ninth Street Railroad Relocation project and Grade Separation, which was excluded from Ordinance 2911-C.S. due to a Councilmember's conflict of interest, is hereby approved.

SECTION 2. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall take effect upon adoption.

SECTION 3. 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 21st day of June, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: McClanahan, Patterson

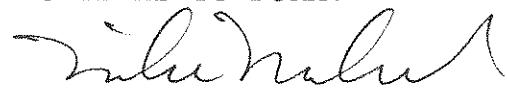
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

ORDINANCE NO. 2913 -C.S.

AN ORDINANCE APPROVING THE DOWNTOWN PARK PROJECT FOR THE CITY OF MODESTO FOR THE CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEAR ENDING JUNE 30, 1995.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed Capital Improvement Program (CIP) budget for the 1994-1995 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 CIP budget after due notice, as provided by law, and

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

WHEREAS, on June 21, 1994, the City Council introduced and adopted Ordinance No. 2911-C.S., entitled "An Ordinance Adopting The Capital Improvement Program For the City Of Modesto For The Fiscal Year Ending June 20, 1995", and

WHEREAS, due to a Councilmember's conflict of interest, said Ordinance No. 2911-C.S. excluded an item relating to the Downtown Park project, and

WHEREAS, said item relating to the Downtown Park project, was then considered after the adoption of Ordinance No. 2911-C.S. which adopted the 1994-95 Capital Improvement Program,

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

SECTION 1. That the item relating to the Downtown Park project, which was excluded from Ordinance 2911-C.S. due to a Councilmember's conflict of interest, is hereby approved.

SECTION 2. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall take effect upon adoption.

SECTION 3. 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 21st day of June, 1994, by Councilmember Dobbs, who moved its adoption and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, 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. 2914 -C.S.

AN ORDINANCE AMENDING SECTION 4-1.1016 OF ARTICLE 10 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO BINGO.

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

SECTION 1. AMENDMENT OF CODE. Section 4-1.1016 of Article 10 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-1.1016. PARTICIPANTS.

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted. No permittee shall issue chips or money to a patron on credit or loan (including but not limited to IOU's and checks to be held) or allow any patron to otherwise play on credit. No person shall be allowed to buy more than eighteen (18) bingo cards in any one day nor be allowed to play more than eighteen (18) bingo cards in any one game; however, the Chief of Police may, by rules and regulations adopted pursuant to Section 4-1.1022 hereof, allow, in addition thereto, the purchase of a limited number of additional bingo cards for the playing of a certain number of special limited bingo games. No person who is in a state of intoxication shall be allowed to participate in a bingo game. No person under the age of eighteen (18) years shall be allowed to participate in any bingo game.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 1994, by Councilmember McClanahan, 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: 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. 2914-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 July, 1994, Councilmember McClanahan 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: Coddill

ABSENT: Councilmembers: Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 4, 1994

Clerk
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ORDINANCE NO. 2915-C.S.

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO ADMINISTRATIVE DEPARTMENTS.

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

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

CHAPTER 3 - ADMINISTRATIVE DEPARTMENTS

ARTICLE 1. OFFICE OF THE CITY MANAGER

SEC. 2-3.101. CREATION AND FUNCTIONS.

The office of the City Manager is established by the Charter of the City of Modesto. The City Manager shall have the duties, responsibilities, authority and jurisdiction provided by the Charter, and the ordinances and resolutions adopted by the Council in accordance therewith.

SEC. 2-3.102. ORGANIZATION AND DIRECTION.

The City Manager is empowered to make such rules and regulations as the City Manager deems necessary for the conduct of the various administrative departments of the City which are under the City Manager's jurisdiction. The City Manager is authorized to delegate the authority to make such rules and regulations to the heads of the various administrative departments.

SEC. 2-3.103. ACTING CITY MANAGER.

In the case of absence or disability of the City Manager, the Deputy City Manager, or such other officer of the City as shall be appointed City Manager pro tempore by the Council, shall perform the duties and exercise the powers of the City Manager.

ARTICLE 2. OFFICE OF THE CITY ATTORNEY

SEC. 2-3.201. CREATION AND FUNCTIONS.

The office of the City Attorney is established by the Charter. It shall be under the direct control of the City Attorney, subject to approval of the Council. The functions of the City Attorney shall include:

- (a) Represent and appear for the Council, commissions, officers and employees of the City in matters, proceedings and actions in which the City is concerned or is a party or in which any officer or employee or former officer or employee is a party due to the performance of the City Attorney's official duties.
- (b) Attend meetings of the Council and commissions and advise them and officers in all matters of law pertaining to their offices.
- (c) Prepare ordinances, resolutions, contracts or other instruments for the City as shall be required by the Council and approve as to form all bonds given to and contracts made by the City.
- (d) Prosecute on behalf of the City all cases for violation of the Charter and the Modesto Municipal Code and other City laws.
- (e) Perform such other duties as may be required by the Council.

SEC. 2-3.202. ACTING CITY ATTORNEY.

In case of absence or disability of the City Attorney, the Council shall appoint an Acting City Attorney.

ARTICLE 3. OFFICE OF THE CITY CLERK AND AUDITOR

SEC. 2-3.301. COMBINED CITY CLERK AND AUDITOR.

In accordance with Section 901 of the Charter, the positions of City Clerk and City Auditor are hereby combined; and the title of the officer so combined shall be City Clerk and Auditor.

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 as to statutory duties, but subject to general administrative direction of the City Manager. 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.

SEC. 2-3.303. ACTING CITY CLERK AND AUDITOR.

In case of the absence or disability of the City Clerk and Auditor, the Assistant City Clerk, or other officer of the City, who shall be appointed Acting City Clerk and Auditor by the Council, shall perform the duties and exercise the powers of the City Clerk and Auditor.

ARTICLE 4. FINANCE DEPARTMENT

SEC. 2-3.401. CREATION AND FUNCTIONS.

A Finance Department is hereby established. The functions of the Finance Department shall include:

- (a) Prepare and submit to the City Manager a monthly statement indicating the financial condition of the City; a complete financial statement and report at the end of each fiscal year; a proposed preliminary budget prior to the beginning of the next succeeding fiscal year.
- (b) Receive or collect all monies or revenues due the City; maintain custody of all public funds and securities belonging to or under the control of the City, depositing and investing funds in accordance with the principles of sound treasury management and the applicable law.

- (c) Maintain a general accounting system for the City government, supervising and controlling disbursements and expenditures, including payroll, through a system of budget control to assure that monies are available and appropriated.
- (d) On behalf of the City Manager procure materials, supplies and general services for the City and prepare and maintain a current inventory of all materials and supplies and an inventory of general assets belonging to the City.
- (e) Provide general office services; to other departments of the City as may be determined appropriate.
- (f) Estimate, plan and program the City's financial activities, and advise the City Manager and other City officers.
- (g) Perform such other duties as the City Manager may direct.

SEC. 2-3.402. ORGANIZATION AND DIRECTION.

There shall be a Finance Director who shall be appointed by and subject to the administrative direction of the City Manager. The Finance Director, subject to approval of the City Manager, shall organize and maintain such divisions in the department as in the Director's judgment the operations may require, and shall be responsible for the direction and control of all functions assigned to the department. In addition, the Finance Director shall have the duties and powers imposed by law on the City Treasurer, City Assessor, and City Tax Collector.

SEC. 2-3.403. ACTING FINANCE DIRECTOR.

In case of the absence or disability of the Finance Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Finance Director.

ARTICLE 5. FIRE DEPARTMENT

SEC. 2-3.501. CREATION AND FUNCTIONS.

The Fire Department is hereby established. The functions of the Fire Department shall include:

- (a) Protect life and property by preventing and eliminating fire hazards and by controlling and extinguishing fires.

- (b) Enforce laws and ordinances relating to the prevention and extinguishing of fires, and handling of potentially dangerous combustibles and explosives, and investigate and report to the Police Department in all cases where there is reason to believe that any fire is the result of a crime or that a crime is committed in connection therewith.
- (c) Maintain in efficient operable condition those fire-fighting and fire prevention systems and facilities assigned to the Fire Department.
- (d) Recruit and train such volunteers and auxiliary personnel as may reasonably be required to augment regular Fire Department manpower.
- (e) Perform such other duties as the City Manager may direct.

SEC. 2-3.502. ORGANIZATION AND DIRECTION.

There shall be a Fire Chief, appointed by the City Manager and subject to the City Manager's general administrative direction. The Fire Chief, subject to the approval of the City Manager, shall organize and maintain such divisions in the department as in the Chief's judgment the operations may require, and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.503. ACTING FIRE CHIEF.

In the case of absence or disability of the Fire Chief, the Assistant Fire Chief or such other officer of the City who shall be designated by the City Manager as Acting Assistant Fire Chief, shall perform the duties and exercise the powers of the Fire Chief.

ARTICLE 6. HEALTH DEPARTMENT

SEC. 2-3.601. CONSOLIDATION WITH THE COUNTY HEALTH DEPARTMENT.

Pursuant to the provisions of Section 903 of the Charter of the City of Modesto and of the pertinent sections of the Health and Safety Code, the City Health Department is consolidated with the County Health Department for the purpose of enforcing State laws and regulations relating to public health. The enforcement of the provisions of the Municipal Code relating to health matters shall be provided by the

County Health Officer, acting as City Health Officer, under terms of an agreement with the County of Stanislaus.

ARTICLE 7. PARKS AND RECREATION DEPARTMENT

SEC. 2-3.701. CREATION AND FUNCTIONS.

A Parks and Recreation Department is hereby established. The functions of the Parks and Recreation Department shall include:

- (a) Plan and operate a broad program of public recreation for all age groups, designed to encourage and maintain interest and participation by individuals and by organizations, both public and private.
- (b) Plan, develop, improve and maintain park and recreation areas and facilities.
- (c) Plant and maintain street trees in accordance with a general plan for street trees.
- (d) Perform such other functions as the City Manager may direct.

SEC. 2-3.702. ORGANIZATION AND DIRECTION.

There shall be a Parks and Recreation Director appointed by the City Manager and subject to the City Manager's general administrative direction. The Parks and Recreation Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the Department as in the Director's judgment the operations may require, and shall be responsible for the direction and control of all functions assigned to the Department.

SEC. 2-3.703. ACTING PARKS AND RECREATION DIRECTOR.

In the case of absence or disability of the Parks and Recreation Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Parks and Recreation Director.

ARTICLE 8. COMMUNITY DEVELOPMENT DEPARTMENT

SEC. 2-3.801. CREATION AND FUNCTION.

A Community Development Department is hereby established. The functions of the Community Development Department shall include:

- (a) **Long Range Planning:** Provide long range planning services, including advance planning, land use, transportation and utility planning services, and provide services associated with updates to and amendments of the City's General Plan.
- (b) **Development Services:** Provide development services, including the processing of land use entitlements, engineering review and improvement plans, and building and plan check inspection services.
- (c) **Business Development:** Provide business development services, including the solicitation of new investment and reinvestment opportunities, and providing related services such as redevelopment assistance and advice related to public financing.
- (d) **Housing and Neighborhoods:** Provide services related to community housing, including implementation of the Comprehensive Housing Affordability Strategy and other services designed to preserve and enhance existing neighborhoods.
- (e) **Related Services:** The Community Development Department will also be responsible for providing staff support to those City Council appointed boards and commissions whose powers and duties relate to the above four (4) functional areas of responsibility. In addition, the Community Development Department shall perform such other duties as the City Manager may direct.

SEC. 2-3.802. ORGANIZATION AND DIRECTION.

There shall be a Community Development Director who shall be appointed by the City Manager and be subject to the City Manager's general administrative direction. The Community Development Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the department as in the Director's judgment the operations may require and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.803. ACTING COMMUNITY DEVELOPMENT DIRECTOR.

In the absence or disability of the Community Development Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Community Development Director.

SEC. 2-3.804. REFERENCES.

- (a) Whenever this code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Director of Planning, Planning Director or Economic Development Director, they shall be deemed to refer to the Community Development Director.
- (b) Whenever this code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Planning Department, or Department of Planning, Department of Planning and Community Development, or Economic Development Department, they shall be deemed to refer to the Community Development Department.

ARTICLE 9. POLICE DEPARTMENT

SEC. 2-3.901. CREATION AND FUNCTIONS.

A Police Department is hereby created. The principal functions of the Police Department shall include:

- (a) Prevent crime and maintain law and order in the City by enforcing the laws of the United States, the State of California and ordinances of the City, except when enforcement is by law vested in another office or officer.
- (b) Maintain in efficient^o operable condition those crime prevention and law enforcement systems and facilities assigned to the Police Department.
- (c) Recruit and train such volunteer and reserve personnel as may reasonably be required to augment regular Police Department manpower.
- (d) Perform such other duties as the City Manager may direct.

SEC. 2-3.902. ORGANIZATION AND DIRECTION.

There shall be a Police Chief appointed by the City Manager and subject to the City Manager's general administrative direction. The Police Chief, subject to the City Manager's approval shall organize and maintain such divisions in the department as, in the Chief's judgment the operations may require and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.903. ACTING POLICE CHIEF.

In the case of absence or disability of the Police Chief, the City Manager shall designate a person to perform the duties and exercise the powers of the Police Chief.

ARTICLE 10. PUBLIC WORKS AND TRANSPORTATION DEPARTMENT

SEC. 2-3.1001. CREATION AND FUNCTIONS.

A Public Works and Transportation Department is hereby established. The functions of the Public Works and Transportation Department shall include:

- (a) Conduct engineering studies to determine the need for parking facilities, and recommend, plan, design, develop, operate and maintain on- and off-street parking facilities of the City.
- (b) Conduct traffic engineering studies, including accident analysis, to determine the need for and appropriate method for the control of traffic to provide for the safe, convenient and economical movement of persons and vehicles on the public streets and ways of the City.
- (c) Perform or direct all phases of engineering work required in connection with the functions of the City and not otherwise assigned to another department by the City Manager.
- (d) Coordinate the planning, design, and inspection of engineering projects and services of the City.
- (e) Prepare and maintain engineering records of the City.
- (f) Operate and maintain the City's utility services and such other public works facilities as are not otherwise assigned to another department by the City Manager.
- (g) Coordinate the planning, design and inspection of utility projects and services of the City.
- (h) Prepare and maintain records relating to the utilities and public works facilities of the City.
- (i) Perform such other duties as the City Manager may direct.

SEC. 2-3.1002. ORGANIZATION AND DIRECTION.

There shall be a Public Works and Transportation Director appointed by the City Manager and subject to the City Manager's general administrative direction. The Public Works and Transportation Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the department as operations may require, and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.1003. ACTING PUBLIC WORKS AND TRANSPORTATION DIRECTOR.

In the case of absence or disability of the Public Works and Transportation Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Public Works and Transportation Director.

SEC. 2-3.1004. REFERENCES.

- (a) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Director of Parking and Traffic, Director of Engineering Services or Director of Utility Services, they shall be deemed to refer to the Public Works and Transportation Director of the City of Modesto.
- (b) Whenever this Code or any ordinance, resolution or other official document or action of the City of Modesto refers to or uses the names Parking and Traffic Department or Department of Parking and Traffic; or Engineering Services Department or Department of Engineering Services; or Utility Services Department or Department of Utility Services, they shall be deemed to refer to the Public Works and Transportation Department of the City of Modesto.

ARTICLE 11. PERSONNEL DEPARTMENT

SEC. 2-3.1101. CREATION AND FUNCTIONS.

A Personnel Department is hereby established. The function of the Personnel Department shall include:

- (a) Attend all meetings of the Board of Personnel Appeals.

- (b) Prepare and recommend to the Personnel Director the adoption, amendment or repeal of personnel rules and regulations.
- (c) Prepare and recommend to the Personnel Director a position classification plan, including class specifications, and revisions of the plan.
- (d) Publish and post notices of tests for positions in the Classified Service, receive applications therefor, conduct and grade tests, and certify to the person having the power of appointment a list of all persons eligible for appointment to the appropriate position in the Classified Service.
- (e) Plan, direct and review the activities and operations of the Personnel Department including personnel, payroll, training and employee benefits, employee relations and risk management.
- (f) Perform such other duties as may be assigned or required by the City Manager.

SEC. 2-3.1102. ORGANIZATION AND DIRECTION.

There shall be a Personnel Director appointed by the City Manager and subject to the City Manager's general administrative direction. The Personnel Director, subject to the approval of the City Manager, shall organize and maintain such divisions in the department as operations may require, and shall be responsible for the direction and control of all functions assigned to the department.

SEC. 2-3.1103. ACTING PERSONNEL DIRECTOR.

In the case of absence or disability of the Personnel Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Personnel Director.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 1994, 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. 2915-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 July, 1994, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: 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: August 4, 1994

Clark

ORDINANCE NO. 2917 -C.S.

AN ORDINANCE COMPREHENSIVELY REZONING VILLAGE ONE PROPERTY FROM P-D(484) TO SP-H, FROM R-1:SP-27 AND R-3:SP-27 TO SP-O, FROM C-2 TO SP-H, AND FROM SP TO SP-H LOCATED IN THE CITY OF MODESTO. (PLANNING COMMISSION INITIATED)

WHEREAS, on October 16, 1990, the Modesto City Council by Resolution No. 90-898A adopted the Village One Specific Plan to govern the development of land in the Village One area, and

WHEREAS, the City Council on June 18, 1991, by Ordinance No. 2772-C.S., adopted a Code Text Amendment to Title X of the Modesto Municipal Code adding two zones, the Specific Plan Zone, SP, and the General Agricultural Zone, A-10; and by Ordinance Nos. 2773-C.S., 2774-C.S., and 2775-C.S., adopted the rezoning of the Village One area (exclusive of the area north of Sylvan Avenue) for the Specific Plan Zone, SP, General Commercial Zone, C-2, and Planned Development Zone, P-D(484), respectively, and

WHEREAS, on June 1, 1992, following hearings at LAFCO and a property owners vote, the Annexation of the Village One area became effective which caused the rezoning also to become effective with its current zoning of SP, C-2 and P-D(484), and

WHEREAS, Specific Plan Amendment #3 placed major sections of the existing SP Zone Code text within the then Specific Plan document therefore requiring the repeal of the current SP Zone and the creation of two new zones, the Specific Plan-Overlay, SP-O, and the Specific Plan-Holding, SP-H, and

WHEREAS, effective March 17, 1994, the City Council adopted, along with Specific Plan Amendment #3, Ordinance Nos. 2888-C.S. and 2889-C.S. which amended the Zoning Code Text, and

WHEREAS, this action eliminated the Specific Plan Zone and created the Specific Plan Holding Zone, SP-H, and Specific Plan Overlay Zone, SP-O, and

WHEREAS, although the Precise Plan is the key vehicle for implementing the Village One Plan, future Specific Plans may utilize other implementation methods, therefore, the procedures and guidelines for Precise Plans were placed into the Village One Specific Plan on October 16, 1990, and more generic Specific Plan zones were created, and

WHEREAS, the rezoning of the Village One area is required to put in place the revised zoning designations which supersede the current designations, and

WHEREAS, by Resolution No. 93-64 the Planning Commission initiated and recommended rezoning comprehensively Village One property from Planned Development Zone, P-D(484), to Specific Plan-Holding Zone, SP-H, from Low Density Residential Zone, R-1:SP-27, and Medium High Density Residential Zone, R-3:SP-27, to Specific Plan-Overlay Zone, SP-O, from General Commercial Zone, C-2, to Specific Plan-Holding Zone, SP-H, and from Specific Plan Zone, SP, to Specific Plan-Holding Zone, SP-H, and

WHEREAS, the City's Environmental Assessment Committee on December 1, 1993, reviewed the proposed Specific Plan

Amendment #3, which included the proposed new zoning designations, and

WHEREAS, the City Council held a duly noticed public hearing on July 12, 1994, in the City Council Chambers, 801 11th Street, Modesto, California, to receive evidence both oral and documentary regarding said proposed rezoning of Village One property as recommended by the Planning Commission,

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

SECTION 1. After a public hearing held on July 12, 1994, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. That the proposed comprehensive rezoning of the Village One property has been determined to be within the scope of the Final Supplemental Program EIR.
2. That the proposed comprehensive rezoning of the Village One property is consistent with the Modesto Urban Area General Plan and 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 reclassify (the former "Galleria Shopping Center" site) from Planned Development Zone, P-D(484), to Specific Plan-Holding Zone, SP-H, the following described property:

P-D(484) to SP-H

All that certain property situate in the southwest quarter of the southwest quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; County of Stanislaus, State of California, described as follows:

Beginning at the Northwest corner of the Southwest quarter of the Southwest quarter of said Section 13, also being on the centerline of original 40 foot Merle Ave.; thence along said centerline North 89°20'00" East 256.42 feet; thence South 1°02'40" East 30 feet to the corner of Parcel 2 as shown on that certain map filed in Volume 3 of Parcel Maps, at Page 17, Stanislaus County Records; thence South 1°02'40" East 170.0 feet; thence North 89°20'00" East 100 feet; thence North 1°02'40" West 34.8 feet; thence North 89°20'00" East 300.0 feet to the northeast corner of said Parcel 2; thence South 1°02'40" East 1,081.25 feet to the southeast corner of said Parcel 2; thence South 1°02'40" East 82.17 feet to the south line of said Section 13; thence South 89°43'20" West 655.84 feet to the southwest corner of said Section 13; thence North 1°04'24" West 82.17 feet; thence North 89°43'20" East 5.67 feet to the southwest corner of said Parcel 2; thence North 1°04'24" West 1,037.08 feet; thence South 88°55'36" West 5.67 feet; thence North 1°04'24" West 205 feet to the point of beginning.

SECTION 3. ZONING CHANGE. Section 13-3-9 of the Zoning Map of the City of Modesto is hereby amended to reclassify (the approved Precise Plan #27) from Low Density Residential Zone, R-1:SP-27, to Specific Plan-Overlay Zone, SP-O, and Medium Density Residential Zone, R-3:SP-27, to Specific Plan-Overlay Zone, SP-O, the following described property:

R-1:SP-27 to SP-O

All that certain property situate in Section 13, Township 3 South, Range 9 East; in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at the Southwest corner of the Northwest quarter of the Southwest quarter of said Section 13; thence South 89°52'22" West, a distance of 50.00 feet;

thence North 01°13'11" East, a distance of 222.06 feet to the POINT OF BEGINNING; thence continuing North 01°13'11" East, a distance of 165.99 feet to the beginning of a curve concave to the east, having a radius of 5000.00 feet, a central angle of 02°46'18", with a chord bearing North 02°36'20" East 241.85 feet; thence northeasterly, along the arc of said curve, 241.87 feet; thence North 03°59'29" East, a distance of 238.23 feet to the beginning of a curve concave to the west, having a radius of 5000.00 feet, a central angle of 04°31'52", with a chord bearing North 01°43'33" East 395.31 feet; thence northwesterly, along the arc of said curve, 395.41 feet; thence North 00°32'23" West, a distance of 62.22 feet to a point on a curve concave to the northwest, having a radius of 1340.00 feet, a central angle of 62°46'58", a chord bearing North 58°04'08" East 1395.96 feet and from which the radius point bears North 00°32'23" West; thence northeasterly, along the arc of said curve, 1468.33 feet; thence South 62°58'37" East, a distance of 826.55 feet; thence south 24°36'40" West, a distance of 1350.29 feet to the beginning of a curve concave to the southeast, having a radius of 500.00 feet, a central angle of 25°06'40", a chord bearing South 12°03'20" West 217.39 feet; thence southwesterly, along the arc of said curve, 219.14 feet to a point on the east line of the land conveyed to Charles and Eileen Dermond by GRANT DEED recorded in Official Records, Instrument Number 91-031962, Stanislaus County Records; thence North 00°30'00" West along the said east line of grant deed, a distance of 63.50 feet to a point of intersection with the easterly projection of the north line of Parcel 1, as shown on the parcel map filed in Volume 43 of parcel maps, Page 81, Stanislaus County Records, thence South 89°52'22" West along said easterly projection and north line of Parcel 1, a distance of 996.74 feet to the northwest corner of said Parcel 1; thence South 00°32'09" East along the west line of said Parcel 1, a distance of 85.60 feet; thence South 89°52'22" West, a distance of 359.24 feet to the point of beginning.

Contains 51.02 more or less Acres.

R-3:SP-27 to SP-0

All that certain property situate in Section 13, Township 3 South, Range 9 East; in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at the Southwest corner of the Northwest quarter of the Southwest quarter of said Section 13;

thence South 89°52'22" West, a distance of 50.00 feet to the POINT OF BEGINNING; thence North 01°13'11" East, a distance of 222.06 feet ; thence North 89°52'22" East, a distance of 359.24 feet to a point on the west line of Parcel 1, as shown on the parcel map filed in Volume 43 of parcel maps, Page 81, Stanislaus County Records; thence North 00°32'09" East along the west line of said Parcel 1, a distance of 85.60 feet to the northwest corner of said Parcel 1; thence North 89°52'22" East along the north line of said Parcel 1, and the easterly projection thereof a distance of 996.74 feet to a point of intersection with the east line of the land conveyed to Charles and Eileen Dermond by GRANT DEED recorded in Official Records, Instrument Number 91-031962, Stanislaus County Records; thence South 00°30'00" East along the east line of said grant deed, a distance of 307.61 feet to the southeast corner of said grant deed; thence South 89°52'22" West, a distance of 1362.59 feet to the point of beginning.

Contains 8.89 more or less Acres.

SECTION 4. ZONING CHANGE. Section 11-3-9 of the Zoning Map of the City of Modesto is hereby amended to reclassify from General Commercial Zone, C-2, to Specific Plan-Holding Zone, SP-H, the following described property:

C-2 To SP-H

All that certain property situate in the southwest quarter of the southwest quarter of Section 11, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; County of Stanislaus, State of California, described as follows:

Beginning at the west quarter corner of said Section 11, said point being the centerline intersection of original 40 foot Sylvan Ave. with original 40 foot Oakdale Rd, said point being the true point of beginning of this description; thence North 40 feet to the point on the centerline of said 40 foot Oakdale Rd.; thence South 89°44'38" East 264.57 feet; thence South 0°35'44" East 10.0 feet; thence South 89°44'38" East 396.34 feet; thence South 0°35'44" East 10.0 feet; thence South 89°44'38" East 168.48 feet; thence South 20 feet to the centerline intersection of Sylvan Ave. and Courtney Way.; thence South 0°15'22" West 654.01 feet, along the centerline of said Courtney Way, to the intersection of Courtney Way and Post Office Dr.;

thence along the centerline of Post Office Dr. North 89°16'59" West 433.3 feet, more or less, to a point of intersection of said centerline and the northerly extension of the west parcel line of Parcel 2 as shown on that certain map filed in Volume 40 of Parcel Maps, at Page 38, Stanislaus County Records; thence South 3°13'41" West 330 feet, more or less; thence South 89°16'59" West 362.21 feet to the centerline of Oakdale Rd.; thence North 0°43'01" West 998 feet to the point of beginning.

SECTION 5. ZONING CHANGE. Sections 11-3-9, 12-3-9, 13-3-9, 14-3-9, 7-3-10, and 18-3-10 of the Zoning Map of the City of Modesto are hereby amended to reclassify the balance of the property within the Village One area from Specific Plan Zone, SP, to Specific Plan-Holding Zone, SP-H, the following described property:

SP to SP-H

All that certain property situate in Sections 11, 12, 13, and 14, Township 3 South, Range 9 East; and Sections 7 and 18, township 3 South, Range 10 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

Beginning at the west quarter corner of said Section 11, said point being the centerline intersection of original 40 foot Sylvan Ave. with original 40 foot Oakdale Rd.; thence South 0°30'54" East 998 feet to the True Point of Beginning; thence 1,647.75 feet to the southwest corner of said section 11; thence South 0°05'00" West 1,355.44 feet to the southwest corner of the northwest quarter of the northwest quarter of said section 14, being also the centerline intersection of original 40 foot Oakdale Rd. with original 40 foot Floyd Ave.; thence North 89°50'19" East, along the centerline of Floyd Ave., 5,264.63 feet to the southeast corner of the northeast quarter of the northeast quarter of said section 14; thence South 00°25'53" East 1322 feet more or less to a point on a curve concave to the northwest, having a radius of 1340.00 feet, a central angle of 62°46'58", a chord bearing North 58°04'08" East 1395.96 feet and from which the radius point bears North 00°32'23" West, said point also being on the centerline of the easterly extension of Belharbor Dr.; thence northeasterly, along

the arc of said curve, 1468.33 feet; thence South 62°58'37" East, a distance of 826.55 feet; thence south 24°36'40" West, a distance of 1350.29 feet to the beginning of a curve concave to the southeast, having a radius of 500.00 feet, a central angle of 25°06'40", a chord bearing South 12°03'20" West 217.39 feet; thence southwesterly, along the arc of said curve, 219.14 feet to a point on the east line of the land conveyed to Charles and Eileen Dermond by GRANT DEED recorded in Official Records, Instrument Number 91-031962, Stanislaus County Records; thence South 00°30'00" East along the east line of said grant deed, a distance of 244.11 feet to the southeast corner of said grant deed; thence South 89°52'22" West, a distance of 1,056.43 feet ; thence South 1°02'40" East 30 feet to the corner of Parcel 2 as shown on that certain map filed in Volume 3 of Parcel Maps, at Page 17, Stanislaus County Records; thence South 1°02'40" East 170.0 feet; thence North 89°20'00" East 100 feet; thence North 1°02'40" West 34.8 feet; thence North 89°20'00" East 300.0 feet to the northeast corner of said Parcel 2; thence South 1°02'40" East 1,081.25 feet to the southeast corner of said Parcel 2; thence South 1°02'40" East 82.17 feet to the south line of said Section 13; thence South 89°55'05" East 4,588.96 feet along the south line of said section 13, to the southeast corner of said section 13; thence South 89°55'05" East 2,813.37 feet, to a point on the centerline of original 40 foot Parker Rd., being the intersection of said centerline and the southerly extension of the west property line of the A.T. & S.F.R.R. property right-of-way; thence South 17°41'55" East 79.01 feet to the southerly right-of-way line of 100 foot Parker Rd.; thence South 88°55'26" East 105.38 feet to the east line of the A.T. & S.F.R.R. property right-of-way; thence North 17°45'12" West along said east property line of A.T. & S.F.R.R., and the southerly and northerly extensions of said line 5,699.01 feet, to a point on the northern line of 66 foot Milnes Rd.; thence South 89°53'24" East 45.75 feet, to a point of intersection of said northern line of Milnes Rd. and the westerly right-of-way line of 80 foot wide Santa Fe Ave.; thence North 8°54'21" West 201.24 feet, along said west right-of-way line to the beginning of a tangent curve concave to the southwest, having a radius of 1,782.84 feet and a central angle of 7°50'24"; thence continuing northwesterly along said right-of-way and the arc of said curve 243.92 feet; thence North 18°33'43" West along said right-of-way 1,434.43 feet to a tangent curve concave to the southwest having a radius of 1,768.33 feet and a central angle of 11°09'00"; thence along said right-of-way and arc of said curve 344.22 feet; thence North

30°59'30" West along said right-of-way 141.29 feet, to the beginning of a tangent curve concave to the northeast, having a radius of 1,830.96 feet and a central angle of 10°19'48"; thence along said right-of-way and arc of said curve 330.05 feet; thence North 18°43'33" West along said right-of-way 1,342.66 feet, to a point on the west line of 100 foot wide Claus Rd.; thence South 0°18'19" East 1,130.01 feet along the western right-of-way line of said Claus Rd. to the beginning of a curve concave to northwest having a radius of 15 feet and a central angle of 89°57'00"; thence along said curve 23.55 feet; thence along the northerly right-of-way line of Sylvan Ave. the following 28 courses:

- 1) South 0°20'25" East 15.0 feet;
- 2) South 89°39'35" West 300.01 feet;
- 3) North 0°18'19" West 30.0 feet;
- 4) South 89°39'35" West 949.64 feet;
- 5) South 0°29'57" East 30.0 feet;
- 6) South 89°46'26" West 2,640.73 feet;
- 7) North 0°29'57" West 30.0 feet;
- 8) South 89°44'09" West 1,258.9 feet;
- 9) South 89°59'53" West 130.27 feet;
- 10) North 89°44'38" West 214.15 feet;
- 11) South 0°41'53" East 30.0 feet;
- 12) North 89°44'38" West 385.05 feet;
- 13) North 0°41'53" West 30.0 feet;
- 14) North 89°44'38" West 326.05 feet;
- 15) South 0°22'26" East 6.8 feet;
- 16) North 89°44'38" West 30.0 feet;
- 17) North 0°41'53" West 6.8 feet;
- 18) North 89°44'38" West 326.05 feet;
- 19) South 0°41'53" East 30.0 feet;
- 20) North 89°44'38" West 1,303.21 feet;
- 21) North 0°15'22" East 10.0 feet;
- 22) North 89°44'38" West 970.35 feet;
- 23) South 0°17'53" East 15.0 feet;
- 24) North 89°44'38" West 164.16 feet;
- 25) North 0°17'53" West 15.0 feet;
- 26) North 89°44'38" West 172.3 feet;
- 27) South 0°35'44" East 10.0 feet;
- 28) North 89°44'38" West 469.21 feet;

thence South 20 feet to the centerline intersection of Sylvan Ave. and Courtney Way; thence South 0°15'22" 654.01 feet, along the centerline of said Courtney Way, to the intersection of Courtney Way and Post Office Dr.; thence along the centerline of Post Office Dr. North 89°16'59" West 433.3 feet, more or less, to a point of intersection of said centerline and the northerly extension of the west parcel line of Parcel 2

as shown on that certain map filed in Volume 40 of Parcel Maps, at Page 38, Stanislaus County Records; thence South 3°13'41" West 330.78 feet, more or less; thence 89°16'59" West 362.21 feet to the centerline of Oakdale Rd. and the point of beginning of this description.

SECTION 6. ZONING MAP. Sections 11-3-9, 12-3-9, 13-3-9, 14-3-9, 7-3-10, and 18-3-10 of the Zoning Map of the City of Modesto are amended to appear as set forth on the maps attached hereto, which are hereby made a part of this ordinance by reference.

SECTION 7. 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 8. 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.

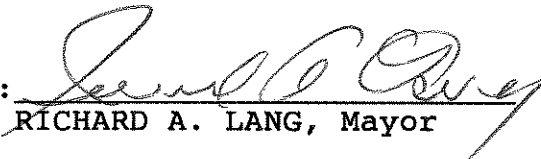
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 1994, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED:


RICHARD A. LANG, Mayor

ATTEST:

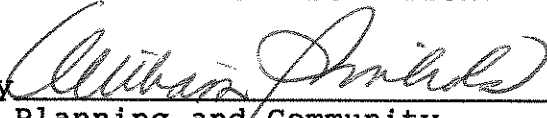
By 
NORRINE COYLE, City Clerk

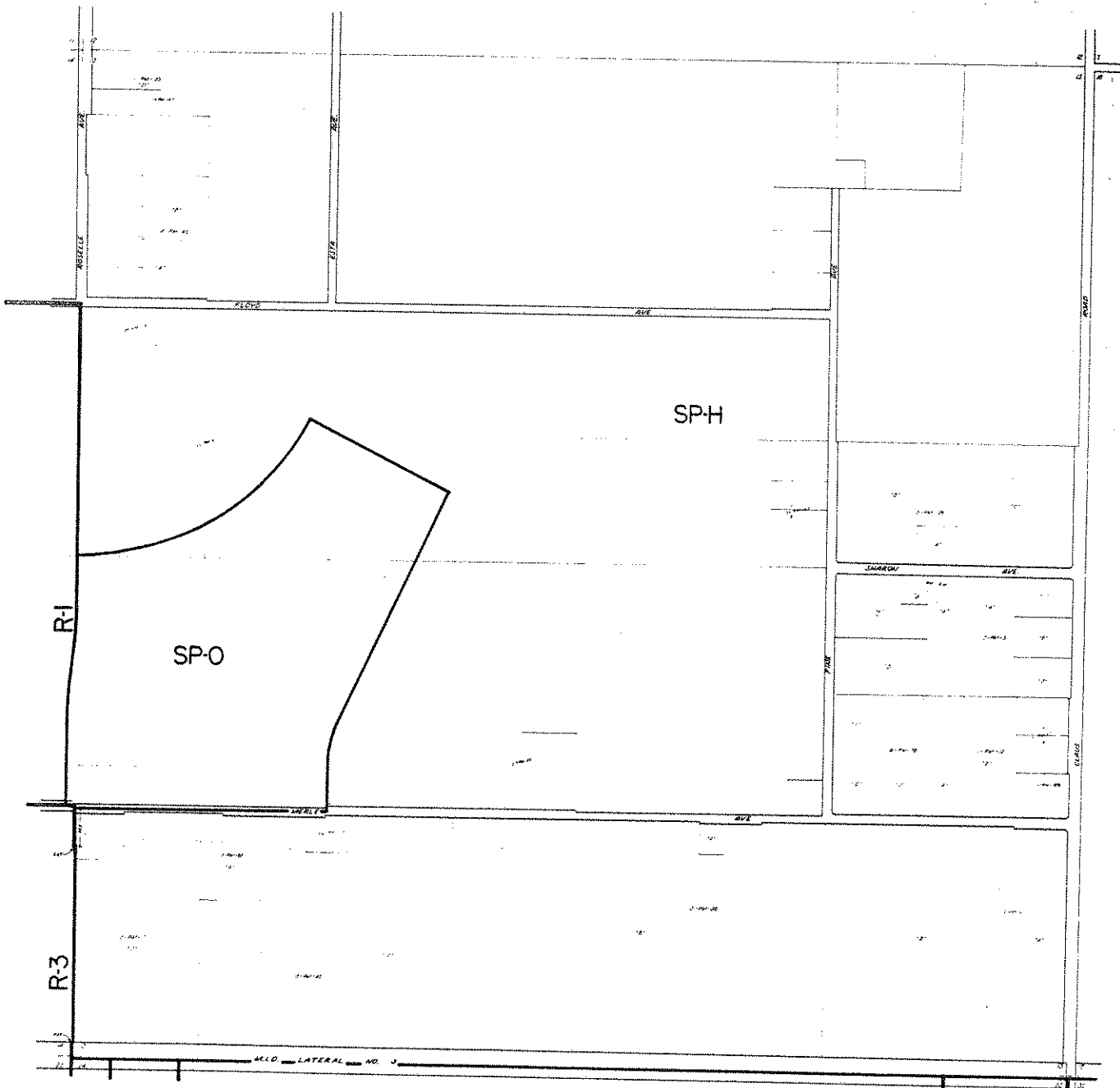
(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

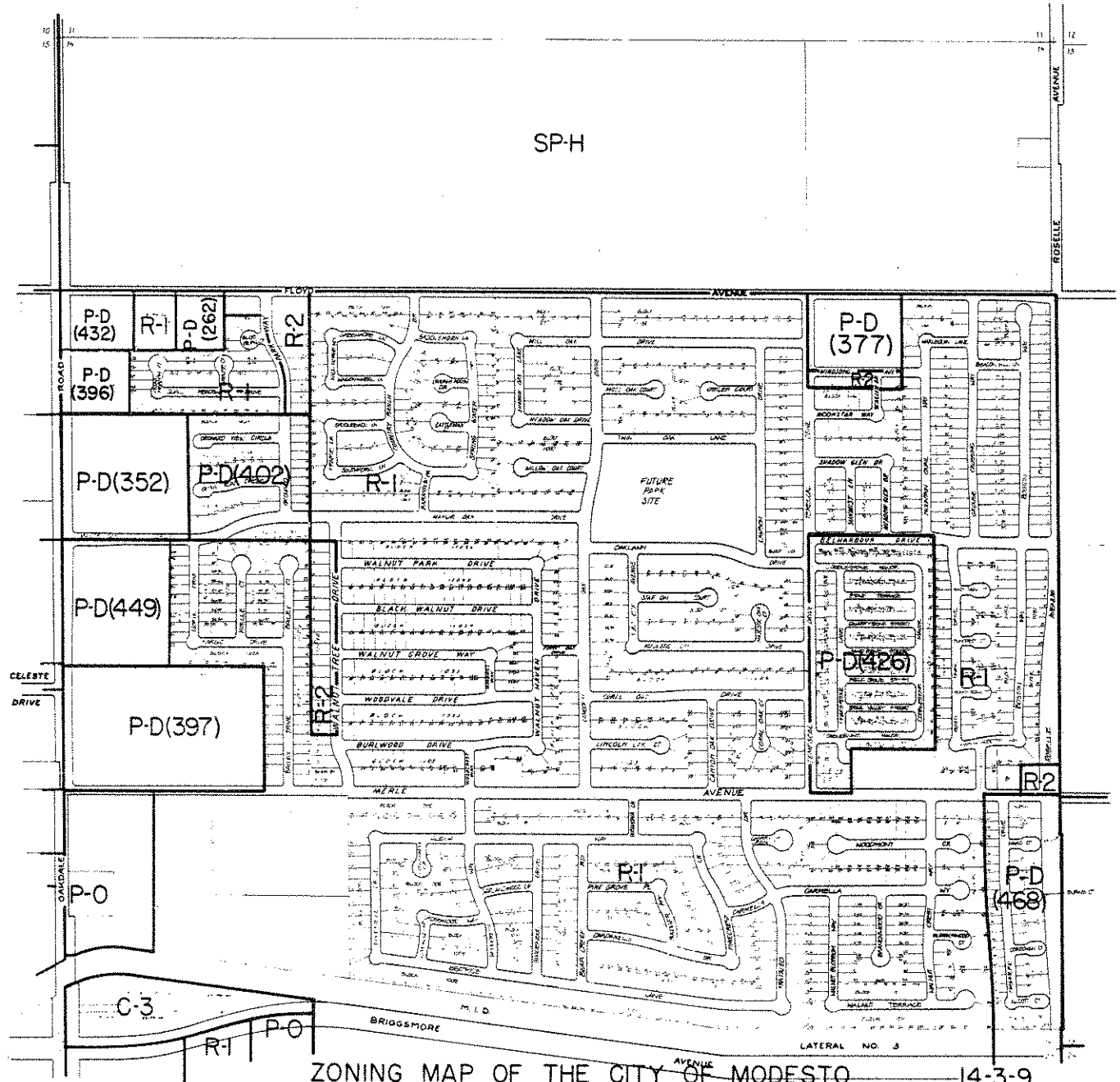
APPROVED AS TO DESCRIPTION:

By 
Planning and Community
Development Department

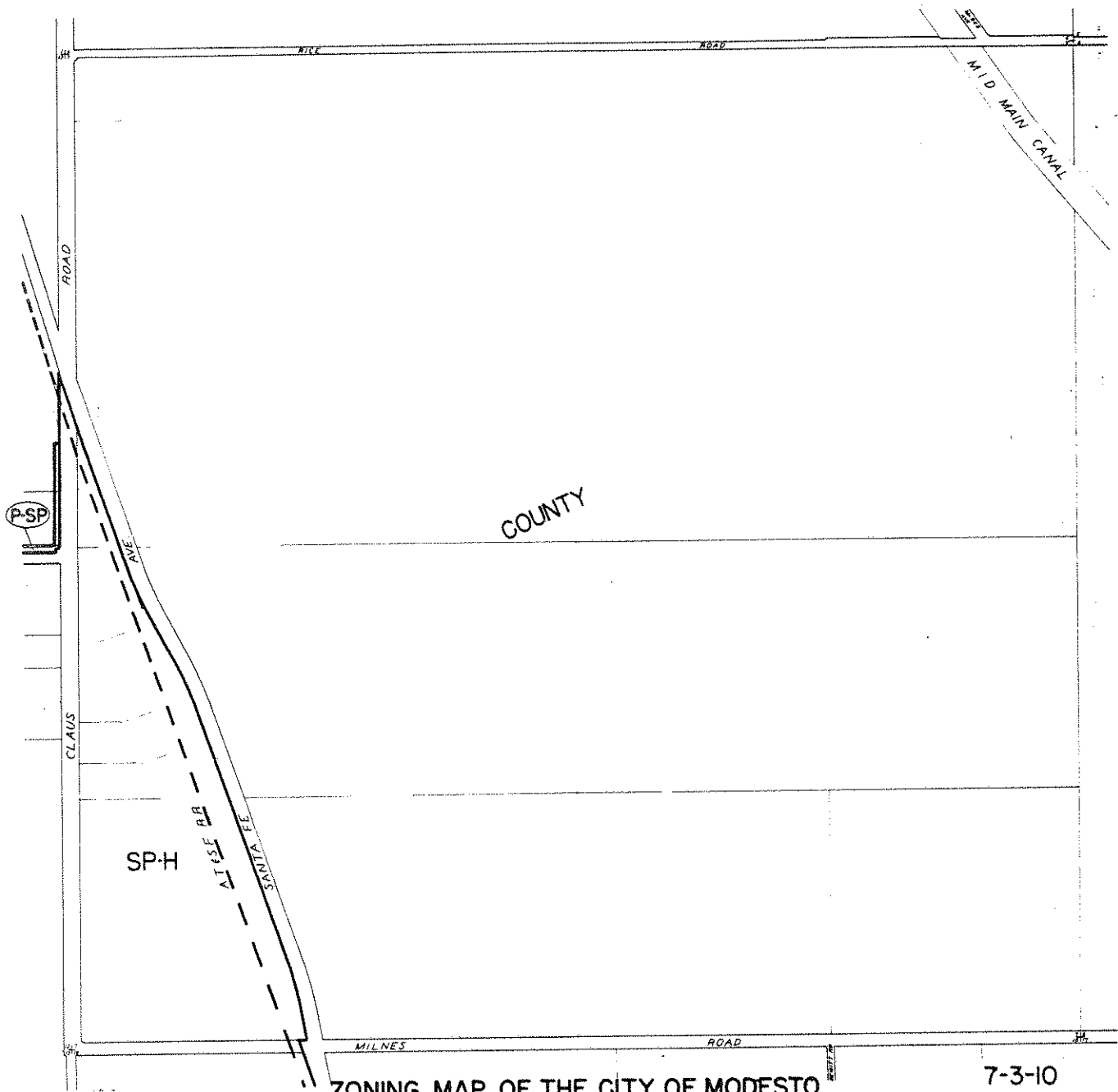


ZONING MAP OF THE CITY OF MODESTO

13-3-9

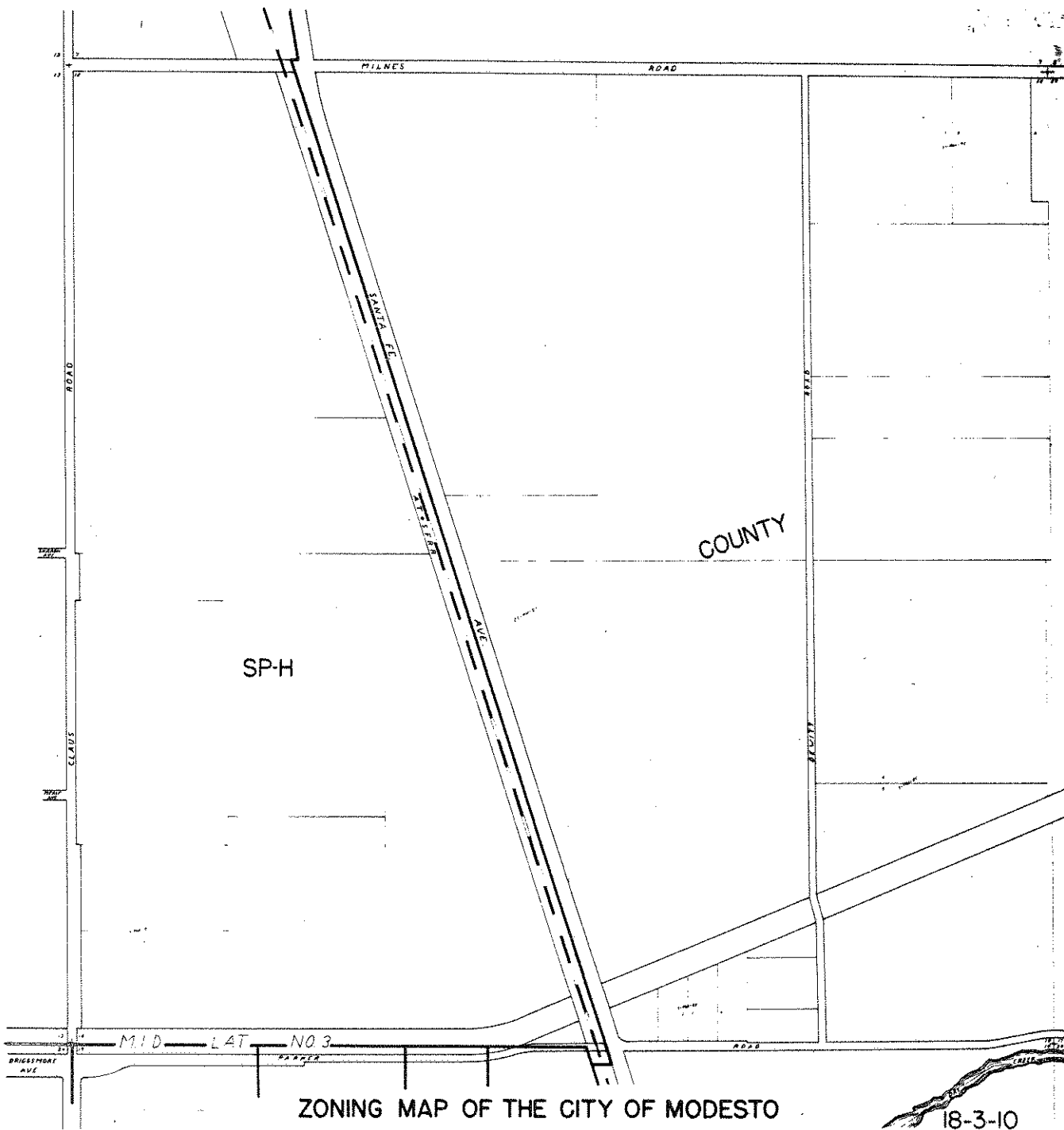


ZONING MAP OF THE CITY OF MODESTO 14-3-9



ZONING MAP OF THE CITY OF MODESTO

7-3-10



Ord. No. 2917-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of July, 1994, 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: August 26, 1994

Clerk

ORDINANCE NO. 2918 -C.S.

AN ORDINANCE AMENDING SECTION MAP 19-3-10 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(456) TO LOW DENSITY RESIDENTIAL ZONE, R-1, AND PLANNED DEVELOPMENT ZONE, P-D(504), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF CLAUS ROAD AND PARKER ROAD (REDEV, INC.).

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

SECTION 1. ZONING CHANGE. Section 19-3-10 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(456) to Low Density Residential Zone, R-1, and Planned Development Zone, P-D(504):

P-D(456) to R-1

All that certain real property situate in a portion of the North half of the Northwest quarter of the Northwest quarter of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the Southwest corner of Parcel 2 as shown on the Parcel Map filed in Book 18 of Parcel Maps at Page 9, Stanislaus County Records; thence North 0°39'16" West, 320.00 feet along the west line of said Parcel 2 and the East right-of-way line of Claus Road; thence North 89°20'44" East, 336.00 feet; thence North 0°39'16" West, 200.75 feet to the South right-of-way line of Parker Road; thence North 89°38'36" East, 594.46 feet along said South right-of-way line to the Northeast corner of Parcel 3 of said Parcel Map; thence South 0°31'18" East, 537.07 feet along the east line of said Parcel 3 to the Southeast thereof; thence North 89°27'29" West, along the South line of said Parcel 2 and 3 a distance of 929.41 feet to the point of beginning.

Including the East 50.00 feet of Claus Road located between the above described property at the West section line of said Section 19.

Also including all of Parker Road and that portion of Modesto Irrigation Lateral No. 3 located between the north line of said Section 19 and the above described property.

P-D(456) to P-D(504)

All that certain real property situate in a portion of Parcel 2 as shown on the Parcel Map filed in Book 18 of Parcel Maps at Page 9, Stanislaus County Records, lying in a portion of the North half of the Northwest quarter of the Northwest quarter of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southwest corner of said Parcel 2; thence North $0^{\circ}39'16''$ West along the West line of said Parcel 2 and the East right-of-way line of Claus Road, a distance of 320.00 feet to the Point of Beginning; thence continuing North $0^{\circ}39'16''$ West along said East right-of-way line a distance of 127.42 feet to a tangent curve concave to the Southeast; thence 23.65 feet along said curve having a central angle of $90^{\circ}19'14''$ and a radius of 15.00 feet to the South right-of-way line of Parker Road and the North line of said Parcel 2; thence continuing along said South right-of-way line North $89^{\circ}39'58''$ East, 66.19 feet to a tangent curve concave to the Northwest; thence 109.46 feet along said curve having a central angle of $27^{\circ}16'04''$ and a radius of 230.00 feet to a tangent line; thence North $62^{\circ}23'54''$ East along said tangent line a distance of 34.18 feet to a tangent curve concave to the Southeast; thence 80.84 feet along said curve having a central angle of $27^{\circ}14'42''$ and a radius of 170.00 feet to a tangent line; thence North $89^{\circ}38'36''$ East along said tangent line a distance of 40.82 feet; thence South $0^{\circ}39'16''$ East, 200.75 feet; thence South $89^{\circ}20'44''$ West, 336.00 feet to the point of beginning.

Including the East 50.00 feet of Claus Road located between the above described property at the West section line of said Section 19.

Also including all of Parker Road and that portion of Modesto Irrigation Lateral No. 3 located between the north line of said Section 19 and the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(504) 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. C-1 Commercial.
2. Single-family residential.

SECTION 3. ZONING MAP. Section Map 19-3-10 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of July, 1994, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Mayor Lang, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: Cogdill, 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 
Planning and Community Development

Ord. No. 2918-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 9th day of August, 1994, Councilmember Dobbs 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, Friedman, McClanahan, Mayor Lang

NOES: Councilmembers: Cogdill, Muratore

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 8, 1994

ORDINANCE NO. 2919 -C.S.

AN ORDINANCE AMENDING SECTION 4-7.201 OF
ARTICLE 2 OF CHAPTER 7 OF TITLE IV OF THE
MODESTO MUNICIPAL CODE RELATING TO CURFEW AGE
LIMITS AND HOURS.

WHEREAS, the Council has determined that the City's youth possess a particular vulnerability to crime and harmful influences when not supervised by or accompanied by a guardian at night and that a critical need exists to protect the City's youth by decreasing the opportunity for criminal nocturnal activity; and

WHEREAS, the Council has determined that it is necessary to control the presence of juveniles in public places at night to promote the safety and good order of the community by reducing the incidence of juvenile criminal activity in the City of Modesto.

BE IT THEREFORE RESOLVED that the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 4-7.201 of Article 2 of Chapter 7 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-7.201 CURFEW AGE LIMITS AND HOURS.

It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, or roam in or upon a public street, avenue, highway, road, curb area, alley, park, playground or other public ground, public place, or public building, place of amusement or eating place, vacant lot or unsupervised place ~~or in or about any public place in the City~~ between the hours of 11:00 p.m. on any day and 5:00 a.m. of the day immediately following; provided, however, that the provisions of this section shall not apply:

- (a) to minors who are emancipated pursuant to the provisions of the California Civil Code; or
- (b) when the minor is accompanied by a his or her parent, or parents or legal guardian or other adult person having legal control or charge care or custody of such minor; or
- (c) when the minor is on an emergency errand directed by his or her parent or parents or legal guardian or other adult person having legal care or custody of such minor; or
- (d) when the minor is returning directly home from a public meeting, employment, place of public entertainment, or other recreational activity such as a movie, play, sporting event, dance or school activity; or
- (e) when the presence of such minor in said place or places is connected with or required with respect to a business, trade, profession or occupation in which said minor is lawfully engaged.

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 2nd day of August, 1994, 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:

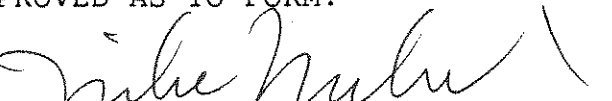

RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2919-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 9th day of August, 1994, 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: September 8, 1994

ORDINANCE NO. 2920 -C.S.

AN ORDINANCE AMENDING SECTION 24-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (GLEN HOLT)

WHEREAS, a verified application for an amendment to Section 24-3-9 of the Zoning Map was filed by Glen Holt Corporation on May 13, 1994, to reclassify from Planned Development Zone, P-D(486), to Low Density Residential Zone, R-1, property located on the north side of East Orangeburg Avenue, west of Claus Road, and

WHEREAS, after a public hearing held on July 11, 1994, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 94-35, adopted on July 11, 1994, the Planning Commission recommended to the Council that the application of Glen Holt Corporation to amend Section 24-3-9 of the Zoning Map to reclassify the hereinafter described property from Planned Development Zone, P-D(486), to Low Density Residential Zone, R-1, be approved,

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

SECTION 1. After a public hearing held on August 16, 1994, 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. P-D(486) did not develop within the time limits of the development schedule.
2. The proposed repeal of P-D(486) and rezoning to R-1 conforms to the Neighborhood Plan Prototype of the General Plan.
3. The proposed R-1 zoning will allow single-family housing development that is compatible with adjoining developments.

SECTION 2. ZONING CHANGE. Section 24-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(486), to Low Density Residential Zone, R-1:

P-D(486) to R-1

All that certain real property situate in a portion of the north-east quarter of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Being all of Orangeburg Terrace as shown on the map filed in Volume 34 of Maps, at Page 52, recorded on November 8, 1989, Stanislaus County Records.

Including also the northern 30.00 feet of 60.00 foot wide East Orangeburg Avenue located immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 24-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of August, 1994, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

APPROVED AS TO DESCRIPTION:

By *Clifford A. ...*
Planning & Community Development

Ord. No. 2920-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23rd day of August, 1994, 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, Friedman, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, McClanahan, Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 22, 1994

ORDINANCE NO. 2921-C.S.

AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND CHARLESTON PLACE, A CALIFORNIA LIMITED PARTNERSHIP, RELATING TO THE DEVELOPMENT KNOWN AS CHARLESTON PLACE TO BE LOCATED AT THE SOUTHEAST CORNER OF BELHARBOUR DRIVE AND ROSELLE AVENUE, MODESTO, CALIFORNIA.
(ART MARTIN, DEVELOPER)

WHEREAS, a request for a Development Agreement has been filed for the Charleston Place Subdivision, together with a proposed agreement entitled "Development Agreement Between City of Modesto and Charleston Place, a California Limited Partnership", relating to the development known as Charleston Place Subdivision to be located on the southeast corner of Belharbour Drive and Roselle Avenue, in Modesto, California, and

WHEREAS, the Development Agreement is required pursuant to condition No. 7 on page 6 of City Council Resolution No. 93-589, which approved the Vesting Tentative Subdivision Map of Charleston Place Subdivision, and

WHEREAS, pursuant to condition No. 6 on page 3 of City Council Resolution No. 93-589A, which approved a development plan for the precise plan for area 27 of Village One, and which required that in the event that the developer seeks issuance of building permits prior to the establishment of the Area of Benefit (AOB) for Village One, then in lieu of the AOB assessment, the 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, and

WHEREAS, after a public hearing held on August 15, 1994, by Resolution No. 94-40, the Planning Commission recommended to the City Council approval of a Development Agreement for Charleston Place Subdivision, subject to the successful resolution by the Modesto City Council relating to the issue of school fees, and

WHEREAS, a duly noticed public hearing was held by the City Council on August 23, 1994, to consider the proposed Development Agreement between the City of Modesto and Charleston Place, a California Limited Partnership, relating to the development known as Charleston Place, to be located at the southeast corner of Belharbour Drive and Roselle Avenue, in Modesto, California, and

WHEREAS, at its meeting of August 23, 1994, the Council adopted Resolution No.94-498 establishing Village One Impact Fees for the Charleston Place Subdivision, and

WHEREAS, at its meeting of August 23, 1994, the Council adopted Resolution No. 94-499 establishing Fees In-Lieu of the Village One Area of Benefit (AOB) assessment for the Charleston Place Subdivision, and

WHEREAS, with the adoption of the two above-mentioned resolutions, the Council successfully resolved the issue relating to school fees, and

WHEREAS, Section 65867.5 of the Government Code provides that a development agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code Section further provides that a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

- a. That the proposed Development Agreement is consistent with the Modesto Urban Area General Plan and the Village One Specific Plan as well as subdivision and zoning provisions of the Modesto Municipal Code and Government Code Sections 65864 et seq.
- b. That the proposed Development Agreement is within the scope of the Specific Plan approved earlier, and the program Environmental Impact Report adequately describes the project for the purposes of CEQA.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The Development Agreement between the City of Modesto and Charleston Place, a California Limited Partnership, relating to the development known as Charleston Place, to be located at the southeast corner of Belharbour Drive and Roselle Avenue, in Modesto, California, is hereby approved. A copy of said Development Agreement is on file in the Office of the City Clerk.

SECTION 3. EXECUTION BY CITY. The City Manager or his authorized designee is hereby authorized to execute said Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City enters into the agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the Development Agreement which shall describe the land subject thereto.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 1994, by Councilmember Muratore, 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, Muratore,
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, McClanahan, 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. 2921-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 September, 1994, 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, Friedman, McClanahan, Muratore,
Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 6, 1994

Clerk

ORDINANCE NO. 2922 -C.S.

AN ORDINANCE AMENDING SECTIONS 10-1.101, 10-1.102, 10-1.104, AND 10-1.204 OF CHAPTER 1 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS (OMNI 13).

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

SECTION 1. AMENDMENT OF CODE. Sections 10-1.101, 10-1.102, 10-1.104, and 10-1.204 of Chapter 1 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 10-1.101. CREATION.

The Planning Commission of the City of Modesto is hereby established to consist of seven (7) members appointed in accordance with and for the terms prescribed by Section 1102 of the Charter.

SEC. 10-1.102. POWERS AND DUTIES.

The Commission shall have the general powers and duties specified in Section 1107 of the Charter and shall have the power and duty to:

- (a) Perform all of the functions assigned to a City Planning Commission by the Conservation and Planning Act and other statutes of the State relating to planning and zoning, insofar as they are not inconsistent with the provisions of the Charter.
- (b) Prepare and recommend the adoption, amendment or repeal of the General Plan.
- (c) Advise and recommend to the proper officials of the City the approval, disapproval or modification of all land subdivision in accordance with the Subdivision Map Act of the State of California, or as may be provided by this Code.
- (d) Hold hearings on planning and zoning matters as prescribed by this Code, or State law; except that the provisions of Chapter 4 of the State Planning Law, Government Code Section 65800, and following, are not adopted unless specifically stated.
- (e) Review and recommend to the Council a capital improvements program budget.

- (f) Advise and recommend to the Council on matters required by law or referred by the Council.

SEC. 10-1.104. STAFF.

The Community Development Department shall provide staff assistance to the Commission. The Community Development Director or the Director's designee shall serve as Secretary to the Commission.

SEC. 10-1.204. STAFF.

The Community Development Department shall provide staff assistance to the Board. The Community Development Director or the Director's designee shall serve as Secretary to the Board.

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 6th day of September, 1994, 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: Patterson

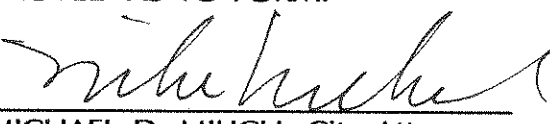
APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2922-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of September, 1994, 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: October 13, 1994

Cluck 9)

ORDINANCE NO. 2923 -C.S.

AN ORDINANCE AMENDING SECTION 9-5.01 OF CHAPTER 5 OF TITLE IX OF THE MODESTO MUNICIPAL CODE RELATING TO NUMBERING SYSTEM. (SIGN ISSUES)

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

SECTION 1. AMENDMENT OF CODE. Section 9-5.01 of Chapter 5 of Title IX of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 9-5.01. NUMBERING SYSTEM.

- (a) All properties or parcels of land within the corporate limits of the City which contain structural improvements for which a building permit is required shall be identified by an official street number. Such identification shall, however, in no way affect the legal description of property by lot and block number or by metes and bounds.
- (b) Each building or group of buildings shall be assigned a number or numbers in accordance with a street numbering policy to be adopted from time to time by the City Council by resolution.
- (c) Numerals indicating the official numbers which have been assigned to buildings shall be posted in a manner which will enable them to be visible from the street on which the property is located. Minimum specifications for numeral stroke width, height, and placement are contained in Title X, Chapter 2, Article 21 - Sign Regulations.

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 6th day of September, 1994, 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: 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. 2923-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of September, 1994, 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: October 13, 1994

ORDINANCE NO. 2024-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.215, 10-2.216, 10-2.225, 10-2.507, 10-2.2002, 10-2.2004, 10-2.2102, 10-2.2108, 10-2.2109, 10-2.2110, 10-2.2314, 10-2.2324, 10-2.2325, 10-2.2326, AND 10-2.2328 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO ZONING REGULATIONS. (SIGN ISSUES AND OMNI 13)

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

SECTION 1. AMENDMENT OF CODE. Sections 10-2.215, 10-2.216, 10-2.225, 10-2.507, 10-2.2002, 10-2.2004, 10-2.2102, 10-2.2108, 10-2.2109, 10-2.2110, 10-2.2314, 10-2.2324, 10-2.2325, 10-2.2326, and 10-2.2328 of Chapter 2 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 10-2.215. DEPARTMENT.

The Community Development Department of the City of Modesto.

SEC. 10-2.216. DIRECTOR.

The Community Development Director of the City of Modesto.

SEC. 10-2.225. KITCHEN.

Any room and/or other space used or intended or designed to be used for cooking or for preparation of food for one (1) family. The number of kitchens in any residential building or structure shall thereby define the number of dwelling units in that building or structure. Wet bars in entertainment rooms such as dens or cabanas that do not serve separate occupancies shall not be construed to be kitchens.

SEC. 10-2.507. ANIMALS AND FOWL.

- (a) The keeping of the following animals and fowl is a permitted use:
 - (1) A maximum of two (2) dogs, five (5) months or older, per dwelling unit.
 - (2) A maximum of three (3) cats, three (3) months or older, per dwelling unit.

- (3) A maximum of twelve (12) other domestic fowl (hens only), rabbits, hares, or other domestic animals customarily considered to be household pets per dwelling unit.
 - (4) A maximum of two (2) pygmy goats, three (3) months or older, per dwelling unit.
 - (5) A maximum of two (2) miniature potbellied pigs, excluding boars, three (3) months or older, per dwelling unit.
- (b) The following animals and fowl are permitted upon securing a conditional use permit from the Board:
- (1) A maximum of fifty (50) racing homer pigeons maintained in pens or lofts on a lot which contains at least one (1) dwelling unit.
 - (2) A maximum of two (2) exotic pets.
 - (3) Additional numbers of the animals and fowl permitted in (a)(3) above.
- (c) There shall be a minimum of forty (40) feet between the window or door of any building used for human habitation and pens, coops, cages or similar housings where animals and fowl, except household pets, are kept.
- (1) All animals, fowl, and birds, except household pets, that are not kept in habitable buildings shall be contained in pens, coops, or cages.
- (d) There shall be a minimum separation equal to the required side yard between any property line and any pens, coops, cages or similar housings for animals and fowl.
- (e) All animals and fowl shall be kept in conformance with all other laws, ordinances and regulations governing them, including licensing regulations.
- (f) Failure to comply with the provisions of this Section shall be unlawful and punishable as an infraction.

SEC. 10-2.2002. NUMBER OF REQUIRED SPACES.

Except as otherwise provided in this Article, or by the Council, Commission or Board as part of plot plan reviews, rezoning, use permits or other similar applications, the minimum number of required off-street parking spaces shall be:

(a) Residential Uses.

- (1) Unless otherwise provided below, in projects with one (1) to thirty-six (36) dwelling units, two (2) off-street parking spaces shall be provided for each unit. For each additional unit above thirty-six (36), one and one-half (1.5) spaces per unit shall be provided.
- (2) In the R-1 Zone where two (2) dwelling units are permitted upon Board approval, three (3) off-street parking spaces are required for the two (2) units.
- (3) In a project, for every dwelling unit utilizing private streets or driveways:
 - (aa) An additional one-half (0.5) space is required for each unit with a one-car garage.
 - (ab) One (1) additional space is required for each unit with a two-car garage.
- (4) For the purpose of meeting the requirements in (3) that are greater than those in (1), tandem or driveway standard-size spaces may be counted.
- (5) For developments utilizing private streets or driveways, one (1) recreational vehicle parking space shall be provided for every twenty-five (25) dwelling units. For projects with less than twenty-five (25) dwelling units, no such spaces are required. Recreational vehicle spaces shall at a minimum be ten (10) feet wide and twenty-six (26) feet long.

(b) Nonresidential Uses.

- (1) Bar: One (1) for each three (3) seats or one (1) for each sixty (60) square feet of drinking area when the number of seats not known or not permanently fixed.

- (2) Beauty college: Two and one-half (2.5) for each training station.
- (3) Bingo game: One (1) for each four (4) seats.
- (4) Boarding and lodging house, club or fraternity with sleeping rooms: One (1) for each two (2) beds.
- (5) Bowling alley: Four (4) for each lane.
- (6) Child day care: One (1) for each five (5) children.
- (7) Church: One (1) for each four (4) seats in the building with the largest capacity.
- (8) Dance hall: One (1) for each fifty (50) square feet of floor area used for dancing.
- (9) Hospital: One and three-quarters (1.75) for each bed.
- (10) Hotel or motel: One (1) for each guest room. Additional spaces for restaurants, meeting facilities and other related uses shall be provided as required.
- (11) Library: One (1) for each three hundred (300) square feet.
- (12) Manufacturing or related use: One (1) for each six hundred (600) square feet.
- (13) Medical or dental office: One (1) for each two hundred (200) square feet.
- (14) Motor vehicle and machinery repair: One (1) for each three hundred (300) square feet.
- (15) Mortuary or funeral home: One (1) for each four (4) seats in the largest room used for services (tandem spaces may be counted).
- (16) Office or service business: One (1) for each three hundred (300) square feet.
- (17) Pool hall: One (1) for each three hundred (300) square feet.

- (18) Restaurant: One (1) for each three (3) seats or one (1) for each sixty (60) square feet of dining area when the number of seats is not known or not permanently fixed.
 - (19) Retail business: One (1) for each three hundred (300) square feet.
 - (20) Sanitarium, nursing home, home for the elderly or other twenty-four (24) hour care facility: One (1) for each four (4) beds. Additional parking shall be provided as required for a proprietor's dwelling.
 - (21) School for instruction in the arts, athletics, or self-defense and vocational schools: One (1) for each three hundred (300) square feet.
 - (22) Theatres: One (1) for each four (4) seats.
 - (23) Veterinary hospital: One (1) for each three hundred (300) square feet including animal runs.
 - (24) Warehouse: One (1) for each two thousand (2,000) square feet up to ten thousand (10,000) square feet, one (1) for each five thousand (5,000) square feet after the first ten thousand (10,000) square feet. Parking for a mini-warehouse shall only be required if there is an office or residence included in the project.
 - (25) Wholesale business: One (1) for each three hundred (300) square feet.
- (c) Nonresidential uses inside downtown P-D Zone area.
- (1) Bar: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of drinking area when the number of seats is not known or not permanently fixed.
 - (2) Beauty college: Two and one-half (2.5) for each training station.
 - (3) Bingo game: One (1) for each four (4) seats.
 - (4) Boarding and lodging house, club or fraternity with sleeping rooms: One (1) for each two (2) beds.
 - (5) Bowling alley: Four (4) for each lane.

- (6) Church: One (1) for each five (5) seats in the building with the largest capacity.
- (7) Dance hall: One (1) for each fifty (50) square feet of floor area used for dancing.
- (8) Hospital: One and one-half (1.5) for each bed.
- (9) Hotel or motel: One (1) for each guest room. Additional spaces for restaurants, meeting facilities and other related uses shall be provided as required.
- (10) Library: One (1) for each five hundred (500) square feet.
- (11) Manufacturing or related use: One (1) for each six hundred (600) square feet.
- (12) Medical or dental office: One (1) for each two hundred (200) square feet.
- (13) Motor vehicle and machinery repair: One (1) for each six hundred (600) square feet, with repair space for motor vehicles or machinery not counted as parking spaces.
- (14) Mortuary or funeral home: One (1) for each five (5) seats in the largest room used for services (tandem spaces may be counted).
- (15) Office or service business: One (1) for each five hundred (500) square feet.
- (16) Pool hall: Two (2) for each table.
- (17) Restaurant: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of dining area when the number of seats is not known or not permanently fixed.
- (18) Retail business: One (1) for each five hundred (500) square feet.
- (19) Sanitarium, nursing home, home for the elderly or other twenty-four (24) hour care facility. One (1) for each four (4) beds. Additional parking shall be provided as required for a proprietor's dwelling.

- (20) School for instruction in the arts, athletics, or self-defense and vocational schools: One (1) for each five hundred (500) square feet.
 - (21) Theatres: One (1) for each five (5) seats.
 - (22) Veterinary hospital: One (1) for each five hundred (500) square feet, including animal runs.
 - (23) Warehouse: One (1) for each two thousand (2,000) square feet up to ten thousand (10,000) square feet, one (1) for each five thousand (5,000) square feet after the first ten thousand (10,000) square feet. Parking for a mini-warehouse shall only be required if there is an office or residence included in the project.
 - (24) Wholesale business: One (1) for each eight hundred (800) square feet.
- (d) Additional spaces required by expansion, reconstruction or change in use shall be provided in accordance with this Article.
 - (e) When the required number of spaces results in a fractional space, it shall be counted as a space if it is one-half (0.5) space or more.
 - (f) When a building is removed, any new building on the site shall have spaces provided in accordance with this Article.
 - (g) Where there are mixed uses, the requirement for spaces shall be the sum of the requirements for each use.
 - (h) The Board may approve joint use of spaces subject to the following:
 - (1) A maximum of fifty (50) percent of the requirement for one use may be provided by the spaces for another use if the two (2) uses are open substantially different hours or days of the week.
 - (2) The parking spaces for both uses comply with all other requirements of this Article.
 - (3) If the properties where the use and the required parking are located are owned by different parties, a covenant shall be recorded by the owner of the parking for the benefit of

the City and in a form approved by the City Attorney. The covenant shall stipulate that the parking will be maintained as long as the use requiring it continues. It shall also stipulate that the title and right to use the property where the parking is located is subservient to the title to the property where the use is located and that the property will not be made subject to any other covenant or contract for use without prior consent of the Board.

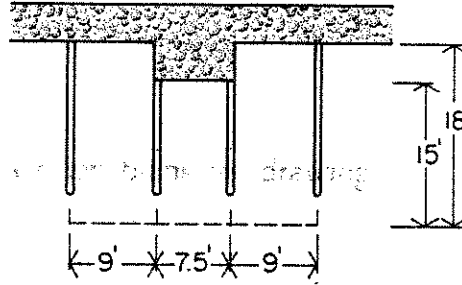
- (i) When the parking requirement for a use is not listed above, or if the procedure for determining the requirement is not specified, the Board shall determine the applicable requirement or procedure.
- (j) When a parking requirement is based on square footage, it shall mean gross square footage.
- (k) When a parking requirement is based on number of seats, number of beds or other similar formula, the number shall be as determined by the Director.

SEC. 10-2.2004. PARKING LOT DESIGN.

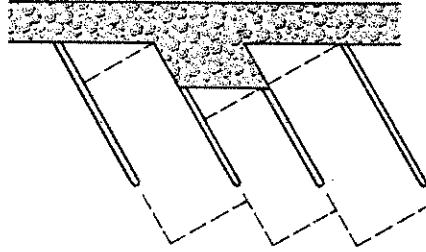
All parking lots or areas shall conform to the following requirements:

- (a) Space dimensions. Each space shall be a minimum of nine (9) feet wide and eighteen (18) feet long. Each small car space shall be exactly seven and one-half (7.5) feet wide and fifteen (15) feet long. When the required parking for a residential development with four (4) or fewer units is not in a garage or covered by a carport, each space shall be a minimum of ten (10) feet wide and nineteen (19) feet long.

90° Parking

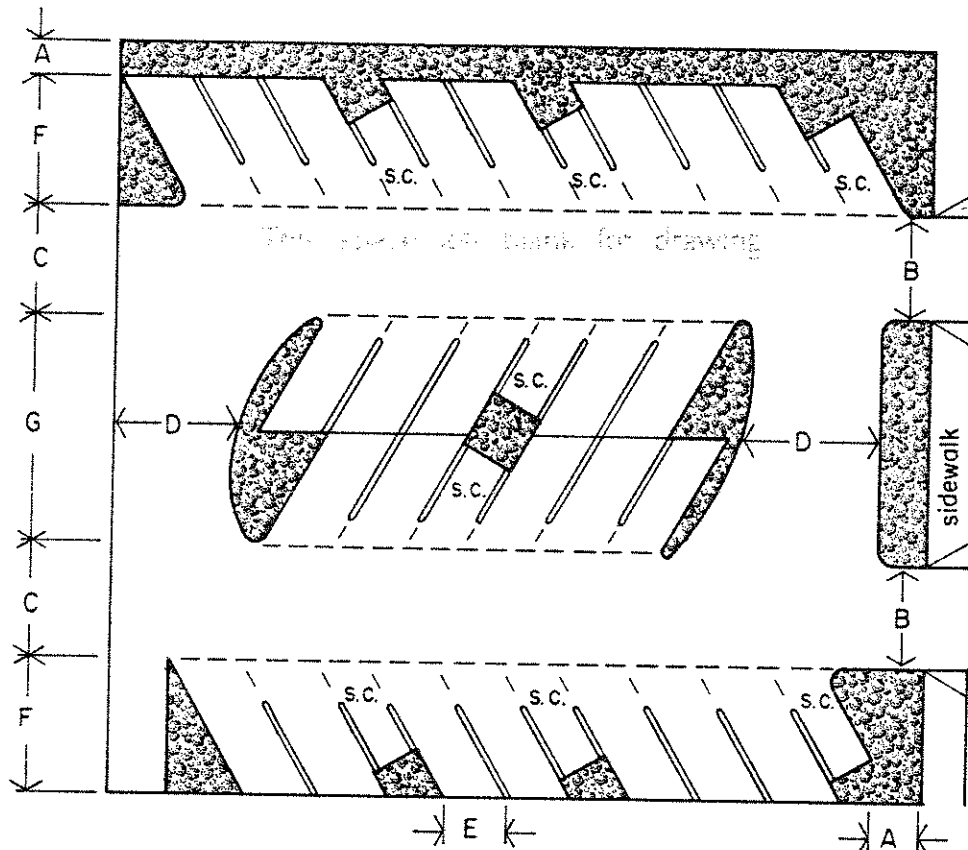


Angled Parking



(b) Other dimensions.

	45°	50°	55°	60°	70°	80°	90°
A. Required setback or landscaping	Varies by zone						
B. Driveway width (one-way/two-way)	12'/20'	12'/20'	12'/20'	12'/20'	12'/20'	12'/20'	12'/20'
C. Aisle width	8.8'	9.8'	12.2'	15.8'	19.0'	21.7'	24.0'
D. Turnaround or end driveway width	20'	20'	20'	20'	20'	20'	20'
E. Space width	12.7'	11.7'	11.0'	10.4'	9.6'	9.1'	9.0'
F. Space (bay) depth	19.1'	19.6'	19.9'	20.1'	20.0'	19.3'	18.0'
G. Double bay depth	31.8'	33.4'	34.7'	35.7'	36.9'	37.0'	36.0'



For any given parking angle between forty-five (45) degrees and ninety (90) degrees not specifically listed in the above table, use a table angle nearest the given angle.

Any parking plan showing parking spaces at an angle less than forty-five (45) degrees to the driveway or any other plan for which the above table is not applicable must be approved by the Director.

The minimum aisle width (C) at any parking stall angle less than forty-five (45) degrees including parallel stalls, is eight and eight-tenths (8.8) feet.

When two (2) rows of spaces use the same aisle for access, requiring two-way traffic because of the layout, the aisle shall either be a minimum of twenty (20) feet in width or that which is called for in the table above, whichever is greater.

If wheelstops are used, they shall be set back two and one-half (2.5) feet.

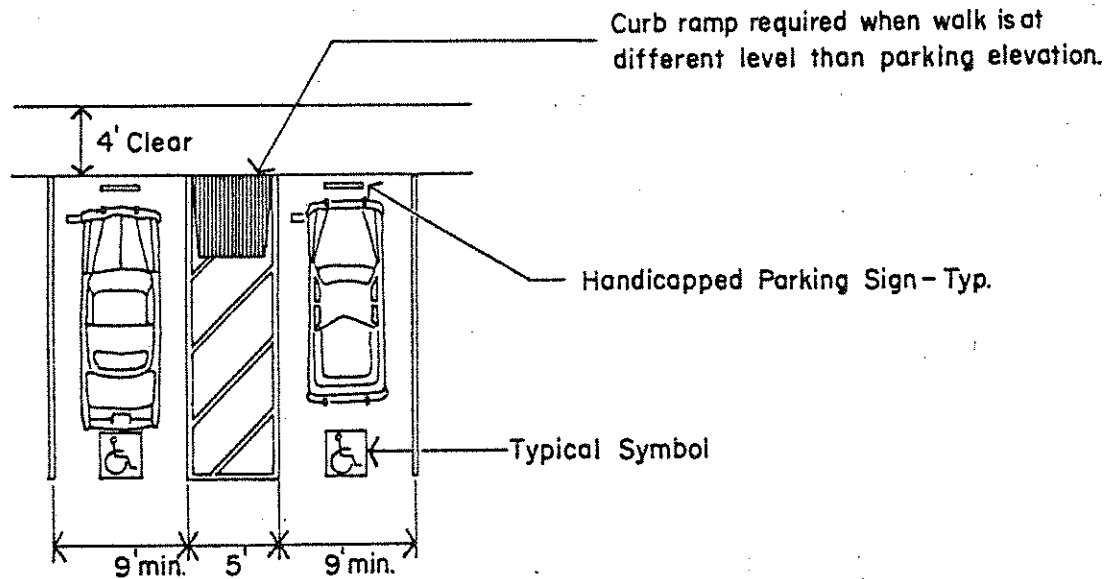
- (c) Circulation. All parking areas shall have internal circulation in which no backing movement, except that required to leave a parking space, is permitted. It shall also be possible

to maneuver within a parking area without use of street right-of-way. No parking area design shall require an exiting vehicle to back onto a street, except for parking serving single-family houses, duplexes or triplexes.

- (d) Small Cars. A maximum of thirty (30) percent of the spaces in a lot may be designated for parking small cars. Small car spaces shall be identified with the words "small car" painted on the pavement.
- (e) Location. For residential uses all required parking shall be located on the same building site as the use it serves. For nonresidential uses the area where required parking is provided shall be located no more than four hundred (400) feet walking distance from the use it serves. The distance is measured along sidewalks, alleys and crosswalks from the nearest point of the parking area to the nearest point of the building.
- (f) Parking for the Handicapped. Every parking area for nonresidential uses shall include spaces designed for use by the physically handicapped which shall be as close to the primary building entrance(s) as practicable. These spaces shall be located so the handicapped person is not required to wheel or walk behind a parked car other than their own. Pedestrian ways accessible to the handicapped shall be provided from each space to the use served.

If one (1) space is provided it shall be fourteen (14) feet wide and lined to provide a nine-foot wide space and a five-foot loading and unloading area. Two (2) spaces can share the loading/unloading area. If a walkway is used as a wheelstop (maximum two and one-half (2.5) foot overhang permitted), the walkway must still have a net clear width of four (4) feet.

A raised sidewalk serving as a wheelstop as specified herein and in subsection (g) following may be less than six (6) inches high if necessary to accommodate a handicapped ramp as determined by the Chief Building Official.



Markings and signs shall be as required by State law, including signs at parking lot entrances regarding towing of cars for unauthorized parking in a space for the handicapped, signs at the spaces restricting use to handicapped persons, and pavement markings displaying the handicapped symbol.

The minimum number of spaces designed for use by the handicapped shall be:

<u>Total Spaces in Lot</u>	<u>No. Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2*
1001 to over	20**

* Percent of total

** Plus one space for each 100 over 1000

One (1) in every eight (8) handicapped accessible parking spaces shall have an access aisle 8'00" wide (rather than five (5) feet) and shall be signed "van accessible."

In lots with less than five (5) spaces, one (1) space fourteen (14) feet wide must be provided. This space shall be striped to provide a nine-foot vehicle area and a five-foot ramp area. However, this space need not be signed for or limited to exclusive use by the handicapped.

(g) Wheelstops. Wheelstops are required as follows:

- (1) Every parking space that is not separated by a fence, wall or landscaped area from any alley property line upon which it abuts, shall be provided with a suitable concrete curb or timber barrier not less than six (6) inches in height. The curb or barrier shall be located not less than two and one-half (2.5) feet from the alley property line, and be securely installed and maintained.
- (2) Every parking space that abuts a fence, wall or landscaped area shall be separated from the fence, wall or landscaped area by a suitable wheelstop consisting of a concrete curb or timber barrier not less than six (6) inches in height. The curb or barrier shall be located not less than two and one-half (2.5) feet from the fence, wall or landscaped area; and be securely installed and maintained. If low-lying plant materials, that will permit a two-and-one-half-foot vehicular overhang are specified in an approved landscaping plan, a six (6) inch concrete curb can be utilized for a planter boarder as well as a wheelstop.
- (3) Every parking area with an aisle that abuts a fence, wall or landscaped area shall have the aisle separated from the fence, wall or landscaped area by a suitable wheelstop consisting of a concrete curb or timber barrier not less than six (6) inches in height and not less than four and one-half (4.5) feet from the fence, wall or landscaped area. The curb or barrier shall be securely installed and maintained. If low-lying plant materials, that will permit a four-and-one-half-foot vehicular overhang are specified in an approved

landscaping plan, a six (6) inch concrete curb can be utilized for planter boarder as well as a wheelstop.

SEC. 10-2.2102. DEFINITIONS.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

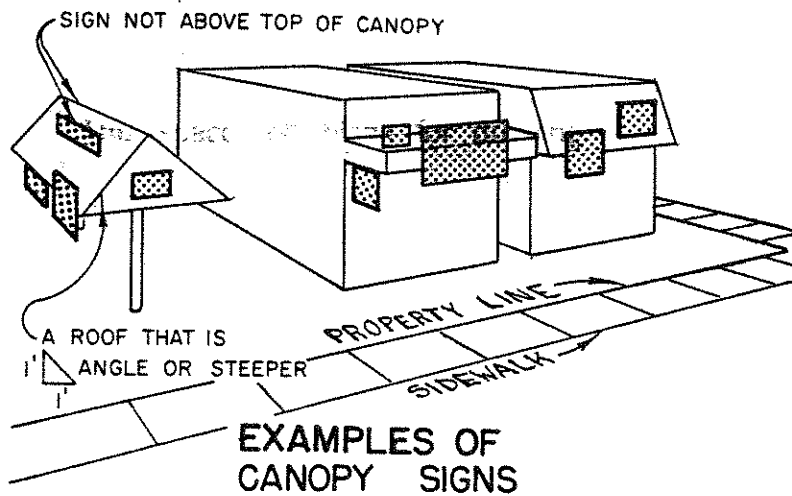
- (a) "Area of a sign" shall mean the entire area within a single continuous perimeter enclosing the extreme limits of all elements such as boards or frames, perforated or solid backgrounds, ornamental embellishments, writings, representations, emblems or any figures or similar characters, including any spires, masts, shafts or similar projections, but excluding the necessary supports or uprights on which such sign is placed.



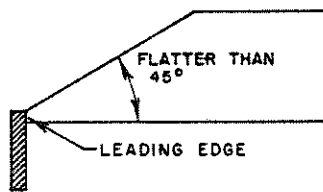
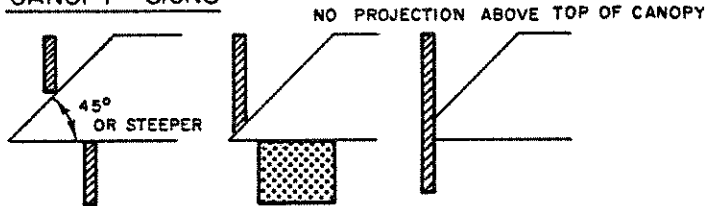
EXAMPLES OF SIGN AREA

Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

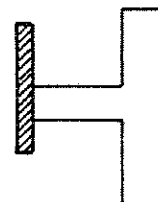
- (b) "Bench sign" shall mean a City-franchised bus bench located outdoors with advertising matter thereon.
- (c) "Bulletin board" shall mean a sign used to announce a coming event or attraction or used to convey a specific message related to the building or use of the property on which the bulletin board is located. In all zones, bulletin boards, which are displayed so as to be viewed from a public street, highway, parking lot, walkway or mall shall be subject to the sign regulations of the zone in which the building or property is located.
- (d) "Canopy" shall mean a roof of a building or a fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not encroach into nor overhang a public street or alley right-of-way.
- (e) "Canopy sign" shall mean a sign attached to or hung from a canopy and which:
 - (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a canopy except for an undercanopy sign which may be mounted at an angle to the leading edge of a canopy.
 - (3) Does not project above the top of the canopy when mounted on a canopy with a slope of forty-five (45) degrees (one [1] horizontal to one [1] vertical) or steeper, and which may be mounted anywhere on the slope.
 - (4) Does not project above the leading edge of the canopy when mounted on a canopy with a slope flatter than forty-five (45) degrees.
 - (5) On a flat canopy (no slope), projects above the top of the canopy but does not project higher than the wall of the building to which the canopy is attached.



CANOPY SIGNS



NO PROJECTION ABOVE RIDGE-LINE



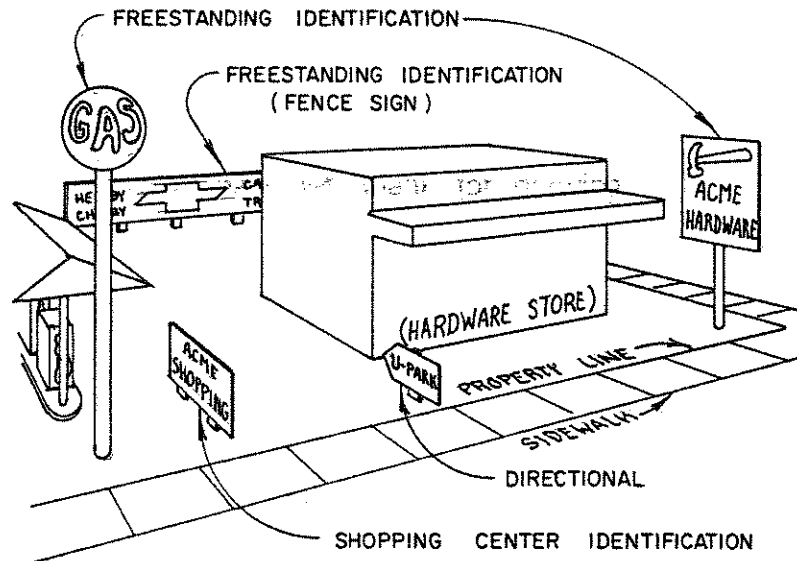
MARQUEE SIGNS

ANY OF THE ABOVE SIGNS THAT OVERHANG A PUBLIC STREET OR ALLEY IN PART OR IN TOTAL.

SIGNS ON CANOPIES, ROOFS, MARQUEES

- (f) "Combined business identification sign" shall mean a freestanding sign for a business area in lieu of several exterior directional signs. A business area is defined as:

- (1) A block frontage along a street bounded by two streets or a street and an MID or TID canal, or railroad right-of-way, or the Hetch Hetchy Right-of-Way, and
 - (2) A block frontage as defined above with six (6) or more businesses.
- (g) "Construction sign" shall mean a sign with the names of the architects, engineers, contractors, subcontractors and financing agencies of buildings and structures being constructed upon the premises on which the sign is located.
 - (h) "Corporate flag" shall mean a flag identifying a business or firm.
 - (i) "Directional sign" shall mean one of two (2) types of signs. An exterior directional sign shall mean a sign oriented to a street and used to direct and control pedestrian or vehicular traffic and located on the same lot or premises as the use which it is intended to serve. An interior directional sign shall mean a directional, warning, or informational sign not bearing any advertising message readable from any street right-of-way. It shall be located on the same lot or premises as the use which it is intended to serve. When a parcel has no direct public street frontage, a directional sign oriented only to the primary street from which it receives access is allowed.
 - (j) "For sale or rent sign" shall mean a sign advertising that the subject building or real property or portion thereof is for sale, rent or lease.
 - (k) "Freestanding Sign" shall mean a sign detached from any building or structure, and the supports of which are permanently affixed in the ground.

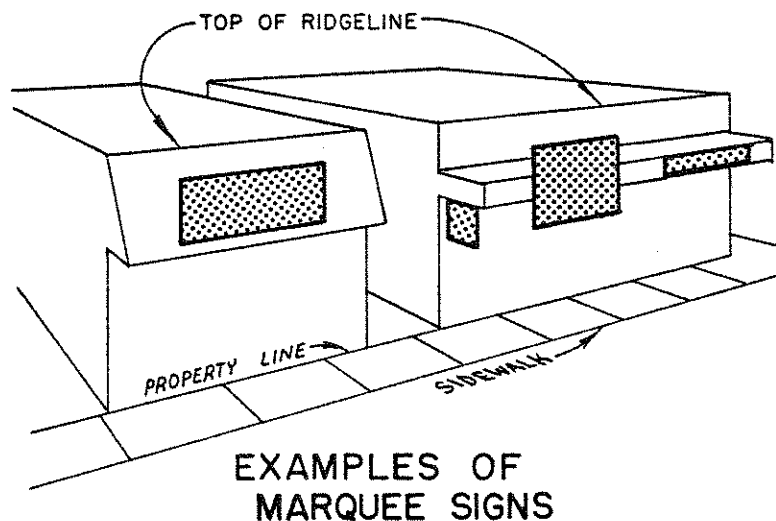


**EXAMPLES OF
FREESTANDING SIGNS**

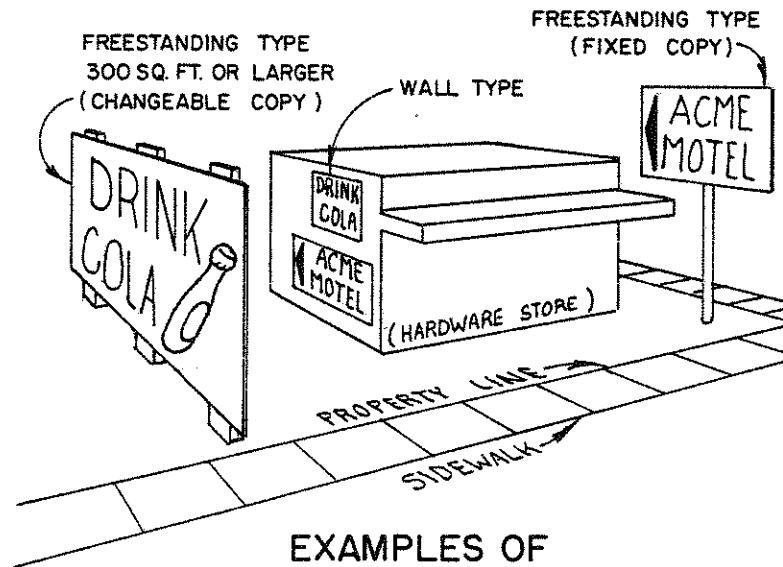
- (l) "Garage sale sign" shall mean a sign which is used to advertise the sale of used or secondhand goods or merchandise at dwellings and on residentially zoned property; such sales are also commonly known as patio sales, yard sales, etc.
- (m) "Height" shall mean the vertical distance from the highest point used in measuring the area of a sign to the top of curb of the street at a point which is closest to the highest point of the sign.
- (n) "Historic sign" shall mean an existing sign, or refurbishing of an existing sign, or recreation of sign that once existed at a given site subject to all of the following:
 - (1) Proof of existence at the given site fifty (50) or more years ago, and
 - (2) Proof of authenticity through photographs or plans, and
 - (3) Findings by the Landmark Preservation Committee that the proposal meets the above two (2) criteria.
- (o) "Hot air balloon" shall mean a balloon that is filled with heated air, has a gondola, and is capable of rising and floating in the atmosphere with people aboard.
- (p) "Identification sign" shall mean any sign which is used to identify or advertise the occupant of a building, lot or

premises or the merchandise or activity available at the building, lot or premises where the sign is located.

- (q) "Lighted sign" shall mean any sign which is illuminated either directly or indirectly by artificial light.
- (r) "Marquee" shall mean a fixed overhead shelter used as a roof, which may or may not be attached to a building, and which projects into or overhangs a public street or alley right-of-way.
- (s) "Marquee sign" shall mean a sign attached to or hung from a marquee and which:
 - (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a marquee, except for an undermarquee sign which may be mounted at an angle to the leading edge of a marquee.
 - (3) Does not project higher than the wall of the building to which the marquee is attached.

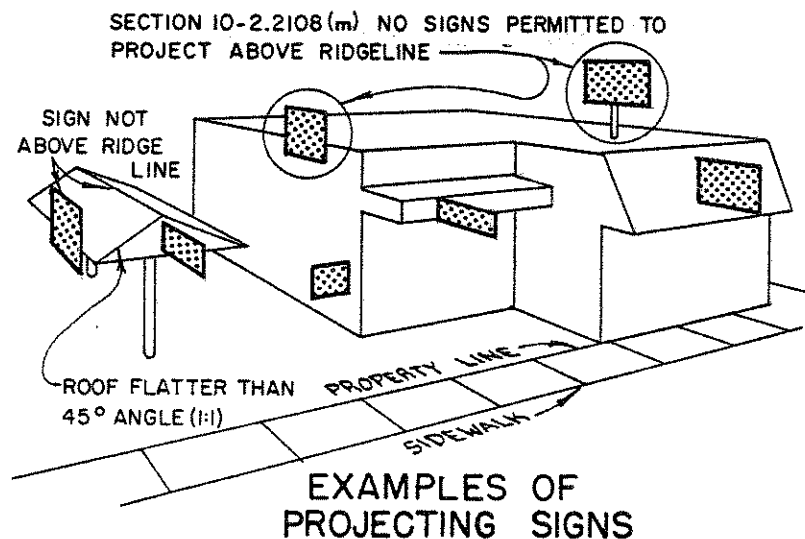


- (t) "Open house directional sign" shall mean a sign with the words "Open House" and may include an arrow or other directional symbol and real estate office name.
- (u) "Outdoor advertising sign" shall mean any of the following:
- (1) Commercial: Any sign, excepting a bench sign, that directs attention to a business, profession, product, commodity, or mercantile-oriented service that is not the primary business, profession, product, commodity or mercantile-oriented service sold, manufactured, conducted, or offered on the site on which the sign is located.
 - (2) Noncommercial: Any sign, excepting a bench sign, which does not direct attention to a business, profession, product, commodity or mercantile-oriented service. This includes but is not limited to any sign expressing a personal, political, religious or social message, idea or point of view.



EXAMPLES OF
OUTDOOR ADVERTISING SIGNS

- (v) "Political sign" shall mean any impermanent sign or advertising device or display, with or without letters, words, numbers or figures thereon, which is designed to advertise a candidate for political office, a political party, or a measure scheduled for an election.
- (w) "Principal frontage" shall mean that wall of a building or structure which has frontage on a public street, highway, parking lot, walkway or mall and which is designated by the owner or occupant thereof as the principal frontage of said building or structure for the purposes of Section 10-2.2110(a)(5) of these regulations.
- (x) "Projecting sign" shall mean any of the following:
 - (1) Any sign attached to and projecting from the face of a wall, canopy, or marquee.
 - (2) Any sign mounted on a canopy roof or building roof that has a slope flatter than a forty-five (45) degree angle (one [1] horizontal to one [1] vertical).



- (y) "Ridgeline" shall mean the peak of the roof, the top of a parapet, or the top of the wall of a building.

- (z) "Sign" shall mean any structure, device, letter, figure, character, poster, picture, trademark or reading matter which is used or designed to announce, declare, demonstrate, display or otherwise identify or advertise, or attract the attention of the public. However, a sign shall not include the following:
- (1) Official notices authorized by a court, public body or public officer.
 - (2) Directional, warning or informational signs authorized by federal, state or municipal authority or public utility.
 - (3) A properly displayed official flag of a government, school, religious group, or nonprofit organization.
 - (4) A memorial plaque, tablet or cornerstone indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible material and made an integral part of the building or structure, not to exceed four (4) square feet in area.
 - (5) Signs within a building except window or wall signs as hereinafter defined.
 - (6) Christmas decorations and Christmas lights, from November 15 to January 15.
 - (7) Inflatable device when utilized in conformance with Section 10-2.1009.
- (aa) "Street address sign" shall mean the numerals of a street address for a given use or uses in a given building or buildings.
- (ab) "Subdivision sign" shall mean a sign indicating the name of a recorded subdivision, the name of the contractor or subdivider, the name of the owner or agent, and/or giving information regarding directions, price and/or terms.
- (ac) "Subdivision directional sign" shall mean a sign indicating the name of a recorded subdivision and information regarding location. The name of the contractor or subdivider, the name of the owner or agent and/or information regarding price and/or terms may also be noted.

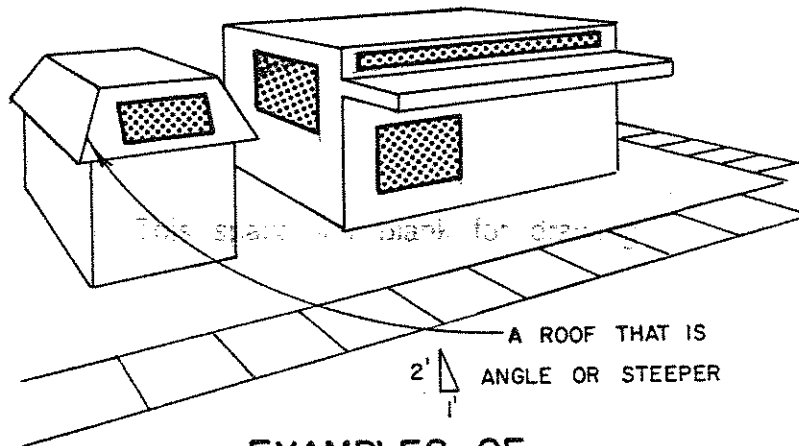
(ad) "Temporary sign" shall mean any banner, pennant, valance, balloon, streamer, placard, "A" frame, sandwich board or similar impermanent sign or advertising device or display with or without letters, words, numbers or figures thereon which directs, promotes service or price, or which is otherwise designed to attract attention, except for the following:

- (1) For sale or rent sign.
- (2) Garage sale sign.
- (3) Open house directional sign.
- (4) Political sign.
- (5) Sign for fireworks stands, pumpkin sales, Christmas tree sales lots, and temporary certified farmers markets.
- (6) Window sign.
- (7) Corporate flag.
- (8) Banners for grand openings, for outdoor display or sale of goods, and decorative banners as defined in Modesto Municipal Code Section 10-2.2110(18), (19).

Paper signs tacked or otherwise fastened to a side of a building or bulletin board or outside a window are temporary signs unless enclosed in a frame with a glass, plexiglass, or equivalent cover. The sign area will be subject to the wall and canopy sign standards.

(ae) "Wall" shall mean any wall or element of a wall or any member or group of members, which defines the exterior boundaries or courts of a building or structure and which has a slope steeper than one (1) horizontal to two (2) vertical, with the horizontal plane.

(af) "Wall sign" shall mean any sign painted on, attached to or erected against the wall of a building with the exposed face of the sign in a place approximately parallel to the plane of the wall and which does not project beyond the top or ends of the wall. "Wall sign" shall also mean any sign permanently displayed on the inside or outside of a window.



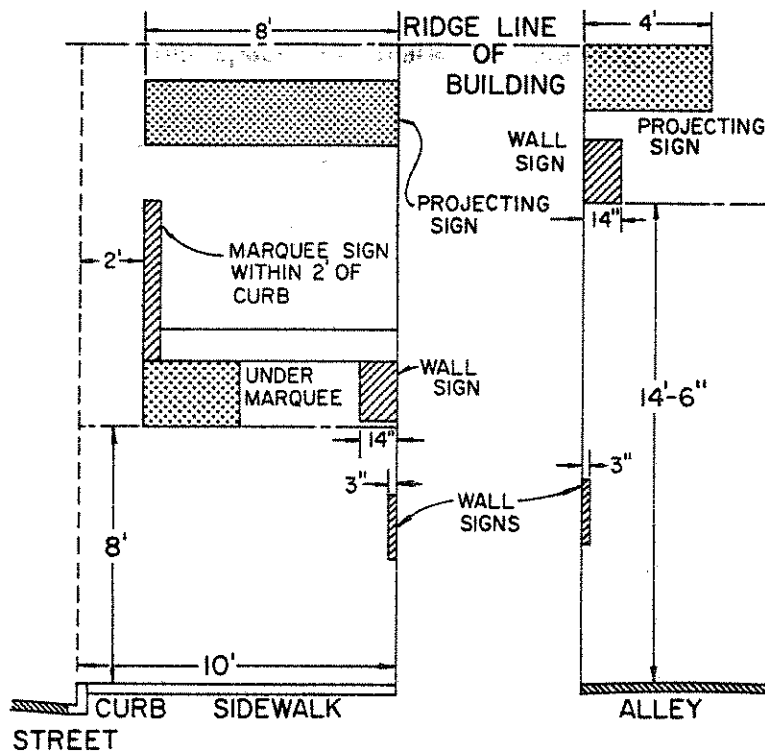
EXAMPLES OF
WALL SIGNS

- (ag) "Window Sign" shall mean any sign temporarily displayed on the inside of a window or temporarily painted on a window and facing a street, highway, parking lot, walkway or mall.
- (ah) "Zone" shall mean one of the various classes of areas into which the City has been divided by this Chapter.

SEC. 10-2.2108. GENERAL REQUIREMENTS.

- (a) Height limitation. The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed thirty-five (35) feet in height, except for freestanding signs along Freeway 99 permitted by Section 10-2.2110(a)(4)(ab) and Section 10-2.2110(b)(5)(ab) and wall signs permitted by Section 10-2.2110(a)(5)(ac).
- (b) Rotating, moving, flashing, changing or blinking signs. No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing, blinking, fluctuating or otherwise animated light. The provisions of this subsection shall not be applied so as to prohibit the following types of signs:
 - (1) A conventional clock face.
 - (2) A sign showing digital time with changes in time not more often than once a minute.
 - (3) A sign showing digital temperature with changes in temperature only when there is a rise or fall of one

- (1) degree or more. Changes from Fahrenheit readings to Centigrade readings shall occur not more frequently than five-second intervals.
- (4) A sign showing time and temperature subject to changes not more frequently than at five-second intervals.
- (5) An on-premises barber pole of a length not to exceed thirty (30) inches of traditional design which shall be permitted to revolve during the time that a barbershop is open for business. Said sign shall not exceed ten (10) feet in height.
- (c) Projections. All signs, if otherwise authorized, are permitted to project into required front, side and rear yards. The permitted projection of an authorized sign into any street or alley right-of-way is as follows:
- (1) Freestanding sign: No projection.
- (2) Wall sign: Up to fourteen (14) inches in thickness.
- (3) Marquee sign: Not closer than two (2) feet from the face of the curb.
- (4) Projecting sign: Up to eight (8) feet into any street right-of-way and up to four (4) feet into any alley right-of-way, but not closer than two (2) feet from the face of the curb.
- (5) Bus bench sign: Entirely within street right-of-way.



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

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

Building, Electrical and Fire Prevention Codes of the City of Modesto.

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

shall be permitted on the edges of wall signs except the sign company's identification as required by paragraph (i) of this section.

- (m) **Ridgeline limitation.** A wall, canopy, marquee or projecting sign shall not project above the ridgeline of the building on which the sign is mounted. Where the ridgeline as defined in Section 10-2.2102(y) varies in height, such sign shall not project or be mounted above a ridgeline where it is placed nor above the height representing a minimum of seventy-five (75) of the ridgeline of the building.
- (n) **Building outlining.** Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposed incandescent lighting or other artificial lighting, or an equivalent effect, is prohibited. "Outlining" means delineation, with a row or band of lights, of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs nor temporary Christmas displays.
- (o) **No signs on street trees, utility poles or structure in street right-of-way.** No signs will be attached to any City street tree, or any poles such as utility poles, street signals, street lights, street name signs, or traffic warning signs, or on any bus shelter.
- (p) **It shall be unlawful and punishable as an infraction for any person to place or cause to be placed any sign not in conformity with this section.**
- (q) **A historic sign meeting the criteria in the "historic sign" definition, may be approved in any zone subject to the approval of a conditional use permit by the Board of Zoning Adjustment (BZA) in accordance with Article 25 of Chapter 2 of Title X of this Code. Each deviation from the pertinent sign regulations of the zone in which the site of a proposed historic sign is located should be noted in the BZA agenda report. The BZA should determine if each deviation is insignificant to the compatibility with other uses in the area and deny or impose conditions deemed necessary for those deviations that are not compatible.**

SEC. 10-2.2109. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE R-1, R-2, R-3 AND P-0 ZONES.

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 R-1, R-2 and R-3 zones, the following signs are permitted, except as otherwise stated:
 - (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) If a residential use, each numeral shall be not less than three (3) inches in height and shall have a stroke width of not less than one-quarter (0.75) inch and all of the numerals shall not exceed one (1) square foot in area.
 - (ac) If a nonresidential use and a conditional use, as noted in Section 10-2.504 (R-1), Section 10-2.604 (R-2), or Section 10-2.704 (R-3), each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (2) One (1) unlighted for sale or rent sign per street frontage, not exceeding eight (8) square feet in area and six (6) feet in height.
 - (3) Three (3) unlighted open house directional signs, each not exceeding three (3) square feet in area and forty-two (42) inches in height, which shall be permitted during daylight hours only, for each house or group of houses offered for sale by the same realtor at the same general location, provided they do not bear any advertising message other than the real estate office name, and that such signs are located wholly on private property with permission of the property owner on whose property they are located.

- (4) One (1) wall-mounted name plate not exceeding one (1) square foot in area.
- (5) For uses permitted by conditional use permits additional signing as follows:
 - (aa) One (1) bulletin board or identification sign not exceeding twenty-five (25) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
 - (ab) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.
- (6) One (1) construction sign not exceeding twenty (20) square feet in area and six (6) feet in height, provided that such sign shall be removed not later than thirty (30) days after construction is completed.
- (7) One (1) subdivision sign not exceeding sixty-four (64) square feet in area and ten (10) feet in height for each recorded subdivision provided that such sign shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:
 - (aa) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional one (1) year period.
 - (ab) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional two (2) year period.

- (8) Unlighted subdivision directional signs not exceeding sixteen (16) square feet in area and six (6) feet in height for each recorded subdivision as follows:
- (aa) Within the boundaries of the recorded subdivision, one (1) subdivision directional sign shall be permitted per block.
 - (ab) Outside the boundaries of any recorded subdivision, subdivision directional signs on private property shall be permitted as follows:
 - (i) One (1) at each street intersection where a change in direction (left turn, right turn) is required.
 - (ii) Three (3) where no change in direction is required. Placement of one (1) sign under this subsection shall be no closer than one thousand (1000) feet to another sign under this subsection for this subdivision.
 - (ac) Such signs shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:
 - (i) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three-year period, such signs may remain for an additional one-year period.
 - (ii) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three-year period, such signs may remain for an additional two-year period.
- (9) Subdivision banners for grand openings as follows:
- (aa) One (1) banner permitted not to exceed seventy-two (72) square feet in area to be located within the boundaries of the recorded subdivision.

- (ab) The 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.
 - (ac) Banners shall be permitted for no more than sixty (60) days after obtaining a permit from the Director.
- (10) Political signs which may be erected, maintained and displayed as follows:
- (aa) On lots or parcels upon which there is located a residential structure, except that:
 - (i) The area of each such sign shall not exceed six (6) square feet.
 - (ii) The overall height shall not exceed six (6) feet.
 - (iii) The combined area of all such signs shall not exceed sixty (60) square feet.
 - (ab) On lots or parcels upon which there is not located a residential structure, except that:
 - (i) The area of each such sign shall not exceed thirty-two (32) square feet.
 - (ii) The overall height of each such sign shall not exceed ten (10) feet.
 - (iii) The combined area of all such signs shall not exceed one hundred (100) square feet.
 - (ac) Political signs shall not be lighted either directly or indirectly.
 - (ad) Such signs shall be erected no more than one hundred twenty (120) days prior to an election, and shall be removed within ten (10) days after the election.
- (11) Temporary signs are not permitted.

- (12) Window signs are not permitted.
- (13) Outdoor advertising signs are not permitted.
- (14) Two (2) unlighted garage sale signs not exceeding three (3) square feet each in area may be displayed as follows:
 - (aa) Said signs may be displayed only during such times as the garage sale being advertised is actually being held or conducted.
 - (ab) Said signs may only be erected and displayed on private property with the consent of the owner thereof. They may not be erected or displayed on street trees, utility poles, or elsewhere in public rights-of-way.
- (15) Interior directional, warning, and informational signs not exceeding six (6) square feet in area and six (6) feet in height.
- (16) One (1) exterior directional sign per driveway or pedestrian walkway serving five (5) or more dwelling units as follows:
 - (aa) Sign copy limited to any or all of the following: street name and address, housing project name and logo, for sale, for rent, for lease.
 - (ab) Twelve (12) square feet maximum area, external illumination only.
 - (ac) For a freestanding sign, six (6) feet maximum height; for a wall sign, first story maximum height not to exceed twelve (12) feet.
- (17) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:
 - (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall

not exceed thirty-five (35) feet in height, and shall have external illumination only, except for neon signs on the inside of windows.

- (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.
- (b) In the P-O Zone, the following signs are permitted:
- (1) For any uses permitted in the R-3 Zone, except those permitted by conditional use permit, any signs permitted in the R-3 Zone excepting Section 10-2.2109(a)(5).
 - (2) For any uses permitted by conditional use permit in the R-3 Zone, any signs permitted in the R-3 Zone, including Section 10-2.2109(a)(5).
 - (3) For uses other than those permitted in the R-3 Zone, the following signs are permitted:
 - (aa) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (i) So that the sign is visible from the street upon which the building is addressed.
 - (ii) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (ab) Any signs permitted in the R-3 Zone except Section 10-2.2109(a)(5).
 - (ac) For each site, one (1) freestanding sign per street frontage. Each sign shall not exceed sixteen (16) square feet and eight (8) feet in height. For a sign facing the street of the address, a street address shall be included subject to the stroke and height of numerals noted in subsection (aa). The sign area may be

increased by up to four (4) square feet for a street address.

- (ad) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height.
 - (ae) 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.
- (4) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:
- (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall not exceed thirty-five (35) feet in height.
 - (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.

SEC. 10-2.2110. SPECIFIC REQUIREMENTS FOR TYPE, AREA AND HEIGHT OF SIGNS IN THE C-1, C-2, C-3, C-M, M-1, M-2, B-P AND P-D ZONES.

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) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.

- (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) Only one (1) of the following signs for each use or occupancy:
 - (aa) Freestanding identification sign not exceeding seventy-two (72) square feet in area and twenty (20) feet in height; or
 - (ab) Projecting identification sign not exceeding seventy-two (72) square feet in area and thirty-five (35) feet in height; if any portion projects into or overhangs a public street or alley right-of-way, said sign shall not exceed forty-eight (48) square feet in area; or
 - (ac) Marquee identification sign at right angles to a street, not exceeding forty-eight (48) square feet in area and thirty-five (35) feet in height. A second such marquee identification sign is permitted if the two (2) signs are single-faced, are parallel, and are on opposite ends of a marquee.
 - (ad) Exception: Any sign existing on March 1, 1977, in the C or M zones on a pylon which extends above a ridgeline shall be allowed to remain in addition to one (1) of the above signs as a nonconforming sign subject to abatement according to the schedule set forth in Section 10-2.2107.
 - (ae) For the freestanding sign in subsection (aa) a street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
- (3) One (1) freestanding identification sign for a shopping center, as herein defined, for each street upon which

the shopping center fronts, subject to the following provisions:

- (aa) Each shopping center sign shall not exceed seventy-two (72) square feet in area and twenty (20) feet in height.
- (ab) The identification on each shopping center sign shall be limited to the shopping center name with a reader board or a listing of uses within the center optional. The lettering for the reader board or the listing of such uses shall be of a size not greater than the lettering of the shopping center name. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
- (ac) Any freestanding or projecting identification sign or signs erected at said shopping center on or after July 1, 1972, whether identifying said shopping center or any use or occupancy therein, shall be removed prior to obtaining a building permit for the erection of a shopping center sign.
- (ad) After erection of a shopping center sign at a shopping center, even in those cases where the shopping center sign installation preceded this Code provision, no additional freestanding or projecting identification sign shall be erected at such shopping center for any use or occupancy therein.
- (ae) A shopping center, eligible for a freestanding identification sign, is usually characterized by a cluster of retail uses:
 - (i) At one (1) location held out to the public as a distinct shopping area and having a minimum of five (5) retail uses on the same or adjacent sites.
 - (ii) On one (1) or more parcels not normally traversed by any public streets.

- (iii) With membership in a merchants' association comprising the cluster.
 - (iv) That employ a common advertising program for such a center.
- (4) For a freestanding tourist-oriented hotel, motel, restaurant or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
 - (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-1 Zone.
 - (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:

- (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
- (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
- (iii) The primary testimony at the public hearing will be the visual observations from the field trip.

(5) Canopy, marquee, and wall identification signs, provided:

- (aa) That said signs shall be limited to the portion of a building wherein the use or occupancy is conducted except for signs approved by a Conditional Use Permit under Section 10-2.2110(a)(5)(ac) that follows.
- (ab) That the maximum total area for all said signs shall be limited as follows:
 - (i) For the principal frontage of the building as designated by the applicant:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus

Over 100 feet	1 square foot per lineal foot of building frontage
	(ii) For each other frontage of the building:
<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	0.5 square foot per lineal foot of building frontage

(ac) That said signs shall not exceed thirty-five (35) feet in height nor project above a ridgeline, except that wall signs above thirty-five (35) feet in height may be approved 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. Said use permit will be dependent upon the following two (2) findings being shown:

- (i) The building must exceed four (4) stories, or forty-eight (48) feet in height.
- (ii) The applicant must show why wall signs at a thirty-five-foot height limit cannot properly identify and architecturally meet the design of the building. All options to reach a satisfactory solution must have been explored.

(ad) That signs hung from a canopy shall be not less than eight (8) feet above a private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic.

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

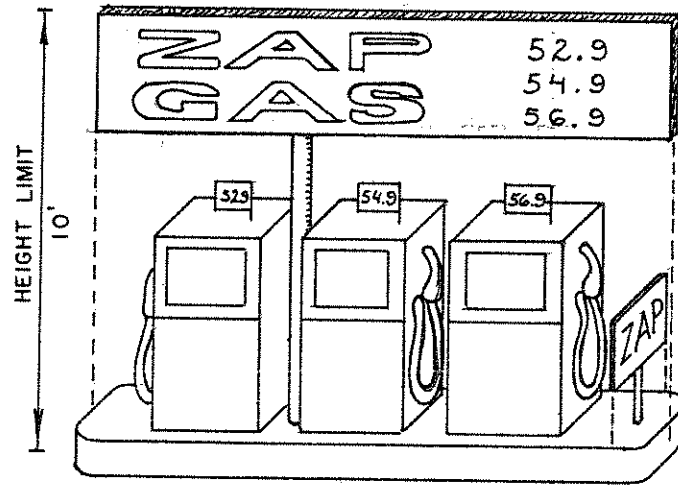
(aa) One (1) exterior directional sign per use per street frontage of the site, not exceeding twelve

- (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 thirty (30) square feet in area and eight (8) feet in height.
- (7) One (1) for sale or rent sign, not exceeding sixty-four (64) square feet in area and ten (10) feet in height.
- (8) 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.
- (9) One (1) sign hung from a marquee per street frontage for a given use, not exceeding six (6) square feet in area on any one (1) side or twelve (12) square feet maximum total area. Said sign shall be not less than eight (8) feet above a public sidewalk and may be mounted at an angle to the leading edge of a marquee.
- (10) 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

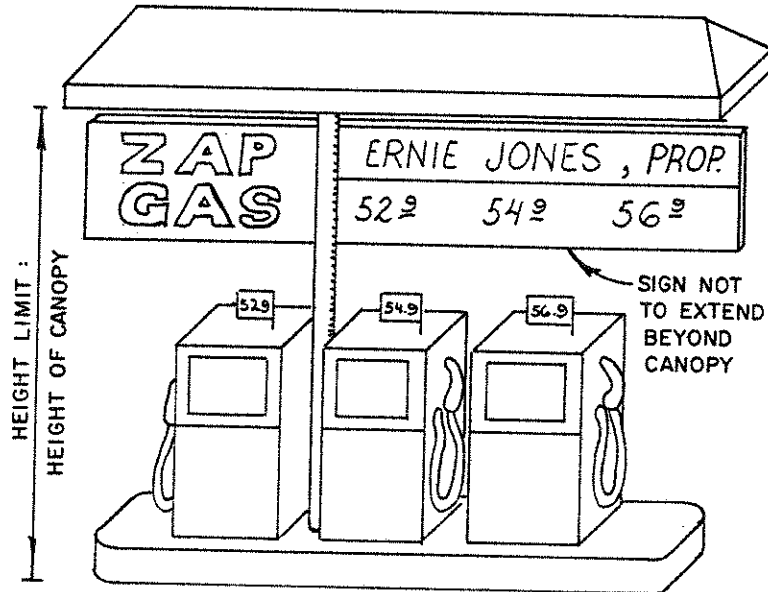
election and shall be removed within ten (10) days after an election.

- (11) Temporary signs are not permitted.
- (12) Outdoor advertising signs are not permitted except as otherwise provided in this article.
- (13) Window signs are permitted.
- (14) One (1) freestanding identification sign, not exceeding seventy-two (72) square feet in area and twenty (20) feet in height, which shall be permitted to identify a use without any structures, such as a parking lot. For pumpkin and Christmas tree sale lots, one (1) freestanding identification sign shall be permitted, not exceeding thirty-two (32) square feet in area and twelve (12) feet in height.
- (15) Signs on service station pump islands, canopy uprights, and nonmovable structures on the pump islands, which shall be permitted if the combined area of said signs and all other wall and canopy signs do not exceed the total sign area permitted in subsection (4) above for the building on the site and do not project beyond the canopy roof or raised pump island. Said signs shall not exceed ten (10) feet in height if there is no canopy. For self-service service stations with small attendant booths less than ten (10) feet on any side, a maximum total wall and canopy sign area of one hundred sixty (160) square feet is permitted.

SIGN NOT TO EXTEND
BEYOND PUMP ISLAND



SERVICE STATION WITHOUT A CANOPY



SERVICE STATION WITH A CANOPY

(16) Freestanding motor fuel price signs are permitted, as hereinafter specified, for businesses dispensing motor fuel to the public. The message on said signs shall be limited to specifying the prices and grades of motor fuel, self-service or full service, and brand name of the motor fuel, as required by the California Business and Professions Code. Motor fuel price signs shall be permitted as follows:

(aa) One (1) motor fuel price sign per street frontage of the site.

- (ab) Maximum area shall be twenty-five (25) square feet for the self-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; twenty-five (25) square feet for the full-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; all can be combined as one (1) sign.
 - (ac) Maximum height of sign shall be fourteen (14) feet.
- (17) 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.
- (18) 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.

(19) 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 10-2.2108(d).

(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.

(b) In the C-3 Zone, the following signs are permitted:

(1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:

(aa) So that the sign is visible from the street upon which the building is addressed.

(ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of

the numerals shall not exceed four (4) square feet in area.

- (2) Any signs allowed in the C-1 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1205 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2110(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2110(a)(3) are not permitted in the C-3 Zone.
- (3) One (1) freestanding combined business identification sign subject to all of the following:
 - (aa) Sign is to serve a business area defined as follows:
 - (i) A block frontage along a street bounded by two (2) streets or a street and an MID or TID canal, or a railroad right-of-way, or the Hetch Hetchy Right-of-Way; and
 - (ii) A block frontage as defined above with six (6) or more businesses, and
 - (ab) Existing, exterior, directional signs for all businesses within the business area are to be removed and no new ones installed, and
 - (ac) The sign not exceed forty-eight (48) square feet in area and ten (10) feet in height, and
 - (ad) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address, and
 - (ae) From the bottom of the sign box or can to grade, there shall be a pole cover or skirting that gives the appearance of a solid base so that the sign appears as a monument sign.
- (4) Any signs allowed in the R-3 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1204.

(5) For a freestanding tourist-oriented hotel, motel, restaurant, or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:

(i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.

(ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.

(ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:

(i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.

- (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
 - (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (6) For any other freestanding use or occupancy, one (1) freestanding identification sign not to exceed seventy-two (72) square feet in area and twenty (20) feet in height may be approved 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. Said use permit will be dependent upon the following three (3) findings being shown:
- (aa) That the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ab) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
 - (ac) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to (4) square feet for a street address.
- (c) In the B-P Zone, the following signs are permitted:

- (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) Any signs allowed in the C-1 Zone are permitted in the B-P Zone for uses permitted in Section 10-2.1602 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2110(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2110(a)(3) are not permitted in the B-P Zone.
- (3) For each parcel, one (1) freestanding identification sign not exceeding seventy-two (72) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address.
- (4) One (1) freestanding identification sign for a business park, as herein defined, for each street on which the business park fronts may be approved subject to the approval of a plot plan by the Board of Zoning Adjustment and subject to the following provisions:
 - (aa) Each business park sign shall not exceed seventy-two (72) square feet in area and six (6) feet in height.
 - (ab) The identification on each business park sign shall be limited to the business park name, and logo.
 - (ac) A business park, eligible for a freestanding identification sign, is characterized by a cluster of business park uses:

- (i) In a contiguous area that can be traversed by public streets, of at least fifty (50) acres held out to the public as a single development.
 - (ii) Represented by a single association or organization.
- (d) For P-D zones the following signs are permitted:

Sign limitations shall be made a condition of each P-D Zone and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the P-D Zone.

SEC. 10-2.2314. VISION OBSTRUCTIONS.

- (a) In zones requiring a front yard, there shall be a clear vision triangle on all corner lots. The triangle is an area bounded by the front and side street property lines and a line connecting them twenty-five (25) feet from their intersection. Within the triangle, the area between three (3) and eight (8) feet in height measured from the top of the curb adjacent to the front yard shall be clear. Trees may penetrate the clear area as long as there are no branches lower than eight (8) feet and the trunk does not constitute a hazard to vehicular or pedestrian traffic as determined by the Public Works and Transportation Director. If no curb exists, the City Engineer shall establish curb grade.
- (b) In addition to obstructions in (a) above, the Public Works and Transportation Director may require the removal of landscaping or structures on any lot which in his opinion constitute a hazard to vehicular or pedestrian traffic.

SEC. 10-2.2324. EXPIRATION.

Any conditional use permit, variance, plot plan or other similar action granted by the Board, Commission, Council or Director becomes null and void if not exercised within the time specified in the resolution or letter. If no time is specified, it becomes null and void after two (2) years of the approval date.

The Secretary, upon written request received prior to the date of expiration, may grant a single one-year extension to the

development schedule. Additional extensions may be granted only by the Board, Commission, or Council.

SEC. 10-2.2325. MINOR PLAN REVISIONS.

If changes to a plan approved by the Board, Commission, Council or Director as part of a conditional use permit, variance, plot plan or other similar actions are requested, and the changes do not involve new uses, significant impact on adjacent property or significant site redesign, the revised plan may be approved by the Secretary or referred to the Board or Commission without a public hearing.

SEC. 10-2.2326. DEVELOPMENT AND MAINTENANCE.

Any project approved by a conditional use permit, variance, P-D Zone, plot plan or other similar action shall be developed and maintained in conformance with the conditions and requirements of the approving resolution or letter and any subsequent modifications by the Board, Commission, Council or Director.

SEC. 10-2.2328. DESIGN REVIEW GUIDELINES.

In reviewing any proposed development, the Board, Commission, Council or Director may utilize design review guidelines as may be adopted from time to time by the Board, Commission or Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September, 1994, 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: 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. 2924-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of September, 1994, 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: October 13, 1994

ORDINANCE NO. 2925-C.S.

AN ORDINANCE ADDING CHAPTER 14 ENTITLED "DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY" TO TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO PROPERTY IN TARGET AREAS.

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

SECTION 1. AMENDMENT OF CODE. Chapter 14 entitled "Disclosures Upon Transfer of Residential Property" is hereby added to Title IV of the Modesto Municipal Code to read as follows:

CHAPTER 14 -- DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY

ARTICLE 1. DISCLOSURES

SEC. 4-14.101. ADDITIONAL DISCLOSURES REQUIRED.

In addition to the disclosures required by California Civil Code Section 1102.6, there shall be required a disclosure on the form set forth in subdivision (b) of California Civil Code Section 1102.6a, if the subject property has been identified by the City of Modesto as a residential unit within a Target Area of the City of Modesto involving the inspection by the City of Modesto to detect health and safety problems for which the repair of any identified health and safety problems is required.

ARTICLE 2. SEVERABILITY

SEC. 4-14.201. SEVERABILITY.

If any section or portion of this chapter is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that section or portion shall be deemed severable and shall not affect the validity of the remaining portions of the chapter. The City Council of the City of Modesto hereby declares that it would have passed this chapter, or any sections or portions thereof, irrespective of the fact that any one (1) or more sections or portions may be declared invalid or unconstitutional.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 1994, 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:

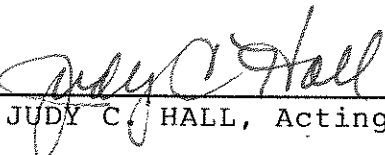
AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

By 
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2925-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of September, 1994, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, Mayor Lang

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: October 20, 1994

Clerk
14

ORDINANCE NO. 2926 -C.S.

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

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

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Morse Road and Carpenter Road	40 miles per hour	June 26, 1994
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	March 4, 1992
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, eastbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, westbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994

BRIGGSMORE AVENUE, westbound between Coffee Road and McHenry Avenue	45 miles per hour	August 10, 1993
BRIGGSMORE AVENUE, eastbound between McHenry Avenue and 1,000 feet west of Coffee Road	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, eastbound between a point 1,000 feet west of Coffee Road and Coffee Road	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	August 5, 1993
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road	50 miles per hour	June 24, 1994
BRIGHTON AVENUE, between Coffee Road and Locke Road	35 miles per hour	January 11, 1993
CALIFORNIA AVENUE, between Carpenter Road and North Martin Luther King Drive within the City limits	35 miles per hour	January 28, 1992
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	40 miles per hour	August 9, 1993
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	35 miles per hour	May 14, 1993
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	50 miles per hour	June 26, 1994
CARVER ROAD, between M.I.D. Lateral #6 and Brixton Lane	40 miles per hour	June 18, 1991

CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	June 25, 1994
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	35 miles per hour	June 25, 1994
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	35 miles per hour	June 25, 1994
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	January 29, 1993
CLAUS ROAD, between M.I.D. Lateral #3 and 200 feet south of Scenic Drive	50 miles per hour	August 5, 1993
CLAUS ROAD, between 200 feet south of Scenic Drive and Yosemite Boulevard	50 miles per hour	February 14, 1989
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	45 miles per hour	July 15, 1992
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	40 miles per hour	August 12, 1993
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	August 5, 1993
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	August 5, 1993
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	August 9, 1993
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	March 13, 1992

CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	30 miles per hour	May 29, 1990
CROWS LANDING ROAD, between Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	April 29, 1993
DALE ROAD, between Pelandale Avenue and Snyder Avenue, within the City limits	40 miles per hour	October 26, 1992
DALE ROAD, between Snyder Avenue and Veneman Avenue	40 miles per hour	October 26, 1992
DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	August 9, 1993
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	January 28, 1993
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	May 21, 1990
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	40 miles per hour	August 12, 1993
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	January 7, 1993
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	35 miles per hour	January 7, 1993
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	35 miles per hour	January 7, 1993
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	35 miles per hour	January 7, 1993

FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	June 24, 1994
FLOYD AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 24, 1994
FLOYD AVENUE, between Oakdale Road and Roselle Avenue	40 miles per hour	June 24, 1994
GRANGER AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	January 27, 1993
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	January 27, 1993
HATCH ROAD, between Crows Landing Road and Carpenter Road within the City limits	45 miles per hour	January 28, 1992
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	July 8, 1992
KANSAS AVENUE, between Emerald Avenue and Eighth Street	30 miles per hour	August 9, 1993
KANSAS AVENUE, between Morse Road and Carpenter Road within the City limits	40 miles per hour	January 28, 1993
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	25 miles per hour	May 21, 1990
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	October 27, 1988
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	January 27, 1992

LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	January 27, 1992
LAKWOOD AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 28, 1993
LINCOLN AVENUE, between 650 feet north of M.I.D. Lateral #2 and Yosemite Boulevard	35 miles per hour	August 30, 1989
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	May 29, 1990
MERLE AVENUE, between Oakdale Road and Roselle Avenue	35 miles per hour	March 14, 1989
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	March 12, 1992
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	March 4, 1992
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	March 12, 1992
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue within the City limits	40 miles per hour	January 28, 1992
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	January 27, 1993
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	January 27, 1993
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	January 28, 1993

NEEDHAM STREET, between 9th and L Streets	35 miles per hour	January 28, 1993
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	March 13, 1992
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	January 8, 1993
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	50 miles per hour	March 14, 1989
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	50 miles per hour	June 25, 1994
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	June 25, 1994
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	June 25, 1994
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	June 24, 1994
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	35 miles per hour	June 24, 1994
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	January 8, 1993
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 25, 1994
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	June 25, 1994

ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	June 25, 1994
PARADISE ROAD, between Vernon Avenue and North Martin Luther King Drive within the City limits	40 miles per hour	June 26, 1994
PARADISE ROAD, between North Martin Luther King Drive and Washington Street	30 miles per hour	March 14, 1989
PARKER ROAD, between Claus Road and Atchinson, Topeak and Santa Fe Railroad Tracks	45 miles per hour	November 30, 1992
PELANDALE AVENUE, between Sisk Road and Dale Road within the City limits	45 miles per hour	January 28, 1992
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	40 miles per hour	December 30, 1992
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	40 miles per hour	December 30, 1992
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	August 9, 1993
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	August 30, 1989
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	30 miles per hour	May 21, 1990
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	March 4, 1992

ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	March 4, 1992
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	December 30, 1992
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	January 8, 1993
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	January 8, 1993
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	February 12, 1991
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue within the City limits	40 miles per hour	September 28, 1990
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	April 29, 1992
RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	July 6, 1992
RUMBLE ROAD, between Conant Avenue and Tully Road	35 miles per hour	January 8, 1993
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	May 29, 1990
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	January 8, 1993
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive within the City limits	30 miles per hour	May 29, 1990

SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	January 27, 1993
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	June 25, 1994
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	40 miles per hour	October 28, 1992
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	40 miles per hour	January 8, 1993
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	May 26, 1992
SCENIC DRIVE, between Coffee Road and Bodem Street	35 miles per hour	June 25, 1994
SHARON AVENUE, between Fine Avenue and Claus Road	40 miles per hour	December 7, 1992
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	January 11, 1993
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	January 19, 1993
SISK ROAD, between 600 feet north of Vintage Drive and Standiford Avenue	40 miles per hour	June 25, 1994
SISK ROAD, between Pelandale Avenue and Vintage Drive	45 miles per hour	June 25, 1994
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	45 miles per hour	June 18, 1991
SNYDER AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	October 26, 1992

SNYDER AVENUE, between Prescott Road and Carver Road within the City limits	45 miles per hour	November 5, 1992
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	40 miles per hour	June 23, 1994
STANDIFORD AVENUE, between Prescott Road and Tully Road	40 miles per hour	June 23, 1994
STANDIFORD AVENUE, between Sisk Road and Prescott Road	45 miles per hour	June 23, 1994
SUNRISE AVENUE, between Lucern Avenue and Floyd Avenue	35 miles per hour	June 26, 1994
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	August 31, 1989
SUTTER AVENUE, between Paradise Road and Robertson Road within the City limits	30 miles per hour	March 13, 1992
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	October 26, 1988
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	June 23, 1994
SYLVAN AVENUE, between Coffee Road and Oakdale Road	40 miles per hour	June 23, 1994
TENAYA DRIVE, between Santa Cruz Avenue and Mitchell Road within the City limits	30 miles per hour	June 4, 1990
TULLY ROAD, between M.I.D. Lateral #6 and Standiford Avenue	45 miles per hour	January 20, 1993

TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	March 13, 1992
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	March 13, 1992
UNION AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	February 12, 1991
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	March 12, 1992
VENEMAN AVENUE, between Dale Road and Conant Avenue	35 miles per hour	June 22, 1994
VENEMAN AVENUE NORTH, between Regency Park Drive and Snyder Avenue	25 miles per hour	October 28, 1988
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	January 18, 1993
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	June 19, 1991
WHITMORE AVENUE, between Ustick Road and Crows Landing Road within the City limits	45 miles per hour	February 13, 1991
WOODLAND AVENUE, between Morse Road and Carpenter Road, within the City limits	35 miles per hour	October 26, 1988
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	January 27, 1992

WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	January 20, 1993
WYLIE DRIVE, between Rose Avenue and Oakdale Road	30 miles per hour	October 26, 1988
9TH STREET, between Carpenter Road and 400 feet north of Tully Road within the City limits	45 miles per hour	May 26, 1992
9TH STREET, between P Street and L Street	35 miles per hour	May 26, 1992

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 1994, 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

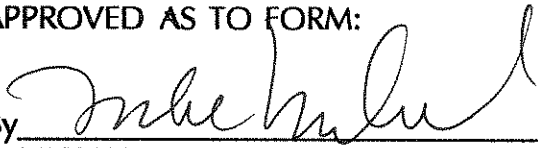
ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

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

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

Ord. No. 2926-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of September, 1994, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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


NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, Mayor Lang

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: October 20, 1994

ORDINANCE NO. 2927 -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 A PERIOD OF ONE YEAR EMERGENCY INTERIM ORDINANCE NO. 2916 PROHIBITING THE OPENING OF ADULT BUSINESSES WITHIN THE CITY.

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:

On March 22, 1994, the Modesto City Council adopted an ordinance regulating businesses that provide live adult entertainment and prohibiting such entertainment in bars. (Section 5-9.101 et seq. of the Modesto Municipal Code, also referred to herein is the "current adult business ordinance"). Recently, two such adult businesses have applied for permits under the ordinance. One such business proposes to locate on "J" Street between 10th and 11th Streets. The other proposes to locate on 11th Street between "J" and "K" Streets. If established, these businesses will be approximately one half block apart in the downtown area. The Police Department reports that, absent any problems that turn up in the application process, the permits will be issued in the normal course of business within the next thirty (30) days.

Studies conducted by other cities such as Seattle, Washington, National City, California, Phoenix, Arizona, Los Angeles, California, Oklahoma City, Oklahoma, Austin and Amarillo, Texas, and Cleveland, Ohio, have demonstrated that adult businesses in general create negative secondary side effects such as community wide adverse economic impacts, blighting, increased crime, decreased property values, and contribute to the deterioration of the neighborhoods in which they are located. Because the establishment of two adult businesses is imminent, there is an urgent

need to consider the adoption of zoning and/or other types of regulatory ordinances pertaining to the location of adult businesses within the City of Modesto, including adult businesses that are unregulated by the current adult business ordinance, in order to eliminate such negative secondary effects. Likewise, there is an urgent need to prohibit adult business uses which may be in conflict with such zoning and/or other ordinances. Without such a prohibition, there is an immediate danger of a proliferation of adult businesses in the City without regard to appropriate location limitations which would result in community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of nearby neighborhoods. Therefore, the continued issuance of building permits, occupancy permits or other entitlements for such businesses, including permits under the current adult business ordinance, and/or the establishment of new adult businesses without restrictions as to their location would result in a threat to the public peace, health, or safety.

SECTION 2. PROHIBITION. For a period of three hundred sixty-five (365) days from the effective date of this ordinance, no building permit, occupancy permit, or other entitlement for use, including a permit pursuant to Section 5-9.101 et seq. of the Modesto Municipal Code, shall be issued for any adult business within the City. Similarly, for a period of three hundred sixty-five (365) days from the effective date of this ordinance, no person or entity shall establish an adult business within the City of Modesto. For purposes of this Ordinance, the term "establish an adult business" means and includes any of the following:

- (a) The opening or commencement of any such business as a new business.
- (b) The conversion of an existing business, whether or not an adult business as defined in this Ordinance, to any business defined as an adult business in this Ordinance.

- (c) The addition of any of the kinds of businesses defined as adult businesses in this Ordinance to any other existing adult business as defined in this Ordinance.
- (d) The relocation of any such business.

SECTION 3. COUNCIL INTENT. The City Council intends to adopt, after appropriate study, zoning and/or other ordinances pertaining to adult businesses as soon as practicable and has or will direct the Community Development Department and the City Attorney to commence studies and procedures necessary for the adoption of such regulations.

SECTION 4. DEFINITIONS. For the purpose of this Ordinance the term adult business shall include any of the following:

- (a) Any adult-related establishment as that term is defined in Section 5-9.102 of the Modesto Municipal Code.
- (b) Adult Bookstore. As used in this Ordinance, the term "adult bookstore" is an establishment that has thirty (30%) or more of its stock in books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which describe or depict any of the specified sexual activities.
- (c) Adult Motion Picture Theater. The term "adult motion picture theater" as used in this Ordinance means an establishment with a capacity of fifty (50) or more persons, which shows or provides for any form of consideration, films, motion pictures, or video cassettes, slides or similar photographic reproductions, thirty (30%) percent or more of the number of which show any of the specified sexual activities.
- (d) Adult Mini-Motion Picture Theater. The term "adult mini-motion picture theater" as used in this Ordinance, means an establishment, with a capacity of more than five (5) but less than fifty

(50) persons, which shows or provides, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, thirty (30%) percent or more of the number of which show any of the specified sexual activities.

- (e) Adult Motion Picture Arcade. As used in this Ordinance, the term "adult motion picture arcade" is any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled, machines, projectors, or other image-producing devices are maintained to show films, motion pictures, video cassettes, slides, or similar photographic reproductions to five (5) or fewer persons per machine at any one time, thirty (30%) percent or more of the number of which show any of the specified sexual activities.
- (f) Adult Motel. The term "adult motel" as used in this Ordinance, means a motel or similar establishment offering public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, thirty (30%) percent or more of the number of which show any of the specified sexual activities.
- (g) For purposes of this ordinance, the term "specified sexual activities" means the activities set forth in Section 5-9.102(u) of the Modesto Municipal Code.

SECTION 5. 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 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT (C.E.Q.A.) 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 (C.E.Q.A.) 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 7. 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 8. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its 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 4th day of October, 1994, by Councilmember Muratore, who moved its introduction and adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried 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

ORDINANCE NO. 2928C.S.

AN ORDINANCE AMENDING CHAPTER 9 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO LICENSING AND REGULATION OF NON-EMERGENCY TRANSPORT.

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

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

CHAPTER 9 - LICENSING AND REGULATION OF NON-EMERGENCY TRANSPORT

SEC. 3-9.01. DEFINITIONS.

- (a) "Non-emergency transport" means any non-emergency transport by a privately owned commercial vehicle, including transport by ambulances or other vehicles providing non-emergency services and/or wheelchair transfer and non-emergency transport by an emergency transport ambulance or other vehicle.
- (b) "Non-emergency" means the routine or scheduled transportation of a non-emergency patient where time is not critical, and the request is not made in response to a sudden need for medical attention or advanced life support as defined in California Health and Safety Code Section 1797.52.

SEC. 3-9.02. PERMIT REQUIRED.

No person shall engage in the business of operating a non-emergency transport vehicle upon the streets of the City without first obtaining a permit as provided in this chapter and paying the business license fees provided in Title VI.

SEC. 3-9.03. APPLICATION FOR PERMIT.

An applicant for a non-emergency transport permit shall file his or her application with the Finance Director, or the Director's designee, on a form to be provided by the Finance Director. The application shall be signed and verified by the applicant and accompanied by the fee required and shall set forth the following:

- (a) Name, business, and residence address of the applicant.

- (b) The fictitious name, if any, under which said applicant does business and proposes to do business.
- (c) The number, type, age, condition and patient capacity of each non-emergency transport vehicle, including each emergency transport vehicle used for non-emergency transport, proposed to be operated by the applicant, stating the make, year of manufacture, vehicle identification number and special equipment installed or proposed to be installed in each such non-emergency transport vehicle.
- (d) The color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate the applicant's non-emergency transport vehicle(s).
- (e) Proof of current, valid California Highway Patrol ambulance equipment/vehicle certification or safety inspection certificate for each vehicle covered by the permit.
- (f) Proof of two way radio communications with a link to emergency response in each non-emergency transport vehicle covered by the permit.
- (g) The experience of the applicant in the transportation and care of injured and sick persons, including evidence of certification as an emergency medical service provider in Stanislaus County, if applicable.
- (h) A list of every person who will be operating a non-emergency transport vehicle under this permit, which shall include the following information for each person listed:
 - (1) The name, including all aliases, by which the person is or has ever been known.
 - (2) The person's present residence address and the residence addresses and dates thereof for the three (3) years immediately preceding the date of the application.
 - (3) Proof of current, valid California Drivers License with appropriate Class certification to operate the non-emergency transport vehicle(s) for which the permit is being requested.
 - (4) The person's social security number, if any.

- (5) Proof of current, valid ambulance driver certification issued by the California Department of Motor Vehicles.
- (6) Proof of current, valid emergency medical technician certification, Level 1 or higher, or Level 1A or higher if a proposed non-emergency transport vehicle is an ambulance, or medical license.
- (7) Whether the person has ever been convicted of:
 - (aa) An offense involving conduct which requires registration pursuant to Section 290 of the Penal Code.
 - (ab) An offense involving the use of force and violence upon the person of another that amounts to a felony.
 - (ac) An offense involving sexual misconduct with children.
 - (ad) An offense involving theft of property.
 - (ae) An offense as defined in California Penal Code Sections 311, 315, 316, 318, 266, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 647 subdivision (a), 647 subdivision (b), 647 subdivision (d), or 647a, or as these Sections may hereafter be amended or renumbered.
 - (af) Any offense requiring registration under the provisions of Section 11590 of the California Health and Safety Code; any felony offense involving the possession, possession for sale, transportation, furnishing, giving away of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered.
 - (ag) Conspiracy to commit or an attempt to commit any of the aforesaid offenses.
 - (ah) The equivalent of any of the aforesaid offenses in a jurisdiction outside the State of California.

- (i) Proof of liability insurance as required by Section 3-9.10 of this chapter.
- (j) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a permit.
- (k) Addresses of all locations where any non-emergency transport vehicle is housed or posted between calls.
- (l) Such other relevant information as may be required by the City Manager.

SEC. 3-9.04. FILING FEE.

An application as required by this chapter shall be accompanied by a nonrefundable filing fee to cover administrative, investigative and other costs incident to such application. The amount of the filing fee shall be set by resolutions adopted by the City Council from time to time and on file in the offices of the City Clerk and Finance Director.

SEC. 3-9.05. INVESTIGATION OF APPLICATION.

Upon the filing of a fully completed application for a permit, the City Clerk shall fix a time for a public hearing thereon before the Council for the purpose of determining whether the public convenience and necessity require the proposed service. Before any application is acted upon by the Council, the City Manager shall cause the Police Chief to make an investigation and shall report his findings in writing, to the Council on the following:

- (a) The number, kind and type of equipment and the color scheme to be used.
- (b) The appropriateness of the vehicles proposed to be used for carrying or transporting injured or sick persons.
- (c) The ability, experience, and responsibility of the applicant, including any history of complaints filed against the applicant.
- (d) Whether the proposed non-emergency transport service is required by the public convenience and necessity.

SEC. 3-9.06. NOTICE OF HEARING.

Written notice of such hearing shall be given by the City Clerk to all persons to whom permits for operation of non-emergency transport

vehicles have been theretofore issued at least ten (10) days before the hearing. Due notice of the time and place of the public hearing before the City Council shall also be given by the City Clerk to the general public by causing a notice of such hearing to be published in a newspaper of general circulation of the City at least ten (10) days before the hearing.

SEC. 3-9.07. ELIGIBILITY FOR PERMIT.

A permit may be denied if:

- (a) An applicant's vehicle/equipment do not receive CHP certification or lack required equipment.
- (b) Any of the proposed non-emergency transport vehicle operators do not possess the certificates required by Section 9-9.03 of this chapter.
- (c) If any of the proposed non-emergency transport vehicle operators:
 - (1) Have been convicted of any of the offenses listed in Section 3-9.03(h)(7) of this chapter or a crime involving narcotics.
 - (2) Have been convicted of driving a vehicle recklessly within the two (2) years immediately preceding application for the permit.
 - (3) Have been convicted of driving a vehicle while under the influence of intoxicating liquors within the five (5) years immediately preceding application for a permit.
 - (4) Does not possess a current, valid California driver's license with appropriate Class certification to operate the non-emergency transport vehicle(s) for which the permit is being requested.
 - (5) Does not possess a current, valid ambulance driver certification issued by the California Department of Motor Vehicles.
 - (6) Does not possess a current, valid emergency medical technician certification, Level 1 or higher, or Level 1A or higher if a proposed non-emergency transport vehicle is an ambulance, or medical license.

- (d) The applicant's color, scheme, insignia, name, monogram or other distinguishing characteristic conflicts with or imitates that of another person in a manner which may mislead or deceive the public.
- (e) The applicant cannot provide evidence of insurance coverage as required by Section 3-9.10 of this chapter.
- (f) The proposed non-emergency transport service is not required by the public convenience and necessity.

In the event that an application for a non-emergency transport permit is denied, Council shall set forth the specific factual grounds on which the denial is based. Denial of an application for a non-emergency transport permit by City Council constitutes a final decision.

SEC. 3-9.08. ISSUANCE OF NON-EMERGENCY TRANSPORT OPERATOR'S PERMIT.

Upon completing its public hearing, the Council shall grant the applicant a permit if it finds:

- (a) That the vehicles described in the application and proposed to be used are appropriate for the purpose of non-emergency transport.
- (b) That the color scheme, insignia, name, monogram or other distinguishing characteristics proposed to be used upon such non-emergency transport vehicles is not in conflict with and do not imitate any color scheme, insignia, name, monogram or other distinguishing characteristics used by any other person, in such manner as to mislead or tend to mislead, deceive, or defraud the public.
- (c) That the applicant is fit, willing and able to perform non-emergency transport service and to conform to the provisions of this chapter, and such rules and regulations as may be promulgated by the Council. In making such findings, the Council shall take into consideration the character, experience, and responsibility of the applicant.
- (d) That the proposed non-emergency transport service is required by the public convenience and necessity. In making such finding, the Council shall take into consideration the number of non-emergency transport vehicles already in operation, whether existing non-emergency transport service is adequate to meet

public need, and the probable effect of increased non-emergency transport service on local traffic conditions.

- (e) None of the factors enumerated in Section 3-9.07 of this chapter exist.

SEC. 3-9.09. FORM OF NON-EMERGENCY TRANSPORT PERMIT.

The Council, by resolution, may authorize a non-emergency transport permit to the person or persons entitled thereto by having complied with the requirements of this chapter, and all the requirements of this chapter having been met; and the Council in its discretion shall determine the total number of non-emergency transport vehicles which may be operated under such permit. The permit when issued shall state the name and address of the applicant, the number of non-emergency transport vehicles that may be operated under said permit, and the date of issuance thereof. No permit authorized hereunder shall be issued to any person who shall not have fully complied with all the requirements of this chapter.

SEC. 3-9.10. POSTING OF NON-EMERGENCY TRANSPORT PERMIT.

Each person to whom a non-emergency transport permit has been issued shall cause an authenticated copy of the permit to be posted on the dashboard of each non-emergency transport vehicle for which the permit was issued in a position clearly visible or in some other area approved by the Police Chief.

SEC. 3-9.11. LIABILITY INSURANCE.

Each permittee for the operation of non-emergency transport shall provide the City Clerk with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SEC. 3-9.12. TRANSFER PERMIT.

No permit for the operation of a non-emergency transport service may be sold, assigned, mortgaged, or otherwise transferred without the consent of the Council.

Application for transfer of any permit for a non-emergency transport service shall be subject to the same terms, conditions, fees, and requirements as in the application for an original permit.

SEC. 3-9.13. SUSPENSION AND REVOCATION OF NON-EMERGENCY TRANSPORT PERMIT.

The Council may at any time revoke, suspend or change a permit granted the non-emergency transport permittee after proper written notice to and opportunity of hearing given to the owner thereof if the permittee fails to operate a non-emergency transport vehicle authorized hereunder in accordance with the provisions of this chapter as now constituted or as the same may be hereafter amended.

SEC. 3-9.14. SURRENDER OF SUSPENDED OR REVOKED PERMIT.

All permits which have been suspended or revoked by the Council shall be surrendered to the Police Chief and the operation of all non-emergency transport vehicles covered by such permits shall cease and the continued operation thereof shall thereafter constitute a violation of this chapter.

SEC. 3-9.15. CHANGE IN NON-EMERGENCY TRANSPORT VEHICLES.

Should there be any sale, destruction, addition, replacement or material change in any non-emergency transport vehicle covered by the above-described permit, the permittee must apply to the police department within thirty (30) days of such change for an amendment of the permit. The amendment shall be granted upon receipt of written particulars concerning the change and proof that any new, substitute or materially altered vehicle meets the above-described requirements of this chapter.

SEC. 3-9.16. OPERATION OF NON-EMERGENCY TRANSPORT SERVICE.

Permittee shall ensure that the non-emergency transport service authorized hereunder is operated in accordance with the provisions of this chapter, that all personnel operating a non-emergency transport vehicle covered by the permit maintain all of the certifications required by Section 9-9.03 of this chapter, and that no personnel who have been convicted of any of the offenses listed in Section 3-9.06 of this chapter are allowed to operate any non-emergency transport vehicle covered by the permit.

In conjunction with its annual business license renewal pursuant to Title VI, the permittee shall submit a copy of current, valid California Highway Patrol ambulance equipment/vehicle certification or safety inspection certificate for each vehicle covered by the permit and an affidavit certifying under penalty of perjury that all personnel operating such vehicles are in compliance with the requirements of this chapter. In addition, the permittee shall review the last application made to the

City under Section 3-9.03, and any supplements or amendments to such application, and report any changes in the factors listed in Section 3-9.03 in a form approved by the Finance Director or the Director's designee.

SEC. 3-9.17. NUMBER.

Each non-emergency transport vehicle shall bear a number on the outside of the vehicle at such places and of the type and design prescribed by the Police Chief, or the Police Chief's designee.

SEC. 3-9.18. EXAMINATION OF RECORDS.

The Finance Director, or the Director's designee, is hereby authorized to examine, audit, and inspect such books and records of any permittee as may be necessary in the Director's judgment to ascertain whether such permittee is complying with the provisions of this chapter.

All permittees, applicants for permits, and persons engaged in business in the City are hereby required to permit an examination of such books and records for the purpose aforesaid. It shall be unlawful for any person to fail, neglect or refuse to produce such books and records for examination by the Director, or the Director's designee, when requested to do so.

SEC. 3-9.19. CONVERSION OF PERMITS.

Any person who has an active permit issued by the City of Modesto for operation of a limited ambulance as of the effective date of this chapter shall be entitled to a non-emergency transport permit without filing a new application with the City if, within sixty (60) days of the effective date of this ordinance, he or she:

- (a) Provides all of the information and documentation listed in Section 3-9.03 of this chapter to the Finance Director or the Director's designee in a form approved by the Director; and
- (b) None of the factors enumerated in Section 3-9.07 of this chapter exist.

SEC. 3-9.20. PENALTY PROVISIONS.

A violation of any provision of this chapter shall be punishable as a misdemeanor, or as provided under any remedy available at law.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 1994, 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: 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. 2928-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 11th day of October, 1994, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Muratore , was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson, Mayor Lang

APPROVED: 

MAYOR RICHARD A. LANG

ATTEST: NORRINE COYLE, City Clerk

EFFECTIVE DATE: November 10, 1994

ORDINANCE NO. 2929 -C.S.

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

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

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Morse Road and Carpenter Road	40 miles per hour	June 26, 1994
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	July 1, 1994
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, eastbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, westbound between Tully Road and McHenry Avenue	45 miles per hour	June 24, 1994

BRIGGSMORE AVENUE, westbound between Coffee Road and McHenry Avenue	45 miles per hour	August 10, 1993
BRIGGSMORE AVENUE, eastbound between McHenry Avenue and 1,000 feet west of Coffee Road	45 miles per hour	June 24, 1994
BRIGGSMORE AVENUE, eastbound between a point 1,000 feet west of Coffee Road and Coffee Road	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	August 5, 1993
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road	50 miles per hour	June 24, 1994
BRIGHTON AVENUE, between Coffee Road and Locke Road	35 miles per hour	January 11, 1993
CALIFORNIA AVENUE, between Carpenter Road and North Martin Luther King Drive within the City limits	35 miles per hour	July 20, 1994
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	40 miles per hour	August 9, 1993
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	35 miles per hour	May 14, 1993
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	50 miles per hour	June 26, 1994
CARVER ROAD, between M.I.D. Lateral #6 and Brixton Lane	40 miles per hour	June 18, 1991

CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	June 25, 1994
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	35 miles per hour	June 25, 1994
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	35 miles per hour	June 25, 1994
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	January 29, 1993
CLAUS ROAD, between M.I.D. Lateral #3 and 200 feet south of Scenic Drive	50 miles per hour	August 5, 1993
CLAUS ROAD, between 200 feet south of Scenic Drive and Yosemite Boulevard	50 miles per hour	February 14, 1989
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	45 miles per hour	July 15, 1992
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	40 miles per hour	August 12, 1993
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	August 5, 1993
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	August 5, 1993
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	August 9, 1993
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	March 13, 1992

CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	35 miles per hour	July 19, 1994
CROWS LANDING ROAD, between Blankenburg Avenue to School Avenue, within the City limits	40 miles per hour	July 20, 1994
DALE ROAD, between Pelandale Avenue and Snyder Avenue, within the City limits	40 miles per hour	October 26, 1992
DALE ROAD, between Snyder Avenue and Veneman Avenue	40 miles per hour	October 26, 1992
DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	August 9, 1993
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	August 17, 1994
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	May 21, 1990
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	40 miles per hour	July 19, 1994
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	January 7, 1993
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	35 miles per hour	January 7, 1993
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	35 miles per hour	January 7, 1993
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	35 miles per hour	January 7, 1993

FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	June 24, 1994
FLOYD AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 24, 1994
FLOYD AVENUE, between Oakdale Road and Roselle Avenue	40 miles per hour	June 24, 1994
GRANGER AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	July 11, 1994
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	July 11, 1994
HATCH ROAD, between Crows Landing Road and Carpenter Road within the City limits	45 miles per hour	January 28, 1992
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	July 11, 1994
KANSAS AVENUE, between Emerald Avenue and Ninth Street	35 miles per hour	July 11, 1994
KANSAS AVENUE, between Morse Road and Carpenter Road within the City limits	40 miles per hour	July 11, 1994
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	25 miles per hour	May 21, 1990
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	October 27, 1988
LA LOMA AVENUE, between H Street and Santa Ana Avenue	35 miles per hour	July 13, 1994

LA LOMA AVENUE, between Santa Ana Avenue and Yosemite Boulevard	35 miles per hour	July 13, 1994
LAKWOOD AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 28, 1993
LINCOLN AVENUE, between 650 feet north of M.I.D. Lateral #2 and Yosemite Boulevard	40 miles per hour	July 19, 1994
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	May 29, 1990
MERLE AVENUE, between Oakdale Road and Roselle Avenue	35 miles per hour	March 14, 1989
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	July 19, 1994
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	March 4, 1992
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	March 12, 1992
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue within the City limits	40 miles per hour	January 28, 1992
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	July 11, 1994
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	July 11, 1994
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	January 28, 1993

NEEDHAM STREET, between 9th and L Streets	35 miles per hour	January 28, 1993
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and California Avenue	30 miles per hour	March 13, 1992
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	July 11, 1994
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	50 miles per hour	March 14, 1989
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	50 miles per hour	June 25, 1994
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	June 25, 1994
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	June 25, 1994
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	June 24, 1994
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	35 miles per hour	June 24, 1994
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	January 8, 1993
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	June 25, 1994
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	June 25, 1994

ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	June 25, 1994
PARADISE ROAD, between Vernon Avenue and North Martin Luther King Drive within the City limits	40 miles per hour	June 26, 1994
PARADISE ROAD, between North Martin Luther King Drive and Washington Street	35 miles per hour	July 27, 1994
PARKER ROAD, between Claus Road and Atchinson, Topeak and Santa Fe Railroad Tracks	45 miles per hour	November 30, 1992
PELANDALE AVENUE, between Sisk Road and Dale Road within the City limits	45 miles per hour	January 28, 1992
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	40 miles per hour	December 30, 1992
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	40 miles per hour	December 30, 1992
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	August 9, 1993
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	August 30, 1989
RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	30 miles per hour	July 19, 1994
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	July 20, 1994

ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	July 20, 1994
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	December 30, 1992
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	January 8, 1993
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	January 8, 1993
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	February 12, 1991
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue within the City limits	40 miles per hour	September 28, 1990
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	April 29, 1992
RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	July 6, 1992
RUMBLE ROAD, between Conant Avenue and Tully Road	35 miles per hour	January 8, 1993
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	May 29, 1990
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	January 8, 1993
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive within the City limits	30 miles per hour	July 19, 1994

SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	January 27, 1993
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	June 25, 1994
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	40 miles per hour	October 28, 1992
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	40 miles per hour	January 8, 1993
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	May 26, 1992
SCENIC DRIVE, between Coffee Road and Bodem Street	35 miles per hour	June 25, 1994
SHARON AVENUE, between Fine Avenue and Claus Road	40 miles per hour	December 7, 1992
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	January 11, 1993
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	January 19, 1993
SISK ROAD, between 600 feet north of Vintage Drive and Standiford Avenue	40 miles per hour	June 25, 1994
SISK ROAD, between Pelandale Avenue and Vintage Drive	45 miles per hour	June 25, 1994
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	45 miles per hour	June 18, 1991
SNYDER AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	October 26, 1992

SNYDER AVENUE, between Prescott Road and Carver Road within the City limits	45 miles per hour	November 5, 1992
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	40 miles per hour	June 23, 1994
STANDIFORD AVENUE, between Prescott Road and Tully Road	40 miles per hour	June 23, 1994
STANDIFORD AVENUE, between Sisk Road and Prescott Road	45 miles per hour	June 23, 1994
SUNRISE AVENUE, between Lucern Avenue and Floyd Avenue	35 miles per hour	June 26, 1994
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	August 31, 1989
SUTTER AVENUE, between Paradise Road and Robertson Road within the City limits	30 miles per hour	July 27, 1994
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	October 26, 1988
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	June 23, 1994
SYLVAN AVENUE, between Coffee Road and Oakdale Road	40 miles per hour	June 23, 1994
TENAYA DRIVE, between Santa Cruz Avenue and Mitchell Road within the City limits	30 miles per hour	June 4, 1990
TULLY ROAD, between M.I.D. Lateral #6 and Standiford Avenue	45 miles per hour	January 20, 1993

TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	March 13, 1992
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	July 19, 1994
UNION AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	February 12, 1991
VENEMAN AVENUE, between Dale Road and Regency Park Drive	35 miles per hour	March 12, 1992
VENEMAN AVENUE, between Dale Road and Conant Avenue	35 miles per hour	June 22, 1994
VENEMAN AVENUE NORTH, between Regency Park Drive and Snyder Avenue	25 miles per hour	October 28, 1988
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	January 18, 1993
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	June 19, 1991
WHITMORE AVENUE, between Ustick Road and Crows Landing Road within the City limits	45 miles per hour	February 13, 1991
WOODLAND AVENUE, between Morse Road and Carpenter Road, within the City limits	35 miles per hour	October 26, 1988
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	January 27, 1992

WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	January 20, 1993
WYLIE DRIVE, between Rose Avenue and Oakdale Road	30 miles per hour	October 26, 1988
9TH STREET, between Carpenter Road and 400 feet north of Tully Road within the City limits	45 miles per hour	May 26, 1992
9TH STREET, between P Street and L Street	35 miles per hour	May 26, 1992

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

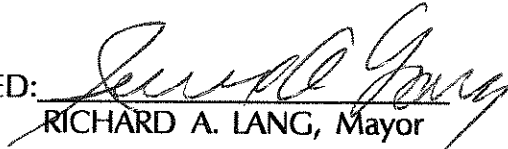
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 18th day of October, 1994, by Councilmember Muratore, 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

Ord. No. 2929-C.S.

FINAL ADOPTION CLAUSE

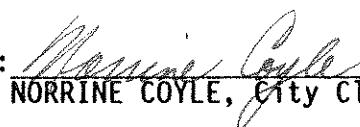
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of November, 1994, Councilmember Friedman moved its final adoption, which motion being 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: December 1, 1994

ORDINANCE NO. 2930-C.S.

AN ORDINANCE AMENDING SECTION 2-1.01 OF CHAPTER 1 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO REGULAR MEETINGS.

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

SECTION 1. AMENDMENT OF CODE. Section 2-1.01 of Chapter 2 of

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

SEC. 2-1.01. REGULAR MEETINGS.

- (a) **Time.** Regular meetings of the City Council shall be held on the first, second, third and fourth Tuesday of each month, except for the month of December when meetings shall be held on the first and second Tuesdays only. The meetings held on the first and third Tuesday shall commence at the hour of 7:00 p.m., and the meetings held on the second and fourth Tuesday shall commence at the hour of 4:00 p.m. Whenever the day fixed for any regular meeting of the Council falls upon a day designated by the City of Modesto as a holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.
- (b) **Place.** All regular meetings of the Council shall be held in the Council Chambers in the City Hall located at 11th and H Streets, Modesto, California. If, due to an emergency it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor.
- (c) **Public.** All meetings of the Council shall be open to the public; provided, however, the City Council may hold executive sessions as provided by the laws of the State of California.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of November, 1994, 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

Ord. No. 2930-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 15th day of November, 1994, 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, Fiedman, McClanahan,
Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 15, 1994

ORDINANCE NO. 2931-C.S.

AN ORDINANCE OF THE CITY OF MODESTO, CALIFORNIA, ESTABLISHING
AND AMENDING CERTAIN LIMITATIONS WITH RESPECT TO THE
REDEVELOPMENT PLAN FOR THE MODESTO REDEVELOPMENT PROJECT

WHEREAS, the City Council of the City of Modesto adopted Ordinance No. 2203-C.S. on July 12, 1983, approving and adopting the Redevelopment Plan (the "Redevelopment Plan") for the Modesto Redevelopment Project pertaining to the original project area (the "Original Project Area"); Ordinance No. 2269-C.S. on June 19, 1984 amending the Redevelopment Plan; and Ordinance No. 2793-C.S. on November 5, 1991, approving and adopting an Amended Redevelopment Plan, and adding certain area (the "Added Area") to the Original Project Area; and

WHEREAS, because the Added Area includes certain areas located within the unincorporated area of the County, the Board of Supervisors of the County of Stanislaus adopted Ordinance No. C.S. 454 on November 19, 1991, approving and adopting the Amended Redevelopment Plan; and

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") has been designated by the City Council as the official redevelopment agency to carry out in the City of Modesto, and authorized by the Board of Supervisors to carry out within that area of the Added Area located within the County, the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*) and to implement the Redevelopment Plan, as amended; and

WHEREAS, Section 33333.6 of the Community Redevelopment Law established certain limitations on the incurring and repaying of indebtedness and the duration of redevelopment plans, which limitations apply to every redevelopment plan adopted on or before December 31, 1993; and

WHEREAS, Section 33333.6 further provides that unless a redevelopment plan adopted prior to January 1, 1994, already contains limitations which comply with that Section, the legislative body shall adopt an ordinance on or before December 31, 1994, to amend the redevelopment plan either (1) to amend an existing time limit that exceeds the applicable time limit established by that Section, or (2) to establish time limits that do not exceed the provisions of that Section; and

WHEREAS, Section 33333.6 further provides that if an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by that Section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The time limits on the establishing of loans, advances and indebtedness, as set forth in the last paragraph of Section 502 of the Redevelopment Plan, is hereby amended to read: "The Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Project after: January 1, 2004, with respect to the Original Project Area; and after November 5, 2011, with respect to the Added Area. Loans, advances or indebtedness may be repaid over a period of time beyond said time limit."

Section 2. The time limit on the effectiveness of the Redevelopment Plan, as set forth in Section 800 of the Redevelopment Plan, shall be amended to read: "Except for the nondiscrimination and nonsegregation provisions which shall run in perpetuity, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for forty (40) years from the date of adoption of this Plan, with respect to the Original Project Area, and forty (40) years from the adoption of the Amendment adding territory, with respect to the Added Area." Based upon the dates of adoption of the Redevelopment Plan and the Amendment adding territory, the effectiveness of the Redevelopment Plan shall terminate on: July 12, 2023, with respect to the Original Project Area; and November 5, 2031, with respect to the Added Area.

Section 3. Except for loans and indebtedness approved or incurred prior to December 31, 1993, the Agency shall not pay indebtedness or receive property taxes pursuant to Health and Safety Code Section 33670 after 10 years from the termination of the effectiveness of the Redevelopment Plan, as established in Section 2 of this Ordinance. Based upon the termination dates established in Section 2 of this Ordinance, the Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 after: July 12, 2033, with respect to the Original Project Area; and November 5, 2041, with respect to the Added Area; provided, however, that any loans and other indebtedness approved or incurred by the Agency prior to December 31, 1993, to finance the Project, including without limitation the Reimbursement Agreement between the Agency and the City of Modesto (the "City") relating to the payment of lease payments under a related Lease Agreement, dated as of May 1, 1993, between the City and the Modesto Public Financing Authority (the "Authority") and the repayment of those certain 1993 Community Center Refinancing Project Certificates of Participation, issued by the City and Authority in 1993, may be repaid in accordance with the Reimbursement Agreement and the related Lease Agreement and bond documents relating to such indebtedness, and the Agency may receive property tax increments after the dates set forth above as necessary to repay such debt accordingly.

Section 4. This Ordinance amending the Redevelopment Plan is adopted pursuant to Health and Safety Code Section 33333.6. In addition to the specific

limitations established and amended as provided in Sections 1 through 3 of this Ordinance, this Ordinance hereby incorporates by reference those provisions of subsections (g) and (h) of said Section 33333.6.

Section 5. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 6. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its passage.

Section 7. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance and to cause the same to be published once in the *Modesto Bee*, a newspaper of general circulation, published and circulated in the City of Modesto, California.

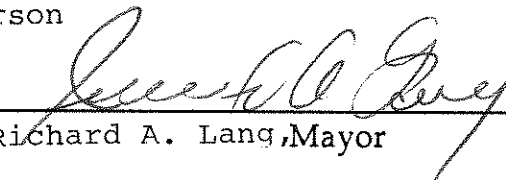
Section 8. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof had been deleted.

PASSED AND ADOPTED this 15th day of November, 1994, by the following vote:

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

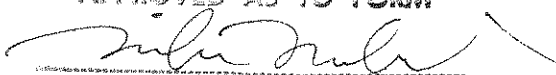
NOES: Councilmembers: None

ABSENT: Councilmembers: Patterson


Richard A. Lang, Mayor

ATTEST:


Norrine Coyle, City Clerk

APPROVED AS TO FORM

Michael D. Milich, City Attorney

Ord. No. 2931-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of November, 1994, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: 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: December 22, 1994

ORDINANCE NO. 2932-C.S.

AN ORDINANCE AMENDING ARTICLE 4 AND ARTICLE 5 OF CHAPTER 12 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO GRAFFITI.

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

SECTION 1. AMENDMENT OF CODE. Article 4 of Chapter 12 of Title IV of the Modesto Municipal is hereby amended to read as follows:

ARTICLE 4. DEFACEMENT OF PROPERTY

SEC. 4-12.400. PURPOSE.

The purpose of this legislation is to provide programs for removal of graffiti from public and private property within the City and to establish regulations designed to prevent and control the spread of graffiti in Modesto.

The City Council finds and determines that the increase of graffiti on both public and private buildings, structures, and in other places, creates a condition of blight within the City which can result in the deterioration of property values, business opportunities, and enjoyment of life for persons using adjacent and surrounding properties. The Council further finds and determines that graffiti is inconsistent with the City's property maintenance goals, crime prevention programs, and aesthetic standards, and, unless graffiti is quickly removed from public and private properties, other properties soon become the targets of graffiti.

SEC. 4-12.401. DEFINITIONS.

As used in this Article:

- (a) **"Graffiti"** means any inscription, word, figure, or design that is marked, etched, scratched, drawn, sprayed, painted, pasted or otherwise affixed to, or on, any surface to the extent that same was unauthorized by the owner thereof, or, despite authorization, is otherwise deemed by the City Council to be a public nuisance.
- (b) **"Property"** means real or personal property, whether publicly or privately owned, within the City.

- (c) **"Pressurized container"** means any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps or similar propulsion devices.
- (d) **"Ink marker"** means any broad tipped marker pen with a tip of one quarter inch or greater in width.
- (e) **"Paint stick"** means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface and upon application leaving a mark upon property of at least one quarter inch or greater in width.
- (f) **"Graffiti implement"** means a pressurized container, ink marker, or a paint stick.
- (g) **"Responsible party"** means any person who is the owner of property, or who has primary responsibility for control over property, or who has primary responsibility for the repair and maintenance of property.

SEC. 4-12.402. GRAFFITI DECLARED A PUBLIC NUISANCE.

The City Council hereby declares that graffiti is a public nuisance and is subject to punishment and abatement as prescribed in this Code.

SEC. 4-12.403. GRAFFITI PROHIBITED.

- (a) It shall be unlawful for any person to apply graffiti upon any property within the City.
- (b) It shall be unlawful for any person owning or otherwise being in control of any property within the City to maintain, permit or allow any graffiti to remain upon such property when the graffiti is visible from the street or other public or private property.

SEC. 4-12.404. ASSISTING IN OR ENCOURAGING VIOLATIONS.

It shall be unlawful for any person to assist, aid, abet or encourage another to violate the provisions of this Article by words or overt act.

SEC. 4-12.405. PUNISHMENT PROVISIONS.

- (a) Each fine imposed for a violation of this Article shall be (i) a fine of one hundred twenty-five dollars (\$125.00) for a first violation;

- (ii) a fine of two hundred fifty dollars (\$250.00) for a second violation within a year; (iii) a fine of five hundred dollars (\$500.00) for each additional violation within one (1) year.
- (b) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this Article, the court shall, in addition to any fine imposed pursuant to this Article, and at the City's option, order the defendant to complete community service, including graffiti removal service, of not less than six-hours and no more than forty-eight hours for a first conviction. Upon the second and subsequent conviction, a person shall be required, at the City's option, to perform community service, including graffiti removal service of not less than forty-eight-hours and no more than ninety-six-hours. A defendant shall be ordered to complete community service during a time other than during his or her hours of school attendance or employment.
- (c) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this Article, the court shall, in addition to any punishment imposed pursuant to this Article, and at the victims option, order the defendant to perform the necessary labor to cleanup, repair, or replace the property damaged by that person.
- (d) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this Article, the court shall, in addition to any punishment imposed pursuant to this Article, and at the victims option, and as restitution, order the defendant to pay for any related costs incurred for the cleanup, repair, or replacement of the property damaged by that person.
- (e) If a minor is personally unable to pay any fine or restitution levied for violating any provision of this Article, the parent or legal guardian of the minor shall be liable for payment of the fine and restitution.

SEC. 4-12.406. REMOVAL OF GRAFFITI.

- (a) **Right of City to require removal by Responsible Party.** It is unlawful for any Responsible Party to permit property that has been defaced with graffiti to remain so defaced for a period of three (3) calendar days after having been given notice of the violation of this section.
- (b) **Consent to enter; abatement upon failure to obtain consent.**

- (1) **Securing Responsible Party's consent.** Prior to entering upon private property or property owned by a public entity other than the City for the purpose of removal of graffiti, the City shall attempt to secure the consent of the Responsible Party.
- (2) **Failure to obtain Responsible Party's consent.** If a Responsible Party fails to remove the offending graffiti within the time herein specified or if the Responsible Party has refused to give consent to the City for entry on terms acceptable to the City consistent with the provisions of this section, the City may commence Abatement of Graffiti Nuisance and Recovery of Expense of Abatement proceedings for the removal of the graffiti according to the procedures herein.

SEC. 4-12.407. ABATEMENT OF GRAFFITI NUISANCE AND RECOVERY OF EXPENSE OF ABATEMENT.

- (a) Abatement of graffiti nuisance and recovery of expense of abatement proceedings commenced against a Responsible Party shall be according to the following procedure:
 - (1) If a hearing is requested by the Responsible Party, the City Manager, or his or her designee ("Hearing Officer"), shall give the Responsible Party not less than forty-eight (48) hours notice of a hearing to be held by the hearing officer for the purpose of showing cause why the public nuisance should not be abated by the City. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the Responsible Party may be heard and provided with the opportunity to show cause why the nuisance should not be abated. Following the hearing, the hearing officer shall determine whether abatement of the nuisance shall be commenced.
 - (2) If the hearing officer determines that abatement of the nuisance shall be commenced, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.
 - (3) If a hearing has not been requested by the Responsible Party, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

- (4) Upon removal of the public nuisance, the City may provide an accounting of the expense of abatement along with a demand for payment to the Responsible Party.
 - (5) If payment is not made within thirty (30) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of one hundred (\$100.00) dollars plus interest on the unpaid amount plus penalty, which interest shall accrue at the rate of one and one-half (1½) percent per month until paid.
 - (6) In the event the expense of abatement has not been paid within thirty (30) days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest therein, shall constitute a lien pursuant to Government Code Sections 38773 and 38773.1 against the property of the Responsible Party. Prior to recording a notice of lien, the hearing officer shall provide notice pursuant to Government Code Section 38773.1. Any such lien not paid by June 30 of each year shall, upon adoption of a resolution by the City Council, be collected along with, and in the same manner as, the general property taxes. The lien property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.
 - (7) As an alternative to a lien and pursuant to Government Code Section 38773.5, the expense of abatement may constitute a special assessment against a parcel of land owned by the Responsible Party. The assessment shall be collected as provided for in Government Code Section 38773.5.
 - (8) In addition to any other remedy provided herein or available at law, expense of abatement pursuant to Government Code Sections 38773, 38773.1 and 38773.5 shall constitute a personal obligation against the Responsible Party.
- (b) The recovery of expense of abatement of any nuisance resulting from the defacement of property by graffiti or any other inscribed material by a minor who has created, caused, or committed the nuisance shall be according to the following procedure:

- (1) The City Manager, or his or her designee ("Hearing Officer"), shall give the minor and the parent or guardian having custody and control of the minor not less than forty-eight (48) hours notice of a hearing to be held by the hearing officer for the purpose of showing cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the minor and the parent or guardian having custody and control of the minor may each be heard and provided with the opportunity to show cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor. Following the hearing, the hearing officer shall determine whether the City should recover expense of abatement from the minor and the parent or guardian having custody and control of the minor.
- (2) If the hearing officer determines that the City should recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor, the City may provide an accounting of the expense of abatement along with a demand for payment to the minor and the parent or guardian having custody and control of the minor.
- (3) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor for the expense of abatement pursuant to Government Code Sections 38772, 38773.2, and 38773.6. If payment is not made within thirty (30) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of one hundred (\$100.00) dollars plus interest on the unpaid amount plus penalty, which interest shall accrue at the rate of one and one-half (1½) percent per month until paid.
- (4) In the event the expense of abatement has not been paid within thirty (30) days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest therein, shall constitute a lien pursuant to Government Code Sections 38772 and 38773.2 against the property of the minor and against the

property of the parent or guardian having custody and control of the minor. Prior to recording a notice of lien, the hearing officer shall provide notice pursuant to Government Code Section 38773.2. Any such lien not paid by June 30 of each year shall, upon adoption of a resolution by the City Council, may be collected along with, and in the same manner as, the general property taxes. The lien property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

- (5) As an alternative to a lien and pursuant to Government Code Section 38773.6, the expense of abatement shall constitute a special assessment against a parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment shall be collected as provided for in Government Code Section 38773.6.
- (6) In addition to any other remedy provided herein or available at law, the expense of abatement pursuant to Government Code Section 38772 shall constitute a personal obligation against the minor and a personal obligation against the parent or guardian having custody and control of the minor.

SEC. 4-12.408. ACCESSIBILITY TO GRAFFITI IMPLEMENTS.

Every person, firm or entity who owns, conducts, operates, or manages a retail commercial establishment selling graffiti implements within the City of Modesto shall store, stock, keep or display for sale or transfer graffiti implements in an area secure and not accessible to the public in the regular course of business and accessible only to employees of such retail commercial establishments.

SEC. 4-12.409. REWARD.

The City hereby offers a reward of one hundred dollars (\$100.00) or such other sum as Council may direct for information leading to the arrest and conviction of any person injuring, defacing, or destroying property by the application of graffiti.

SEC. 4-12.410. CUMULATIVE REMEDIES.

The procedures set forth in this article are not exclusive and nothing contained herein shall be deemed to preclude the City Attorney from

initiation of any civil or criminal action or from the pursuit of any available remedy.

SEC. 4-12.411. SEVERABILITY.

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

ARTICLE 5. GRAFFITI REMOVAL ASSISTANCE PROGRAM

SEC. 4-12.500. APPROPRIATION OF FUNDS.

The City may appropriate money from the General Fund to remove graffiti or other inscribed material from public or privately owned property within the City, and to replace or repair public or privately owned property within the City that has been defaced with graffiti or other inscribed material that cannot be removed cost effectively.

SEC. 4-12.501. AUTHORIZATION.

The provisions of this article authorize only the removal of the graffiti or other inscribed material itself, or, if the graffiti or other inscribed material cannot be removed cost effectively, the repair or replacement of the portion of the property that was defaced, and not the painting, repair, or placement of other parts of the property that were not defaced.

SEC. 4-12.502. CONSENT.

The removal, repair, or replacement may be performed, in the case of publicly owned property, only after securing the consent of the public entity having jurisdiction over the property, and in the case of privately owned property, only after securing the consent of the owner or possessor.

SEC. 4-12.503. RECOVERY OF CITY FUNDS.

- (a) Pursuant to Government Code Section 53069.3(d), if the City has used funds pursuant to this article to remove graffiti or other

inscribed material created, caused, or committed by a minor, the City may recover the funds according to the following procedure:

- (1) The City Manager, or his or her designee ("Hearing Officer"), shall give the minor and the parent or guardian having custody and control of the minor not less than forty-eight (48) hours notice of a hearing to be held by the hearing officer for the purpose of showing cause why the City should not recover the funds from the minor and the parent or guardian having custody and control of the minor. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the minor and the parent or guardian having custody and control of the minor may each be heard and provided with the opportunity to show cause why the City should not recover funds from the minor and the parent or guardian having custody and control of the minor. Following the hearing, the hearing officer shall determine whether the City should recover funds from the minor and the parent or guardian having custody and control of the minor.
- (2) If the hearing officer determines that the City should recover funds from the minor and the parent or guardian having custody and control of the minor, the City shall provide an accounting of the funds along with a demand for payment to the minor and the parent or guardian having custody and control of the minor.
- (3) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor for the funds used by the City pursuant to Government Code Sections 38772, 38773.2, and 38773.6. If payment is not made within thirty (30) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of one hundred (\$100.00) dollars plus interest on the unpaid amount plus penalty, which interest shall accrue at the rate of one and one-half (1½) percent per month until paid.
- (4) In the event the funds have not been paid within thirty (30) days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest therein, shall constitute a lien pursuant to Government Code Sections 38772 and

38773.2 against the property of the minor and against the property of the parent or guardian having custody and control of the minor. Prior to recording a notice of lien, the hearing officer shall provide notice pursuant to Government Code Section 38773.2. Any such lien not paid by June 30 of each year shall, upon adoption of a resolution by the City Council, may be collected along with, and in the same manner as, the general property taxes. The lien property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

- (5) As an alternative to a lien and pursuant to Government Code Section 38773.6, the funds shall constitute a special assessment against a parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment shall be collected as provided for in Government Code Section 38773.6.
- (6) In addition to any other remedy provided herein or available at law, the funds pursuant to Government Code Section 38772 shall constitute a personal obligation against the minor and a personal obligation against the parent or guardian having custody and control of the minor.

SEC. 4-12.504. CUMULATIVE REMEDIES.

The procedures set forth in this article are not exclusive and nothing contained herein shall be deemed to preclude the City Attorney from initiation of any civil or criminal action or from the pursuit of any available remedy.

SEC. 4-12.505. SEVERABILITY.

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

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation on and after January 1, 1995.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of November, 1994, by Councilmember Muratore, 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: 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. 2932-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of November, 1994, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: 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: January 1, 1995

Clerk

Identical to Ord. No.
2934-C.S. except for
Sec. 10-2.2114(4)

ORDINANCE NO. 2933 -C.S.

AN ORDINANCE AMENDING ARTICLE 21 OF CHAPTER 2 OF
TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO
ZONING REGULATIONS. (SIGN REGULATIONS)

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

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

ARTICLE 21. SIGN REGULATIONS

SEC. 10-2.2101. PURPOSE.

The purpose of these sign regulations is to provide minimum standards to safeguard life, health, property and public welfare in keeping with the character of the City of Modesto by regulating and controlling the size, height, structural design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures and to accomplish the following results:

- (a) To protect and enhance the character of residential neighborhoods and property values by prohibiting obtrusive and incompatible signs; and
- (b) To promote and maintain healthy commercial centers and property values, to effectively communicate the nature of goods and services, and to avoid wasteful, ugly and unsightly competition in signs; and
- (c) To provide a reasonable and comprehensive system of controls of signs; and
- (d) To encourage signs which are well designed and pleasing in appearance, and to provide incentive and latitude for variety, good design relationship, spacing and location; and
- (e) To encourage a desirable urban character which has a minimum of overhead clutter; and
- (f) To attract and direct persons to various activities and enterprises in order to provide for the maximum public convenience; and

- (g) To enhance the economic value of the community and each area of it through the regulation of size, location, design and illumination of signs.

SEC. 10-2.2102. DEFINITIONS, A-C.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) "Area of a sign" shall mean the entire area within a single continuous perimeter enclosing the extreme limits of all elements such as boards or frames, perforated or solid backgrounds, ornamental embellishments, writings, representations, emblems or any figures or similar characters, including any spires, masts, shafts or similar projections, but excluding the necessary supports or uprights on which such sign is placed.

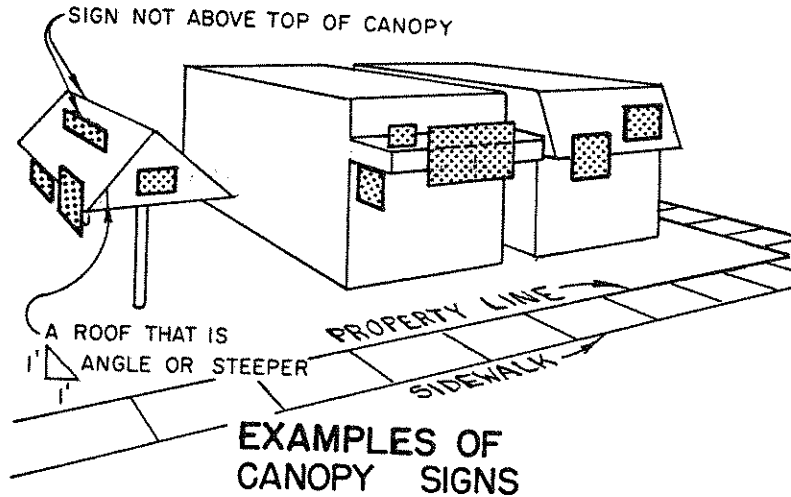


EXAMPLES OF SIGN AREA

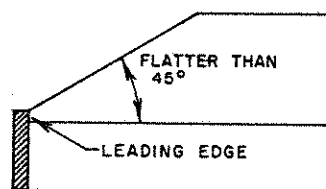
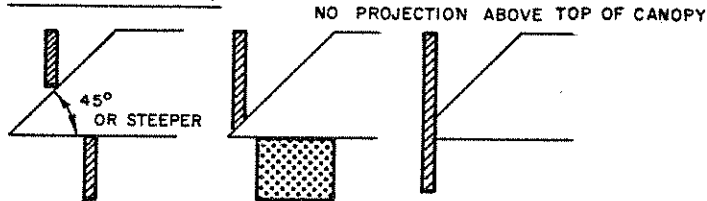
Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

- (b) "Bench sign" shall mean a City-franchised bus bench located outdoors with advertising matter thereon.

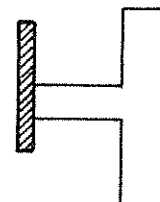
- (c) **"Bulletin board"** shall mean a sign used to announce a coming event or attraction or used to convey a specific message related to the building or use of the property on which the bulletin board is located. In all zones, bulletin boards, which are displayed so as to be viewed from a public street, highway, parking lot, walkway or mall shall be subject to the sign regulations of the zone in which the building or property is located.
- (d) **"Canopy"** shall mean a roof of a building or a fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not encroach into nor overhang a public street or alley right-of-way.
- (e) **"Canopy sign"** shall mean a sign attached to or hung from a canopy and which:
- (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a canopy except for an undercanopy sign which may be mounted at an angle to the leading edge of a canopy.
 - (3) Does not project above the top of the canopy when mounted on a canopy with a slope of forty-five (45) degrees (one [1] horizontal to one [1] vertical) or steeper, and which may be mounted anywhere on the slope.
 - (4) Does not project above the leading edge of the canopy when mounted on a canopy with a slope flatter than forty-five (45) degrees.
 - (5) On a flat canopy (no slope), projects above the top of the canopy but does not project higher than the wall of the building to which the canopy is attached.



CANOPY SIGNS



NO PROJECTION ABOVE RIDGE-LINE



MARQUEE SIGNS

ANY OF THE ABOVE SIGNS THAT OVERHANG A PUBLIC STREET OR ALLEY IN PART OR IN TOTAL.

SIGNS ON CANOPIES, ROOFS, MARQUEES

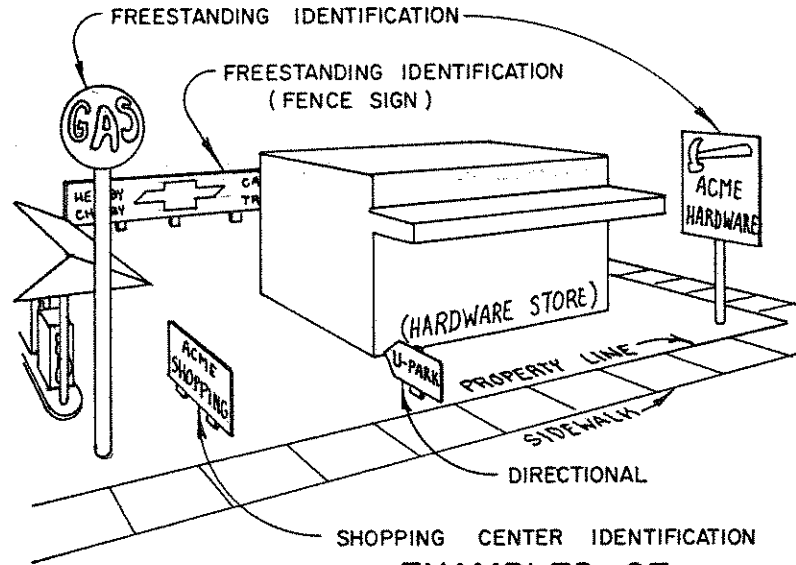
- (f) "Combined business identification sign" shall mean a freestanding sign for a business area in lieu of several exterior directional signs. A business area is defined as:

- (1) A block frontage along a street bounded by two streets or a street and an MID or TID canal, or railroad right-of-way, or the Hetch Hetchy Right-of-Way, and
- (2) A block frontage as defined above with six (6) or more businesses.
- (g) "**Construction sign**" shall mean a sign with the names of the architects, engineers, contractors, subcontractors and financing agencies of buildings and structures being constructed upon the premises on which the sign is located.
- (h) "**Corporate flag**" shall mean a flag identifying a business or firm.

SEC. 10-2.2103. DEFINITIONS, D-P.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

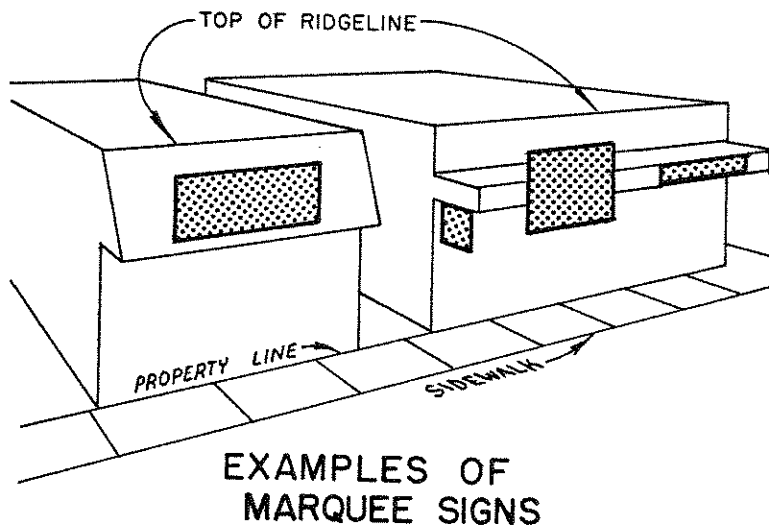
- (a) "**Directional sign**" shall mean one of two (2) types of signs. An exterior directional sign shall mean a sign oriented to a street and used to direct and control pedestrian or vehicular traffic and located on the same lot or premises as the use which it is intended to serve. An interior directional sign shall mean a directional, warning, or informational sign not bearing any advertising message readable from any street right-of-way. It shall be located on the same lot or premises as the use which it is intended to serve. When a parcel has no direct public street frontage, a directional sign oriented only to the primary street from which it receives access is allowed.
- (b) "**For sale or rent sign**" shall mean a sign advertising that the subject building or real property or portion thereof is for sale, rent or lease.
- (c) "**Freestanding sign**" shall mean a sign detached from any building or structure, and the supports of which are permanently affixed in the ground.



**EXAMPLES OF
FREESTANDING SIGNS**

- (d) **"Garage sale sign"** shall mean a sign which is used to advertise the sale of used or secondhand goods or merchandise at dwellings and on residentially zoned property; such sales are also commonly known as patio sales, yard sales, etc.
- (e) **"Height"** shall mean the vertical distance from the highest point used in measuring the area of a sign to the top of curb of the street at a point which is closest to the highest point of the sign.
- (f) **"Historic sign"** shall mean an existing sign, or refurbishing of an existing sign, or recreation of sign that once existed at a given site subject to all of the following:
 - (1) Proof of existence at the given site fifty (50) or more years ago, and
 - (2) Proof of authenticity through photographs or plans, and
 - (3) Findings by the Landmark Preservation Committee that the proposal meets the above two (2) criteria.
- (g) **"Hot air balloon"** shall mean a balloon that is filled with heated air, has a gondola, and is capable of rising and floating in the atmosphere with people aboard.
- (h) **"Identification sign"** shall mean any sign which is used to identify or advertise the occupant of a building, lot or premises or the merchandise or activity available at the building, lot or premises where the sign is located.

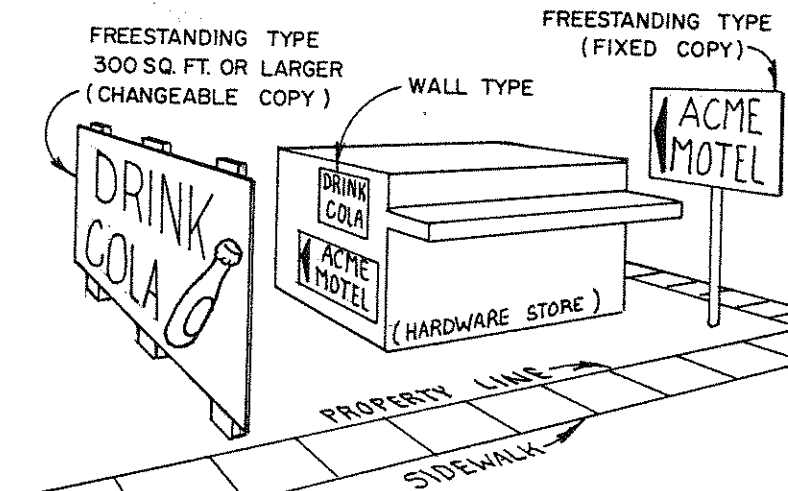
- (i) **"Lighted sign"** shall mean any sign which is illuminated either directly or indirectly by artificial light.
- (j) **"Marquee"** shall mean a fixed overhead shelter used as a roof, which may or may not be attached to a building, and which projects into or overhangs a public street or alley right-of-way.
- (k) **"Marquee sign"** shall mean a sign attached to or hung from a marquee and which:
 - (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a marquee, except for an undermarquee sign which may be mounted at an angle to the leading edge of a marquee.
 - (3) Does not project higher than the wall of the building to which the marquee is attached.



- (l) **"Open house directional sign"** shall mean a sign with the words "Open House" and may include an arrow or other directional symbol and real estate office name.

(m) "Outdoor advertising sign" shall mean any of the following:

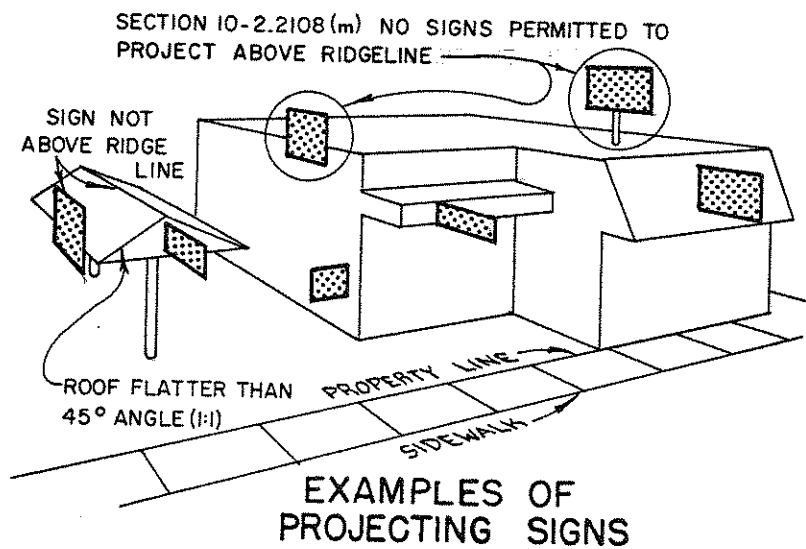
- (1) Commercial: Any sign, excepting a bench sign, that directs attention to a business, profession, product, commodity, or mercantile-oriented service that is not the primary business, profession, product, commodity or mercantile-oriented service sold, manufactured, conducted, or offered on the site on which the sign is located.
- (2) Noncommercial: Any sign, excepting a bench sign, which does not direct attention to a business, profession, product, commodity or mercantile-oriented service. This includes but is not limited to any sign expressing a personal, political, religious or social message, idea or point of view.



EXAMPLES OF
OUTDOOR ADVERTISING SIGNS

- (n) "Political sign" shall mean any impermanent sign or advertising device or display, with or without letters, words, numbers or figures thereon, which is designed to advertise a candidate for political office, a political party, or a measure scheduled for an election.

- (o) **"Principal frontage"** shall mean that wall of a building or structure which has frontage on a public street, highway, parking lot, walkway or mall and which is designated by the owner or occupant thereof as the principal frontage of said building or structure for the purposes of Section 10-2.2115(a)(1) of these regulations.
- (p) **"Projecting sign"** shall mean any of the following:
- (1) Any sign attached to and projecting from the face of a wall, canopy, or marquee.
 - (2) Any sign mounted on a canopy roof or building roof that has a slope flatter than a forty-five (45) degree angle (one [1] horizontal to one [1] vertical).



SEC. 10-2.2104. DEFINITIONS, Q-Z.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

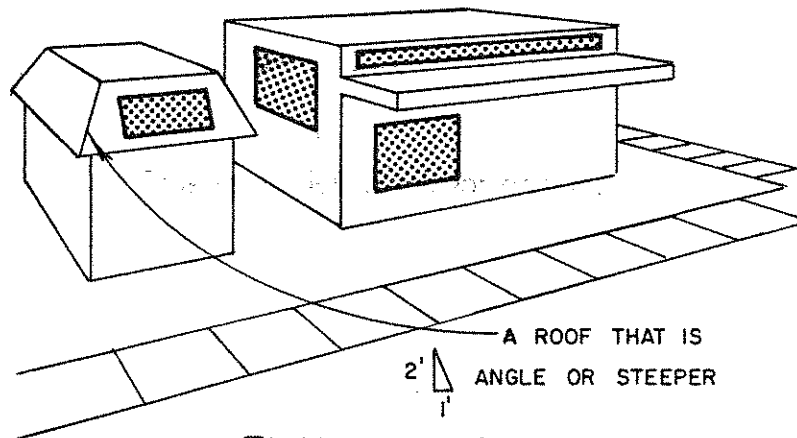
- (a) **"Ridgeline"** shall mean the peak of the roof, the top of a parapet, or the top of the wall of a building.

- (b) **"Sign"** shall mean any structure, device, letter, figure, character, poster, picture, trademark or reading matter which is used or designed to announce, declare, demonstrate, display or otherwise identify or advertise, or attract the attention of the public. However, a sign shall not include the following:
- (1) Official notices authorized by a court, public body or public officer.
 - (2) Directional, warning or informational signs authorized by federal, state or municipal authority or public utility.
 - (3) A properly displayed official flag of a government, school, religious group, or nonprofit organization.
 - (4) A memorial plaque, tablet or cornerstone indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible material and made an integral part of the building or structure, not to exceed four (4) square feet in area.
 - (5) Signs within a building except window or wall signs as hereinafter defined.
 - (6) Christmas decorations and Christmas lights, from November 15 to January 15.
 - (7) Inflatable device when utilized in conformance with Section 10-2.1009.
- (c) **"Street address sign"** shall mean the numerals of a street address for a given use or uses in a given building or buildings.
- (d) **"Subdivision sign"** shall mean a sign indicating the name of a recorded subdivision, the name of the contractor or subdivider, the name of the owner or agent, and/or giving information regarding directions, price and/or terms.
- (e) **"Subdivision directional sign"** shall mean a sign indicating the name of a recorded subdivision and information regarding location. The name of the contractor or subdivider, the name of the owner or agent and/or information regarding price and/or terms may also be noted.

- (f) "Temporary sign" shall mean any banner, pennant, valance, balloon, streamer, placard, "A" frame, sandwich board or similar impermanent sign or advertising device or display with or without letters, words, numbers or figures thereon which directs, promotes service or price, or which is otherwise designed to attract attention, except for the following:
- (1) For sale or rent sign.
 - (2) Garage sale sign.
 - (3) Open house directional sign.
 - (4) Political sign.
 - (5) Sign for fireworks stands, pumpkin sales, Christmas tree sales lots, and temporary certified farmers markets.
 - (6) Window sign.
 - (7) Corporate flag.
 - (8) Banners for grand openings, for outdoor display or sale of goods, and decorative banners as defined in Modesto Municipal Code Section 10-2.2115(a)(9), (10).

Paper signs tacked or otherwise fastened to a side of a building or bulletin board or outside a window are temporary signs unless enclosed in a frame with a glass, plexiglass, or equivalent cover. The sign area will be subject to the wall and canopy sign standards.

- (g) "Wall" shall mean any wall or element of a wall or any member or group of members, which defines the exterior boundaries or courts of a building or structure and which has a slope steeper than one (1) horizontal to two (2) vertical, with the horizontal plane.
- (h) "Wall sign" shall mean any sign painted on, attached to or erected against the wall of a building with the exposed face of the sign in a place approximately parallel to the plane of the wall and which does not project beyond the top or ends of the wall. "Wall sign" shall also mean any sign permanently displayed on the inside or outside of a window.



EXAMPLES OF WALL SIGNS

- (i) **"Window sign"** shall mean any sign temporarily displayed on the inside of a window or temporarily painted on a window and facing a street, highway, parking lot, walkway or mall.
- (j) **"Zone"** shall mean one of the various classes of areas into which the City has been divided by this Chapter.

SEC. 10-2.2105. ADMINISTRATION.

- (a) **Duty to enforce.** It is the duty of the Chief Building Official and the Director to enforce all of the provisions of this article.
- (b) **Inspection.** Every sign prior to erection in the City of Modesto shall be subject to approval by the Chief Building Official and the Director to assure compliance with all provisions of this article and all other laws and ordinances of the City.
- (c) **Compliance with chapter; nuisance; abatement.** The Council hereby determines that the public peace, safety, morals, health and welfare, require that all signs heretofore constructed, erected, or painted in violation of any law or ordinance of the City of Modesto in effect at the time such sign was constructed, erected, or painted be and they are hereby made subject to the provisions of this article, and shall conform and comply with such requirements forthwith, and that all signs which shall not so conform and comply and all signs which shall hereafter be constructed, erected, or painted in violation of the provisions of this article shall be and they are hereby declared public nuisances to be removed and abated in the manner provided herein.

(d) **Permits required.** It shall be unlawful for any person to erect, alter, change copy, or relocate within the City any sign as defined in this article without first obtaining a permit from the Chief Building Official and making payment of the fee required in subsection (i) of this section; except that the following listed signs are not required to have permits or pay permit fees, but shall meet all other requirements of this article.

- (1) Construction sign.
- (2) For sale or rent sign.
- (3) Garage sale sign.
- (4) Unlighted interior directional, warning, or information sign.
- (5) Nameplate, one (1) square foot maximum size.
- (6) Open house directional sign.
- (7) Political signs permitted by Section 10-2.2111 or 10-2.2115 of these sign regulations.
- (8) Signs for fireworks stands, pumpkin sales, Christmas Tree sales lots, and temporary certified farmers markets.
- (9) Subdivision directional sign.
- (10) Corporate flag.
- (11) Bench sign.

Noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), are required to obtain a permit, but shall not be required to pay permit fees. Such signs shall meet all other requirements of this article.

(e) **Application for permit.** Application for sign permits shall be made upon forms provided by the Chief Building Official, and shall contain or have attached thereto the following information and material:

- (1) Name, address and telephone number of the owner of the property.

- (2) Name, address and telephone number of the applicant (owner of the sign).
 - (3) Name, address and telephone number of the sign contractor, and contractor's state license number.
 - (4) Location of the building, structure, or lot to which or upon which the sign is to be attached, erected, or painted.
 - (5) Two (2) copies of a plan showing:
 - (aa) The position of the sign in relation to adjacent buildings or structures.
 - (ab) The design and size, structural details and calculations, and proposed location on the premises of such signs.
 - (ac) A statement showing the type, size, and dimensions of all signs existing on the premises at the time of making such application.
 - (ad) For canopy or wall signs, a statement designating the principal frontage of the building or structure upon which the sign is to be located.
 - (6) Such other information as the Chief Building Official shall require to show full compliance with this article and all other laws and ordinances of the City of Modesto.
 - (7) The Chief Building Official may waive the requirement for plans to be filed for small signs, and for a previously approved standard plan for sign supports provided the application is otherwise in compliance with conditions of approval of the standard plan.
- (f) **Permit issued if application in order.** It shall be the duty of the Chief Building Official and Director, upon the filing of an application for a sign permit, to investigate the application, and if it shall appear that the proposed sign is in compliance with all the requirements of this article and all other laws and ordinances of the City, the Chief Building Official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within one hundred twenty (120) days after date of issuance, the permit shall become null and void.

- (g) **Signs falling within definition of one or more type signs.** Whenever any sign, as defined in this article, falls entirely within the definitions of one or more type signs, it shall be subject to the provisions of the most restrictive category.
- (h) **Permit issued in error.** If a sign permit is issued in error by the Chief Building Official and the sign does not comply with all of the requirements of this article and all other laws and ordinances of the City, the sign permit shall be null and void and no rights or privileges shall be conferred upon the permittee by said permit. The Chief Building Official shall include or cause to be included on the sign permit for all signs a notice that the issuance of the permit does not grant any right or privilege to erect or install any sign which is in violation of this article or of any other laws or ordinances of the City.
- (i) **Permit fees.** Each application for a sign for which a permit is required by this article and each application for a change of copy of an existing sign shall be accompanied by a sign permit fee as established by City Council resolution from time to time.

The required fees shall be doubled for any sign erected or painted prior to the securing of a sign permit when a sign permit is required.

- (j) **Maintenance of signs.** The owner of any sign as defined and regulated by this article, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs and all supporting structures of any sign shall be repainted to keep them in good condition whenever such action is requested in writing by the Chief Building Official or the Director.
- (k) **Unsafe and unlawful signs.** If the Chief Building Official or the Director shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or is in a dilapidated, decayed, or neglected state, or has been constructed, erected, or painted or is being maintained in violation of the provisions of this article, he shall give written notice to the permittee or owner thereof. If the permittee or owner fails to remove or alter the structure or sign so as to comply with the standards herein set forth within ten (10) days after such notice, or within three (3) days for temporary signs, such sign may be removed or altered to comply by the Chief Building Official or the Director and any expense incidental thereto shall be paid by the permittee or owner of the property upon which it is located. No permit shall be issued thereafter to any permittee or owner who has not paid the costs so

assessed. The Chief Building Official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

- (1) Removal of the copy of certain signs. The copy of any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product available for purchase by the public, shall be taken down, removed, painted over, or covered as approved by the Chief Building Official or the Director, by the owner, agent, or person having the beneficial use of the building, structure, or premises upon which such sign may be found. This action shall occur within ten (10) days after written notification from the Chief Building Official or the Director. Upon failure to comply with such notice within the time specified in such order, the Chief Building Official or Director is hereby authorized to take down, remove, paint over, or cover such sign or sign copy, or to cause such action to be taken. Any expense incidental thereto shall be paid by the owner of the building or structure to which such sign is attached, or by the owner of said sign.

SEC. 10-2.2106. SIGN VARIANCES.

Except for height, length, and area limitations, and the types of signs allowed in specific zones, the Board may grant variances from the provisions of this article in accordance with the provisions of Article 25 of Chapter 2 of Title X of this Code.

SEC. 10-2.2107. APPEALS.

Any person aggrieved or affected by any decision of an administrative official of the City which involves the application of any of the provisions of this article may appeal such decision to the Board in accordance with the provisions of Article 28 of Chapter 2 of Title X of this Code.

SEC. 10-2.2108. STATUS AFTER ANNEXATION OF COMMERCIAL SIGN RESTRICTIONS IMPOSED BY STANISLAUS COUNTY.

Whenever territory is annexed to the City of Modesto and within said territory there are located signs which have had restrictions or limitations imposed thereon by the County of Stanislaus, and said restrictions or limitations are more restrictive than those imposed by this article, said restrictions or limitations, after annexation, shall apply in and be enforced by the City of Modesto.

SEC. 10-2.2109. NONCONFORMING SIGNS: DEFINITIONS, REMOVAL, ALTERATION OR REPLACEMENT.

- (a) For the purpose of this article, a "nonconforming sign" is a sign which does not conform with the provisions of this article, but which:
- (1) Was lawfully in existence and in use within the City on March 1, 1977, including signs erected pursuant to use permits and to variances granted by the City prior to March 1, 1977;
 - (2) Was lawfully in existence and in use on property outside of the City on the date upon which the annexation of such property to the City was completed, including signs erected pursuant to use permits and variances granted by the County of Stanislaus;
 - (3) Was lawfully in existence and in use within the City on the effective date of an amendment of the Zoning Map of the City of Modesto for the property on which the sign is located; or
 - (4) Was lawfully in existence and in use within the City on the effective date of any future amendment of this article, which amendment makes such signs nonconforming.
- (b) A nonconforming sign shall not be replaced, altered, reconstructed, relocated or expanded in any manner unless it is made to conform with all the provisions of this article. However, other nonconforming signs on the same property need not be made to conform as a result.
- (1) Change in copy shall be permitted if no structural changes in the sign are necessary except that no change in copy shall be permitted for nonconforming painted wall signs.
 - (2) Ordinary maintenance and minor repairs which will not increase the normal life of the sign and which are required for safety purposes shall be permitted. Structural alterations to a nonconforming sign are prohibited.
 - (3) If the use identified by a nonconforming sign is discontinued, the sign shall be removed within thirty (30) days unless within that period of time it is made to conform to the provisions of this article. If such sign is not made to conform,

it shall thereafter be unlawful. "Discontinue" in this subsection shall mean cessation of operation or change of use. "Discontinue" shall not mean an ownership change or a name change as long as there is no cessation of operation and the use is not changed.

- (c) Each nonconforming sign shall be removed or made to conform to the provisions of this article at the sole cost of the owner thereof, not later than the expiration of the period of time applicable to a particular sign as set forth in this article or as set forth in the following table, whichever is the shorter period of time:

<u>Description of Sign</u>	<u>Abatement Schedule</u>
(1) Temporary signs annexed to the City	Three (3) calendar months from date of annexation to the City of Modesto
(2) Rotating, moving, flashing, changing or blinking portions of signs:	
(aa) Time and temperature signs	Excepted, no abatement necessary if sign otherwise conforms
(ab) Conventional clock	Excepted, no abatement necessary if sign otherwise conforms
(ac) Rotating signs, the stopping of the rotating portion of which would substantially destroy the utility of the sign, that are annexed to the City	Three (3) years from annexation to the City of Modesto
(ad) All others annexed to the City	Three (3) calendar months from date of annexation to the City of Modesto
(3) All other signs which do not conform with the provisions of this article:	

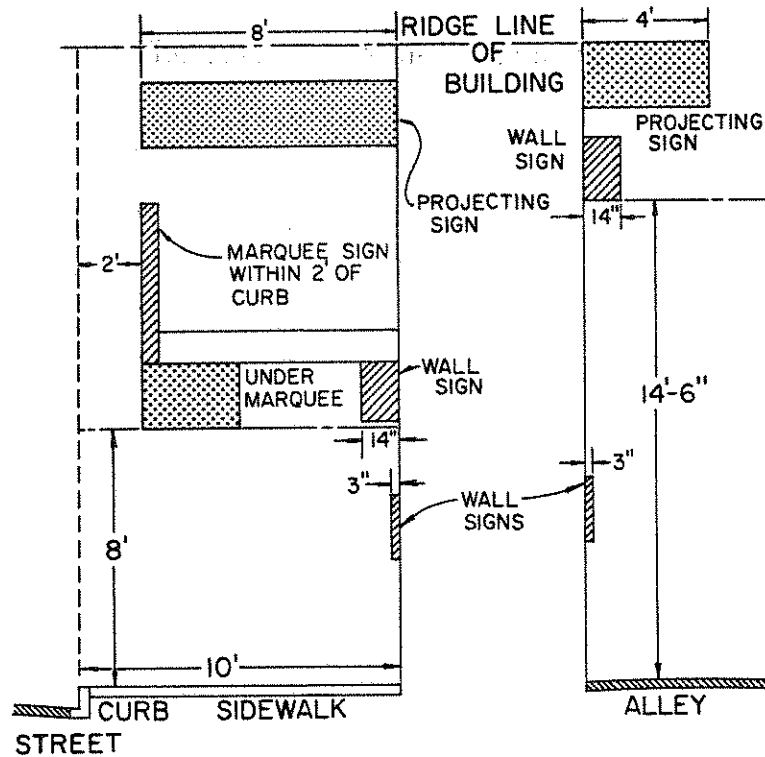
- (aa) Nonconforming as a result of City-initiated rezoning of property within the City or sign code amendment
Ten (10) years from the effective date of the City-initiated rezoning or sign code amend amendment
- (ab) Annexed to the City
Three (3) years from date of annexation to the City of Modesto
- (4) Variance provision for signs made nonconforming by annexations
The Board may by a variance grant up to seven (7) years additional time, to the three (3) years allowed from the date such a sign is made nonconforming by annexation
- (5) Motor fuel price signs per Section 10-2.2114(a)(10)
As allowed by State law
- (6) All signs on nonconforming uses or nonconforming buildings shall conform to the sign regulations of the most restrictive zone in which the nonconforming use or nonconforming building would first be permitted:
 - (aa) Signs conforming
When the nonconforming use or nonconforming building is terminated.
 - (ab) Signs not conforming
As permitted by Section 10-2.2109(c)(3) above

SEC. 10-2.2110. GENERAL REQUIREMENTS.

- (a) Height limitation. The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed thirty-five (35) feet in height, except for freestanding signs along Freeway 99 permitted by Section 10-2.2114(a)(5)(ab) and Section 10-2.2116(a)(6)(ab) and wall signs permitted by Section 10-2.2114(a)(6)(ac).

- (b) Area allowance for decorative purposes on freestanding signs. A freestanding sign as defined in Section 10-2.2103(c) may have a decorative cap or other decorative feature subject to all of the following:
- (1) The area of the decorative feature shall not exceed fifteen (15) percent of the specified maximum area of a freestanding sign as noted elsewhere in these regulations.
 - (2) No allowance shall be given to exceed the maximum height for a given sign to accommodate a decorative feature.
 - (3) The decorative feature under this additional area allowance shall bear no commercial nor non-commercial message; it shall serve for decorative purpose only.
 - (4) The plans for a sign permit shall:
 - (aa) On the graphic, outline the perimeter of the basic sign and outline the perimeter of the decorative area.
 - (ab) Include a tabulation of four sign areas:
 - (i) Maximum sign area;
 - (ii) Area within the outlined perimeter of the basic sign;
 - (iii) Fifteen (15) percent of maximum sign area; and
 - (iv) Area within the outlined perimeter of the decorative features.
- (c) Rotating, moving, flashing, changing or blinking signs. No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing, blinking, fluctuating or otherwise animated light. The provisions of this subsection shall not be applied so as to prohibit the following types of signs:
- (1) A conventional clock face.
 - (2) A sign showing digital time with changes in time not more often than once a minute.

- (3) A sign showing digital temperature with changes in temperature only when there is a rise or fall of one (1) degree or more. Changes from Fahrenheit readings to Centigrade readings shall occur not more frequently than five-second intervals.
 - (4) A sign showing time and temperature subject to changes not more frequently than at five-second intervals.
 - (5) An on-premises barber pole of a length not to exceed thirty (30) inches of traditional design which shall be permitted to revolve during the time that a barbershop is open for business. Said sign shall not exceed ten (10) feet in height.
- (d) Projections. All signs, if otherwise authorized, are permitted to project into required front, side and rear yards. The permitted projection of an authorized sign into any street or alley right-of-way is as follows:
- (1) Freestanding sign: No projection.
 - (2) Wall sign: Up to fourteen (14) inches in thickness.
 - (3) Marquee sign: Not closer than two (2) feet from the face of the curb.
 - (4) Projecting sign: Up to eight (8) feet into any street right-of-way and up to four (4) feet into any alley right-of-way, but not closer than two (2) feet from the face of the curb.
 - (5) Bus bench sign: Entirely within street right-of-way.



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

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

- (h) Illuminated signs. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity; and no sign shall be illuminated by or contain flashing intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- (i) Signs not to constitute vehicular traffic hazard. No sign, as regulated in this article, shall be erected at the intersection of any street, or at any railroad grade crossing, or at any driveway in such a manner as to obstruct free and clear vision of operators of motor vehicles, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "DANGER", or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse motorists.
- (j) Sign company identification. It shall be unlawful for any person to change copy on or to erect, alter, or relocate any sign without printing or causing to be printed in the lower right-hand corner of the sign in clearly legible letters the name of the person, firm or company doing such work, the date of such work, and the City of Modesto building permit number. Said information shall not exceed sixteen (16) square inches in area. If said information is not printed in the lower right-hand corner of a sign, the Chief Building Official may remove the sign pursuant to the provisions of Section 10-2.2105(k) of this article.
- (k) Temporary signs. It shall be unlawful for any person to erect, install or maintain any temporary sign.
- (l) Bench signs. It shall be unlawful for any person to erect, install or maintain any bench sign, except on public property pursuant to a franchise granted by the City of Modesto.
- (m) Wall signs, additional standards. No wall sign shall exceed fourteen (14) inches in thickness; no display or messages shall be permitted on the edges of wall signs except the sign company's identification as required by paragraph (j) of this section.
- (n) Ridgeline limitation. A wall, canopy, marquee or projecting sign shall not project above the ridgeline of the building on which the

sign is mounted. Where the ridgeline as defined in Section 10-2.2104(a) varies in height, such sign shall not project or be mounted above a ridgeline where it is placed nor above the height representing a minimum of seventy-five (75) of the ridgeline of the building.

- (o) Building outlining. Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposed incandescent lighting or other artificial lighting, or an equivalent effect, is prohibited. "Outlining" means delineation, with a row or band of lights, of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs nor temporary Christmas displays.
- (p) No signs on street trees, utility poles or structure in street right-of-way. No signs will be attached to any City street tree, or any poles such as utility poles, street signals, street lights, street name signs, or traffic warning signs, or on any bus shelter.
- (q) It shall be unlawful and punishable as an infraction for any person to place or cause to be placed any sign not in conformity with this section.
- (r) A historic sign meeting the criteria in the "historic sign" definition, may be approved in any zone subject to the approval of a conditional use permit by the Board of Zoning Adjustment (BZA) in accordance with Article 25 of Chapter 2 of Title X of this Code. Each deviation from the pertinent sign regulations of the zone in which the site of a proposed historic sign is located should be noted in the BZA agenda report. The BZA should determine if each deviation is insignificant to the compatibility with other uses in the area and deny or impose conditions deemed necessary for those deviations that are not compatible.

SEC. 10-2.2111. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE R-1, R-2, AND R-3 ZONES - ORIENTED PARTICULARLY TO TYPICAL INDIVIDUAL USES.

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 R-1, R-2 and R-3 zones, the following signs are permitted, except as otherwise stated:

- (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) If a residential use, each numeral shall be not less than three (3) inches in height and shall have a stroke width of not less than one-quarter (0.75) inch and all of the numerals shall not exceed one (1) square foot in area.
 - (ac) If a nonresidential use and a conditional use, as noted in Section 10-2.504 (R-1), Section 10-2.604 (R-2), or Section 10-2.704 (R-3), each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) One (1) unlighted for sale or rent sign per street frontage, not exceeding eight (8) square feet in area and six (6) feet in height.
- (3) Three (3) unlighted open house directional signs, each not exceeding three (3) square feet in area and forty-two (42) inches in height, which shall be permitted during daylight hours only, for each house or group of houses offered for sale by the same realtor at the same general location, provided they do not bear any advertising message other than the real estate office name, and that such signs are located wholly on private property with permission of the property owner on whose property they are located.
- (4) One (1) wall-mounted name plate not exceeding one (1) square foot in area.
- (5) Political signs which may be erected, maintained and displayed as follows:
 - (aa) On lots or parcels upon which there is located a residential structure, except that:
 - (i) The area of each such sign shall not exceed six (6) square feet.

- (ii) The overall height shall not exceed six (6) feet.
 - (iii) The combined area of all such signs shall not exceed sixty (60) square feet.
 - (ab) On lots or parcels upon which there is not located a residential structure, except that:
 - (i) The area of each such sign shall not exceed thirty-two (32) square feet.
 - (ii) The overall height of each such sign shall not exceed ten (10) feet.
 - (iii) The combined area of all such signs shall not exceed one hundred (100) square feet.
 - (ac) Political signs shall not be lighted either directly or indirectly.
 - (ad) Such signs shall be erected no more than one hundred twenty (120) days prior to an election, and shall be removed within ten (10) days after the election.
- (6) Temporary signs are not permitted.
 - (7) Window signs are not permitted.
 - (8) Outdoor advertising signs are not permitted.
 - (9) Two (2) unlighted garage sale signs not exceeding three (3) square feet each in area may be displayed as follows:
 - (aa) Said signs may be displayed only during such times as the garage sale being advertised is actually being held or conducted.
 - (ab) Said signs may only be erected and displayed on private property with the consent of the owner thereof. They may not be erected or displayed on street trees, utility poles, or elsewhere in public rights-of-way.

SEC. 10-2.2112. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT FOR SIGNS IN THE R-1, R-2 AND R-3 ZONES - ORIENTED TO RESIDENTIAL PROJECTS AND NONRESIDENTIAL USES.

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 R-1, R-2 and R-3 zones, the following signs are permitted, except as otherwise stated:
 - (1) For public, parochial, and private schools:
 - (aa) The additional signage as permitted for uses permitted by conditional use permit in subsection 10-2.2112(a)(2).
 - (ab) After conditional use permit review, freestanding sign(s), each not exceeding seventy-two (72) square feet in area or twenty (20) feet in height.
 - (2) For uses permitted by conditional use permits additional signing as follows:
 - (aa) One (1) bulletin board or identification sign not exceeding twenty-five (25) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
 - (ab) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.
 - (3) One (1) construction sign not exceeding twenty (20) square feet in area and six (6) feet in height, provided that such sign shall be removed not later than thirty (30) days after construction is completed.
 - (4) One (1) subdivision sign not exceeding sixty-four (64) square feet in area and ten (10) feet in height for each

recorded subdivision provided that such sign shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:

- (aa) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional one (1) year period.
 - (ab) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional two (2) year period.
- (5) Unlighted subdivision directional signs not exceeding sixteen (16) square feet in area and six (6) feet in height for each recorded subdivision as follows:
- (aa) Within the boundaries of the recorded subdivision, one (1) subdivision directional sign shall be permitted per block.
 - (ab) Outside the boundaries of any recorded subdivision, subdivision directional signs on private property shall be permitted as follows:
 - (i) One (1) at each street intersection where a change in direction (left turn, right turn) is required.
 - (ii) Three (3) where no change in direction is required. Placement of one (1) sign under this subsection shall be no closer than one thousand (1000) feet to another sign under this subsection for this subdivision.
 - (ac) Such signs shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:
 - (i) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three-year

period, such signs may remain for an additional one-year period.

- (ii) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three-year period, such signs may remain for an additional two-year period.

- (6) Subdivision banners for grand openings as follows:
 - (aa) One (1) banner permitted not to exceed seventy-two (72) square feet in area to be located within the boundaries of the recorded subdivision.
 - (ab) The 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.
 - (ac) Banners shall be permitted for no more than sixty (60) days after obtaining a permit from the Director.
- (7) Interior directional, warning, and informational signs not exceeding six (6) square feet in area and six (6) feet in height.
- (8) One (1) exterior directional sign per driveway or pedestrian walkway serving five (5) or more dwelling units as follows:
 - (aa) Sign copy limited to any or all of the following: street name and address, housing project name and logo, for sale, for rent, for lease.
 - (ab) Twelve (12) square feet maximum area, external illumination only.
 - (ac) For a freestanding sign, six (6) feet maximum height; for a wall sign, first story maximum height not to exceed twelve (12) feet.
- (9) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:

- (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall not exceed thirty-five (35) feet in height, and shall have external illumination only, except for neon signs on the inside of windows.
- (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.

SEC. 10-2.2113. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT FOR SIGNS IN THE P-O ZONE.

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 P-O Zone, the following signs are permitted:
 - (1) For any uses permitted in the R-3 Zone, except those permitted by conditional use permit, any signs permitted in the R-3 Zone excepting Section 10-2.2112(a)(2).
 - (2) For any uses permitted by conditional use permit in the R-3 Zone, any signs permitted in the R-3 Zone, including Section 10-2.2112(a)(2).
 - (3) For uses other than those permitted in the R-3 Zone, the following signs are permitted:
 - (aa) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (i) So that the sign is visible from the street upon which the building is addressed.
 - (ii) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (ab) Any signs permitted in the R-3 Zone except Section 10-2.2112(a)(2).

- (ac) For each site, one (1) freestanding sign per street frontage. Each sign shall not exceed sixteen (16) square feet and eight (8) feet in height. For a sign facing the street of the address, a street address shall be included subject to the stroke and height of numerals noted in subsection (aa). The sign area may be increased by up to four (4) square feet for a street address.
 - (ad) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height.
 - (ae) 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.
- (4) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:
- (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall not exceed thirty-five (35) feet in height.
 - (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.

SEC. 10-2.2114. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE C-1, C-2, C-M, M-1, AND M-2 - ZONES 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) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) Only one (1) of the following signs for each use or occupancy:
 - (aa) Freestanding identification sign not exceeding seventy-two (72) square feet in area and twenty (20) feet in height; or
 - (ab) Projecting identification sign not exceeding seventy-two (72) square feet in area and thirty-five (35) feet in height; if any portion projects into or overhangs a public street or alley right-of-way, said sign shall not exceed forty-eight (48) square feet in area; or
 - (ac) Marquee identification sign at right angles to a street, not exceeding forty-eight (48) square feet in area and thirty-five (35) feet in height. A second such marquee identification sign is permitted if the two (2) signs are single-faced, are parallel, and are on opposite ends of a marquee.
 - (ad) Exception: Any sign existing on March 1, 1977, in the C or M zones on a pylon which extends above a ridgeline shall be allowed to remain in addition to one (1) of the above signs as a nonconforming sign subject to abatement according to the schedule set forth in Section 10-2.2109.
 - (ae) For the freestanding sign in subsection (aa) a street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.

- (3) One (1) freestanding identification sign for a shopping center, as herein defined, for each street upon which the shopping center fronts, subject to the following provisions:
- (aa) Each shopping center sign shall not exceed seventy-two (72) square feet in area and twenty (20) feet in height.
 - (ab) The identification on each shopping center sign shall be limited to the shopping center name with a reader board or a listing of uses within the center optional. The lettering for the reader board or the listing of such uses shall be of a size not greater than the lettering of the shopping center name. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
 - (ac) Any freestanding or projecting identification sign or signs erected at said shopping center on or after July 1, 1972, whether identifying said shopping center or any use or occupancy therein, shall be removed prior to obtaining a building permit for the erection of a shopping center sign.
 - (ad) After erection of a shopping center sign at a shopping center, even in those cases where the shopping center sign installation preceded this Code provision, no additional freestanding or projecting identification sign shall be erected at such shopping center for any use or occupancy therein.
 - (ae) A shopping center, eligible for a freestanding identification sign, is usually characterized by a cluster of retail uses:
 - (i) At one (1) location held out to the public as a distinct shopping area and having a minimum of five (5) retail uses on the same or adjacent sites.
 - (ii) On one (1) or more parcels not normally traversed by any public streets.

- (iii) With membership in a merchants' association comprising the cluster.
- (iv) That employ a common advertising program for such a center.

(4) (Reserved)

(5) For a freestanding tourist-oriented hotel, motel, restaurant or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:

- (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
- (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-1 Zone.

(ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:

- (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
- (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
- (iii) The primary testimony at the public hearing will be the visual observations from the field trip.

(6) Canopy, marquee, and wall identification signs, provided:

- (aa) That said signs shall be limited to the portion of a building wherein the use or occupancy is conducted except for signs approved by a Conditional Use Permit under Section 10-2.2114(a)(6)(ac) that follows.
- (ab) That the maximum total area for all said signs shall be limited as follows:
 - (i) For the principal frontage of the building as designated by the applicant:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	1 square foot per lineal foot of building frontage

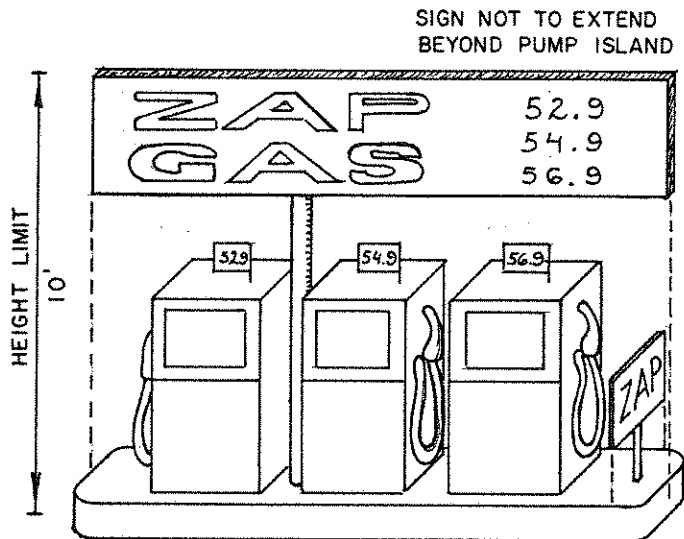
- (ii) For each other frontage of the building:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	0.5 square foot per lineal foot of building frontage

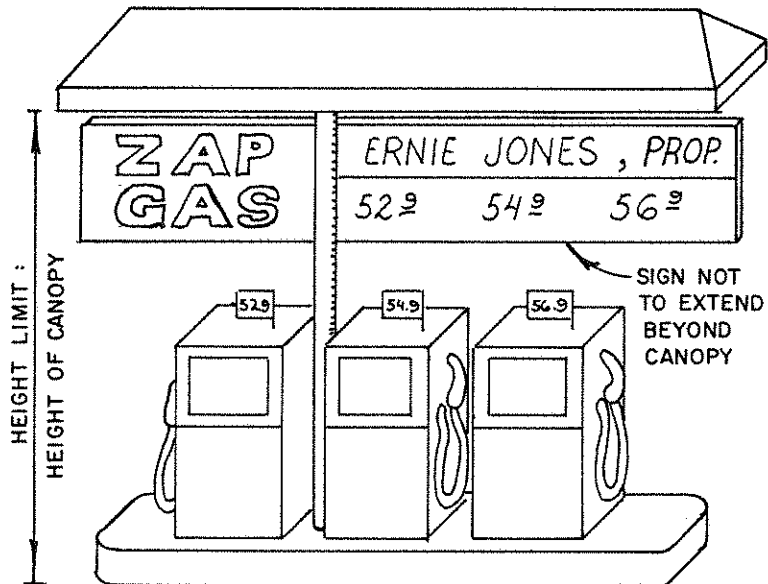
- (ac) That said signs shall not exceed thirty-five (35) feet in height nor project above a ridgeline, except that wall signs above thirty-five (35) feet in height may be approved subject to the securing of a conditional use permit from the Board in accordance with Article 25 of Chapter 2 of Title X of this Code. Said use permit will be dependent upon the following two (2) findings being shown:
- (i) The building must exceed four (4) stories, or forty-eight (48) feet in height.
 - (ii) The applicant must show why wall signs at a thirty-five-foot height limit cannot properly identify and architecturally meet the design of the building. All options to reach a satisfactory solution must have been explored.
- (ad) That signs hung from a canopy shall be not less than eight (8) feet above a private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic.
- (7) One (1) sign hung from a marquee per street frontage for a given use, not exceeding six (6) square feet in area on any one (1) side or twelve (12) square feet maximum total area. Said sign shall be not less than eight (8) feet above a public sidewalk and may be mounted at an angle to the leading edge of a marquee.
- (8) One (1) freestanding identification sign, not exceeding seventy-two (72) square feet in area and twenty (20) feet in height, which shall be permitted to identify a use without any structures, such as a parking lot. For pumpkin and Christmas tree sale lots, one (1) freestanding identification sign shall be permitted, not exceeding

thirty-two (32) square feet in area and twelve (12) feet in height.

- (9) Signs on service station pump islands, canopy uprights, and nonmovable structures on the pump islands, which shall be permitted if the combined area of said signs and all other wall and canopy signs do not exceed the total sign area permitted in subsection (4) above for the building on the site and do not project beyond the canopy roof or raised pump island. Said signs shall not exceed ten (10) feet in height if there is no canopy. For self-service service stations with small attendant booths less than ten (10) feet on any side, a maximum total wall and canopy sign area of one hundred sixty (160) square feet is permitted.



SERVICE STATION WITHOUT A CANOPY



SERVICE STATION WITH A CANOPY

- (10) Freestanding motor fuel price signs are permitted, as hereinafter specified, for businesses dispensing motor fuel to the public. The message on said signs shall be limited to specifying the prices and grades of motor fuel, self-service or full service, and brand name of the motor fuel, as required by the California Business and Professions Code. Motor fuel price signs shall be permitted as follows:
- (aa) One (1) motor fuel price sign per street frontage of the site.

- (ab) Maximum area shall be twenty-five (25) square feet for the self-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; twenty-five (25) square feet for the full-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; all can be combined as one (1) sign.
- (ac) Maximum height of sign shall be fourteen (14) feet.

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 thirty (30) 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.

SEC. 10-2.2116. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE C-3 ZONE.

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-3 Zone, the following signs are permitted:
 - (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (2) Any signs allowed in the C-1 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1205 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2114(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2114(a)(3) are not permitted in the C-3 Zone.
 - (3) One (1) freestanding combined business identification sign subject to all of the following:
 - (aa) Sign is to serve a business area defined as follows:
 - (i) A block frontage along a street bounded by two (2) streets or a street and an MID or TID canal, or a railroad right-of-way, or the Hetch Hetchy Right-of-Way; and
 - (ii) A block frontage as defined above with six (6) or more businesses, and
 - (ab) Existing, exterior, directional signs for all businesses within the business area are to be removed and no new ones installed, and
 - (ac) The sign not exceed forty-eight (48) square feet in area and ten (10) feet in height, and

- (ad) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address, and
- (ae) From the bottom of the sign box or can to grade, there shall be a pole cover or skirting that gives the appearance of a solid base so that the sign appears as a monument sign.

(4)

- (aa) For a shopping center, as defined in subsection 10-2.2114(a)(3)(ae) and with 250,000 square feet of gross floor area or more, and located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height is permitted.
- (ab) Subject to the applying for a conditional use permit from the Board of Zoning Adjustment in accordance with Article 25 of Chapter 2 of Title X of the code, the Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruction visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:
 - (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
 - (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the

target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.

- (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (5) Any signs allowed in the R-3 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1204.
- (6) For a freestanding tourist-oriented hotel, motel, restaurant, or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
 - (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
 - (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the

following to occur prior to the Board of Zoning Adjustment public hearing:

- (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
 - (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
 - (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (7) For any other freestanding use or occupancy, one (1) freestanding identification sign not to exceed seventy-two (72) square feet in area and twenty (20) feet in height may be approved 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. Said use permit will be dependent upon the following three (3) findings being shown:
- (aa) That the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ab) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.

- (ac) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to (4) square feet for a street address.

SEC. 10-2.2117. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE B-P AND P-D ZONE.

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 B-P Zone, the following signs are permitted:
 - (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (2) Any signs allowed in the C-1 Zone are permitted in the B-P Zone for uses permitted in Section 10-2.1602 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2114(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2114(a)(3) are not permitted in the B-P Zone.
 - (3) For each parcel, one (1) freestanding identification sign not exceeding seventy-two (72) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address.
 - (4) One (1) freestanding identification sign for a business park, as herein defined, for each street on which the business park fronts may be approved subject to the approval of a plot plan by the Board of Zoning Adjustment and subject to the following provisions:

- (aa) Each business park sign shall not exceed seventy-two (72) square feet in area and six (6) feet in height.
- (ab) The identification on each business park sign shall be limited to the business park name, and logo.
- (ac) A business park, eligible for a freestanding identification sign, is characterized by a cluster of business park uses:
 - (i) In a contiguous area that can be traversed by public streets, of at least fifty (50) acres held out to the public as a single development.
 - (ii) Represented by a single association or organization.
- (b) For P-D zones the following signs are permitted:

Sign limitations shall be made a condition of each P-D Zone and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the P-D Zone.

SEC. 10-2.2118. OUTDOOR ADVERTISING SIGNS.

It shall be unlawful for any person to erect, construct or maintain on any lot or parcel an outdoor advertising sign in violation of the following specific requirements:

- (a) In the C-2, C-M, M-1 and M-2 zones, only the following outdoor advertising signs are permitted:
 - (1) For freestanding tourist-oriented hotels, motels, and restaurants only, directional outdoor advertising signs, as defined in Section 10-2.2103(m)(1), each not to exceed seventy-two (72) square feet in area and twenty (20) feet in height subject to obtaining a conditional use permit for each sign from the Board. Said use permit shall be dependent upon the following two (2) findings:
 - (aa) That the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not

attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity or through common advertising.

- (ab) That the combined total of all approved directional outdoor advertising signs for a motel, hotel or restaurant be deemed necessary for the public welfare and not excessively promote said motel, hotel or restaurant.
- (2) Noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), not to exceed seventy-two (72) square feet in area and twenty (20) feet in height, except that:
- (aa) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be as large as one hundred fifty (150) square feet and thirty-five (35) feet in height.
 - (ab) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be higher than thirty-five (35) feet subject to the securing of a conditional use permit from the Board in accordance with Article 25 of Chapter 2 of Title X of this Code.
 - (i) The Board shall grant approval if the applicant can show that an overcrossing of Freeway 99 or ramps thereto obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The applicant shall also present plans illustrating the means by which the minimum height necessary to clear said visual obstruction was determined.
 - (ii) In deciding whether to grant the conditional use permit, the Board shall not take into consideration the copy, subject matter or message of the proposed sign.
- (b) In the C-1 Zone, noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), not to exceed seventy-two (72) square feet in area and twenty (20) feet in height, are permitted.

- (c) In all zones other than those enumerated in subsections (a) and (b) above, outdoor advertising signs are not permitted.

SEC. 10-2.2119. NONCOMMERCIAL USE OF PERMITTED COMMERCIAL SIGNS.

Notwithstanding any other provisions of this Chapter to the contrary, any sign or portion thereof which is otherwise legally permitted as a result of the commercial use or occupancy of a building, lot or parcel may contain noncommercial messages in accordance with the definition provided by Section 10-2.2103(m)(2). When the commercial use or occupancy of the building, lot or parcel ceases, said sign must comply with the applicable provisions of this Chapter relating to the removal of obsolete signs and outdoor advertising signs.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 1994, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Mayor Lang was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: Friedman

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. 2933-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of December, 1994, Councilmember Cogdill 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, McClanahan, Muratore, Mayor Lang

NOES: Councilmembers: Friedman

ABSENT: Councilmembers: Dobbs, Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 12, 1995

ORDINANCE NO. 2934 -C.S.

AN ORDINANCE AMENDING ARTICLE 21 OF CHAPTER 2 OF
TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO
ZONING REGULATIONS. (SIGN REGULATIONS)

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

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

ARTICLE 21. SIGN REGULATIONS

SEC. 10-2.2101. PURPOSE.

The purpose of these sign regulations is to provide minimum standards to safeguard life, health, property and public welfare in keeping with the character of the City of Modesto by regulating and controlling the size, height, structural design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures and to accomplish the following results:

- (a) To protect and enhance the character of residential neighborhoods and property values by prohibiting obtrusive and incompatible signs; and
- (b) To promote and maintain healthy commercial centers and property values, to effectively communicate the nature of goods and services, and to avoid wasteful, ugly and unsightly competition in signs; and
- (c) To provide a reasonable and comprehensive system of controls of signs; and
- (d) To encourage signs which are well designed and pleasing in appearance, and to provide incentive and latitude for variety, good design relationship, spacing and location; and
- (e) To encourage a desirable urban character which has a minimum of overhead clutter; and
- (f) To attract and direct persons to various activities and enterprises in order to provide for the maximum public convenience; and

- (g) To enhance the economic value of the community and each area of it through the regulation of size, location, design and illumination of signs.

SEC. 10-2.2102. DEFINITIONS, A-C.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) "Area of a sign" shall mean the entire area within a single continuous perimeter enclosing the extreme limits of all elements such as boards or frames, perforated or solid backgrounds, ornamental embellishments, writings, representations, emblems or any figures or similar characters, including any spires, masts, shafts or similar projections, but excluding the necessary supports or uprights on which such sign is placed.

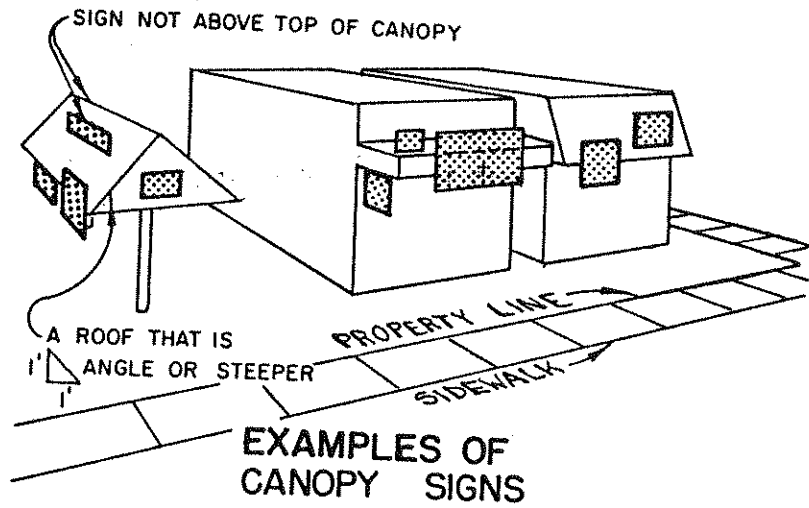


EXAMPLES OF SIGN AREA

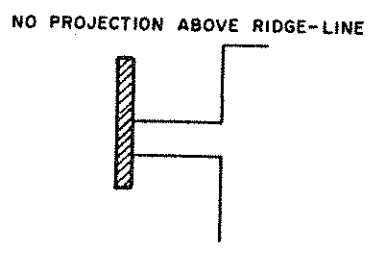
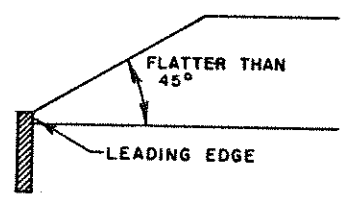
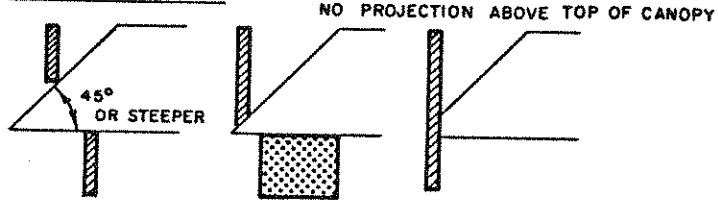
Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

- (b) "Bench sign" shall mean a City-franchised bus bench located outdoors with advertising matter thereon.

- (c) **"Bulletin board"** shall mean a sign used to announce a coming event or attraction or used to convey a specific message related to the building or use of the property on which the bulletin board is located. In all zones, bulletin boards, which are displayed so as to be viewed from a public street, highway, parking lot, walkway or mall shall be subject to the sign regulations of the zone in which the building or property is located.
- (d) **"Canopy"** shall mean a roof of a building or a fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not encroach into nor overhang a public street or alley right-of-way.
- (e) **"Canopy sign"** shall mean a sign attached to or hung from a canopy and which:
- (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a canopy except for an undercanopy sign which may be mounted at an angle to the leading edge of a canopy.
 - (3) Does not project above the top of the canopy when mounted on a canopy with a slope of forty-five (45) degrees (one [1] horizontal to one [1] vertical) or steeper, and which may be mounted anywhere on the slope.
 - (4) Does not project above the leading edge of the canopy when mounted on a canopy with a slope flatter than forty-five (45) degrees.
 - (5) On a flat canopy (no slope), projects above the top of the canopy but does not project higher than the wall of the building to which the canopy is attached.



CANOPY SIGNS



MARQUEE SIGNS

ANY OF THE ABOVE SIGNS THAT OVERHANG A PUBLIC STREET OR ALLEY IN PART OR IN TOTAL.

SIGNS ON CANOPIES, ROOFS, MARQUEES

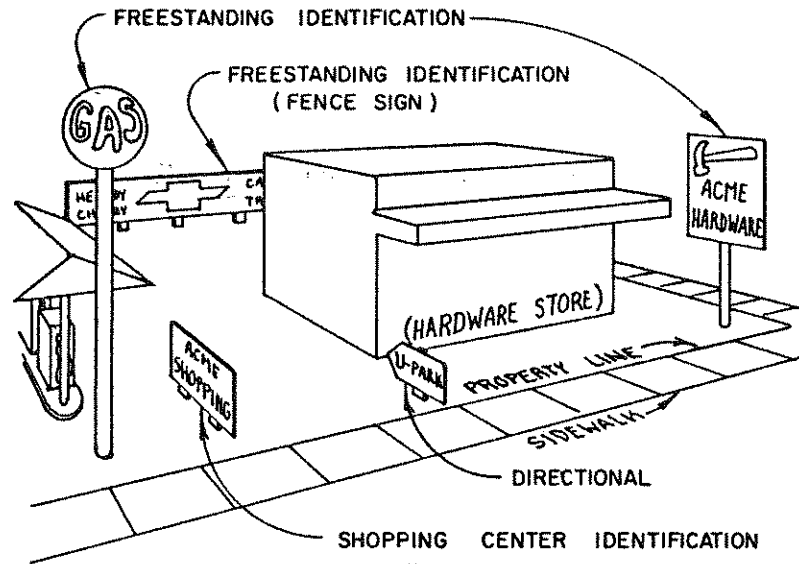
- (f) "Combined business identification sign" shall mean a freestanding sign for a business area in lieu of several exterior directional signs. A business area is defined as:

- (1) A block frontage along a street bounded by two streets or a street and an MID or TID canal, or railroad right-of-way, or the Hetch Hetchy Right-of-Way, and
 - (2) A block frontage as defined above with six (6) or more businesses.
- (g) "Construction sign" shall mean a sign with the names of the architects, engineers, contractors, subcontractors and financing agencies of buildings and structures being constructed upon the premises on which the sign is located.
- (h) "Corporate flag" shall mean a flag identifying a business or firm.

SEC. 10-2.2103. DEFINITIONS, D-P.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

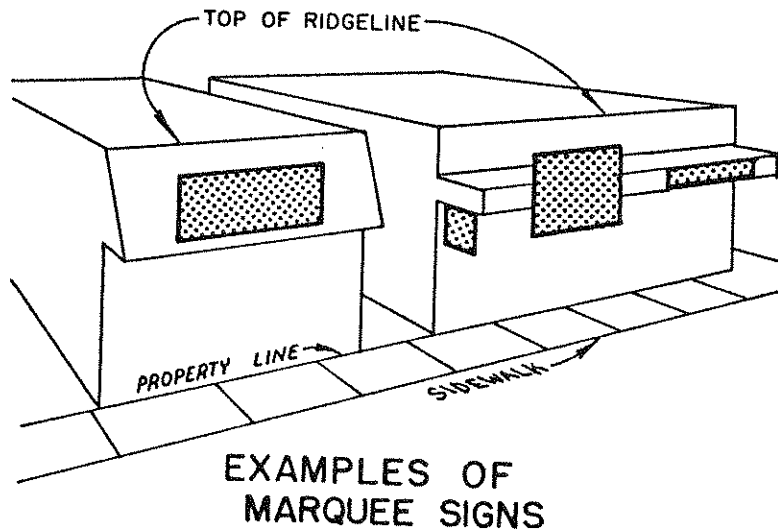
- (a) "Directional sign" shall mean one of two (2) types of signs. An exterior directional sign shall mean a sign oriented to a street and used to direct and control pedestrian or vehicular traffic and located on the same lot or premises as the use which it is intended to serve. An interior directional sign shall mean a directional, warning, or informational sign not bearing any advertising message readable from any street right-of-way. It shall be located on the same lot or premises as the use which it is intended to serve. When a parcel has no direct public street frontage, a directional sign oriented only to the primary street from which it receives access is allowed.
- (b) "For sale or rent sign" shall mean a sign advertising that the subject building or real property or portion thereof is for sale, rent or lease.
- (c) "Freestanding sign" shall mean a sign detached from any building or structure, and the supports of which are permanently affixed in the ground.



EXAMPLES OF FREESTANDING SIGNS

- (d) **"Garage sale sign"** shall mean a sign which is used to advertise the sale of used or secondhand goods or merchandise at dwellings and on residentially zoned property; such sales are also commonly known as patio sales, yard sales, etc.
- (e) **"Height"** shall mean the vertical distance from the highest point used in measuring the area of a sign to the top of curb of the street at a point which is closest to the highest point of the sign.
- (f) **"Historic sign"** shall mean an existing sign, or refurbishing of an existing sign, or recreation of sign that once existed at a given site subject to all of the following:
- (1) Proof of existence at the given site fifty (50) or more years ago, and
 - (2) Proof of authenticity through photographs or plans, and
 - (3) Findings by the Landmark Preservation Committee that the proposal meets the above two (2) criteria.
- (g) **"Hot air balloon"** shall mean a balloon that is filled with heated air, has a gondola, and is capable of rising and floating in the atmosphere with people aboard.
- (h) **"Identification sign"** shall mean any sign which is used to identify or advertise the occupant of a building, lot or premises or the merchandise or activity available at the building, lot or premises where the sign is located.

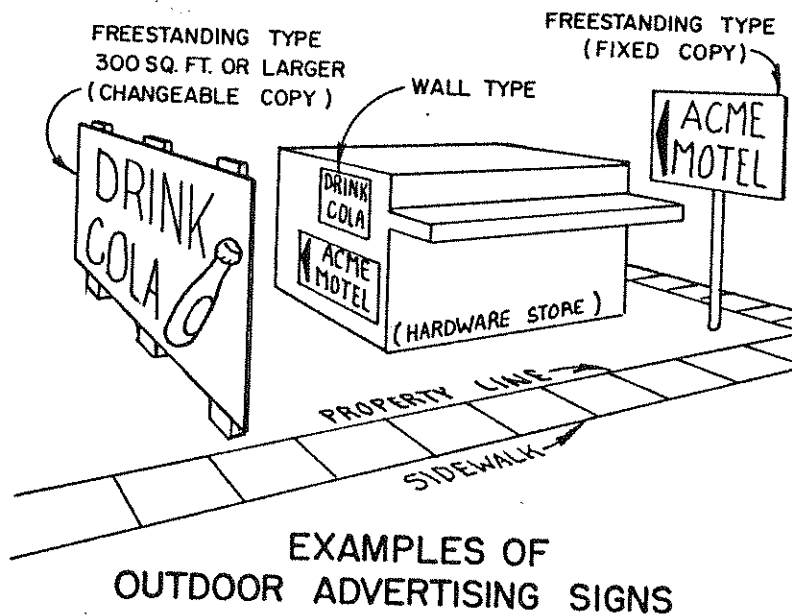
- (i) "Lighted sign" shall mean any sign which is illuminated either directly or indirectly by artificial light.
- (j) "Marquee" shall mean a fixed overhead shelter used as a roof, which may or may not be attached to a building, and which projects into or overhangs a public street or alley right-of-way.
- (k) "Marquee sign" shall mean a sign attached to or hung from a marquee and which:
 - (1) Is mounted in a vertical plane.
 - (2) Is mounted parallel to the leading edge of a marquee, except for an undermarquee sign which may be mounted at an angle to the leading edge of a marquee.
 - (3) Does not project higher than the wall of the building to which the marquee is attached.



- (l) "Open house directional sign" shall mean a sign with the words "Open House" and may include an arrow or other directional symbol and real estate office name.

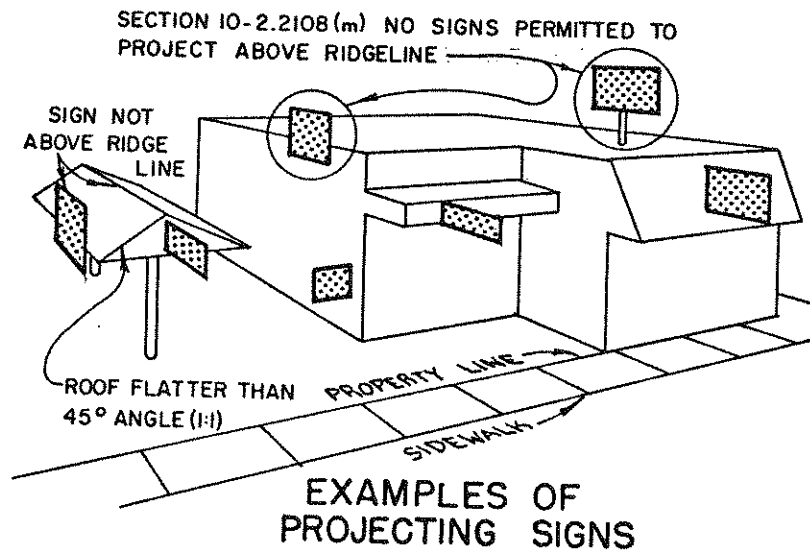
(m) "Outdoor advertising sign" shall mean any of the following:

- (1) Commercial: Any sign, excepting a bench sign, that directs attention to a business, profession, product, commodity, or mercantile-oriented service that is not the primary business, profession, product, commodity or mercantile-oriented service sold, manufactured, conducted, or offered on the site on which the sign is located.
- (2) Noncommercial: Any sign, excepting a bench sign, which does not direct attention to a business, profession, product, commodity or mercantile-oriented service. This includes but is not limited to any sign expressing a personal, political, religious or social message, idea or point of view.



- (n) "Political sign" shall mean any impermanent sign or advertising device or display, with or without letters, words, numbers or figures thereon, which is designed to advertise a candidate for political office, a political party, or a measure scheduled for an election.

- (o) "Principal frontage" shall mean that wall of a building or structure which has frontage on a public street, highway, parking lot, walkway or mall and which is designated by the owner or occupant thereof as the principal frontage of said building or structure for the purposes of Section 10-2.2115(a)(1) of these regulations.
- (p) "Projecting sign" shall mean any of the following:
- (1) Any sign attached to and projecting from the face of a wall, canopy, or marquee.
 - (2) Any sign mounted on a canopy roof or building roof that has a slope flatter than a forty-five (45) degree angle (one [1] horizontal to one [1] vertical).



SEC. 10-2.2104. DEFINITIONS, Q-Z.

For the purpose of these sign regulations the following words and phrases shall have the meanings respectively ascribed to them by this section.

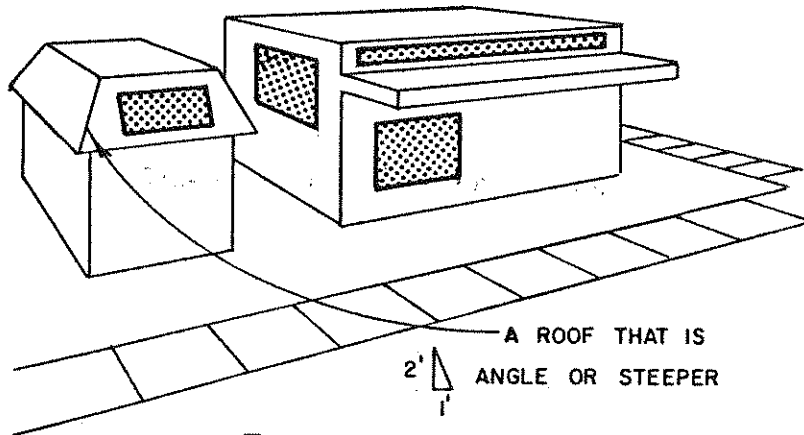
- (a) "Ridgeline" shall mean the peak of the roof, the top of a parapet, or the top of the wall of a building.

- (b) **"Sign"** shall mean any structure, device, letter, figure, character, poster, picture, trademark or reading matter which is used or designed to announce, declare, demonstrate, display or otherwise identify or advertise, or attract the attention of the public. However, a sign shall not include the following:
- (1) Official notices authorized by a court, public body or public officer.
 - (2) Directional, warning or informational signs authorized by federal, state or municipal authority or public utility.
 - (3) A properly displayed official flag of a government, school, religious group, or nonprofit organization.
 - (4) A memorial plaque, tablet or cornerstone indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible material and made an integral part of the building or structure, not to exceed four (4) square feet in area.
 - (5) Signs within a building except window or wall signs as hereinafter defined.
 - (6) Christmas decorations and Christmas lights, from November 15 to January 15.
 - (7) Inflatable device when utilized in conformance with Section 10-2.1009.
- (c) **"Street address sign"** shall mean the numerals of a street address for a given use or uses in a given building or buildings.
- (d) **"Subdivision sign"** shall mean a sign indicating the name of a recorded subdivision, the name of the contractor or subdivider, the name of the owner or agent, and/or giving information regarding directions, price and/or terms.
- (e) **"Subdivision directional sign"** shall mean a sign indicating the name of a recorded subdivision and information regarding location. The name of the contractor or subdivider, the name of the owner or agent and/or information regarding price and/or terms may also be noted.

- (f) **"Temporary sign"** shall mean any banner, pennant, valance, balloon, streamer, placard, "A" frame, sandwich board or similar impermanent sign or advertising device or display with or without letters, words, numbers or figures thereon which directs, promotes service or price, or which is otherwise designed to attract attention, except for the following:
- (1) For sale or rent sign.
 - (2) Garage sale sign.
 - (3) Open house directional sign.
 - (4) Political sign.
 - (5) Sign for fireworks stands, pumpkin sales, Christmas tree sales lots, and temporary certified farmers markets.
 - (6) Window sign.
 - (7) Corporate flag.
 - (8) Banners for grand openings, for outdoor display or sale of goods, and decorative banners as defined in Modesto Municipal Code Section 10-2.2115(a)(9), (10).

Paper signs tacked or otherwise fastened to a side of a building or bulletin board or outside a window are temporary signs unless enclosed in a frame with a glass, plexiglass, or equivalent cover. The sign area will be subject to the wall and canopy sign standards.

- (g) **"Wall"** shall mean any wall or element of a wall or any member or group of members, which defines the exterior boundaries or courts of a building or structure and which has a slope steeper than one (1) horizontal to two (2) vertical, with the horizontal plane.
- (h) **"Wall sign"** shall mean any sign painted on, attached to or erected against the wall of a building with the exposed face of the sign in a place approximately parallel to the plane of the wall and which does not project beyond the top or ends of the wall. "Wall sign" shall also mean any sign permanently displayed on the inside or outside of a window.



EXAMPLES OF
WALL SIGNS

- (i) **"Window sign"** shall mean any sign temporarily displayed on the inside of a window or temporarily painted on a window and facing a street, highway, parking lot, walkway or mall.
- (j) **"Zone"** shall mean one of the various classes of areas into which the City has been divided by this Chapter.

SEC. 10-2.2105. ADMINISTRATION.

- (a) **Duty to enforce.** It is the duty of the Chief Building Official and the Director to enforce all of the provisions of this article.
- (b) **Inspection.** Every sign prior to erection in the City of Modesto shall be subject to approval by the Chief Building Official and the Director to assure compliance with all provisions of this article and all other laws and ordinances of the City.
- (c) **Compliance with chapter; nuisance; abatement.** The Council hereby determines that the public peace, safety, morals, health and welfare, require that all signs heretofore constructed, erected, or painted in violation of any law or ordinance of the City of Modesto in effect at the time such sign was constructed, erected, or painted be and they are hereby made subject to the provisions of this article, and shall conform and comply with such requirements forthwith, and that all signs which shall not so conform and comply and all signs which shall hereafter be constructed, erected, or painted in violation of the provisions of this article shall be and they are hereby declared public nuisances to be removed and abated in the manner provided herein.

(d) **Permits required.** It shall be unlawful for any person to erect, alter, change copy, or relocate within the City any sign as defined in this article without first obtaining a permit from the Chief Building Official and making payment of the fee required in subsection (i) of this section; except that the following listed signs are not required to have permits or pay permit fees, but shall meet all other requirements of this article.

- (1) Construction sign.
- (2) For sale or rent sign.
- (3) Garage sale sign.
- (4) Unlighted interior directional, warning, or information sign.
- (5) Nameplate, one (1) square foot maximum size.
- (6) Open house directional sign.
- (7) Political signs permitted by Section 10-2.2111 or 10-2.2115 of these sign regulations.
- (8) Signs for fireworks stands, pumpkin sales, Christmas Tree sales lots, and temporary certified farmers markets.
- (9) Subdivision directional sign.
- (10) Corporate flag.
- (11) Bench sign.

Noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), are required to obtain a permit, but shall not be required to pay permit fees. Such signs shall meet all other requirements of this article.

(e) **Application for permit.** Application for sign permits shall be made upon forms provided by the Chief Building Official, and shall contain or have attached thereto the following information and material:

- (1) Name, address and telephone number of the owner of the property.

- (2) Name, address and telephone number of the applicant (owner of the sign).
 - (3) Name, address and telephone number of the sign contractor, and contractor's state license number.
 - (4) Location of the building, structure, or lot to which or upon which the sign is to be attached, erected, or painted.
 - (5) Two (2) copies of a plan showing:
 - (aa) The position of the sign in relation to adjacent buildings or structures.
 - (ab) The design and size, structural details and calculations, and proposed location on the premises of such signs.
 - (ac) A statement showing the type, size, and dimensions of all signs existing on the premises at the time of making such application.
 - (ad) For canopy or wall signs, a statement designating the principal frontage of the building or structure upon which the sign is to be located.
 - (6) Such other information as the Chief Building Official shall require to show full compliance with this article and all other laws and ordinances of the City of Modesto.
 - (7) The Chief Building Official may waive the requirement for plans to be filed for small signs, and for a previously approved standard plan for sign supports provided the application is otherwise in compliance with conditions of approval of the standard plan.
- (f) **Permit issued if application in order.** It shall be the duty of the Chief Building Official and Director, upon the filing of an application for a sign permit, to investigate the application, and if it shall appear that the proposed sign is in compliance with all the requirements of this article and all other laws and ordinances of the City, the Chief Building Official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within one hundred twenty (120) days after date of issuance, the permit shall become null and void.

- (g) **Signs falling within definition of one or more type signs.** Whenever any sign, as defined in this article, falls entirely within the definitions of one or more type signs, it shall be subject to the provisions of the most restrictive category.
- (h) **Permit issued in error.** If a sign permit is issued in error by the Chief Building Official and the sign does not comply with all of the requirements of this article and all other laws and ordinances of the City, the sign permit shall be null and void and no rights or privileges shall be conferred upon the permittee by said permit. The Chief Building Official shall include or cause to be included on the sign permit for all signs a notice that the issuance of the permit does not grant any right or privilege to erect or install any sign which is in violation of this article or of any other laws or ordinances of the City.
- (i) **Permit fees.** Each application for a sign for which a permit is required by this article and each application for a change of copy of an existing sign shall be accompanied by a sign permit fee as established by City Council resolution from time to time.

The required fees shall be doubled for any sign erected or painted prior to the securing of a sign permit when a sign permit is required.

- (j) **Maintenance of signs.** The owner of any sign as defined and regulated by this article, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs and all supporting structures of any sign shall be repainted to keep them in good condition whenever such action is requested in writing by the Chief Building Official or the Director.
- (k) **Unsafe and unlawful signs.** If the Chief Building Official or the Director shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or is in a dilapidated, decayed, or neglected state, or has been constructed, erected, or painted or is being maintained in violation of the provisions of this article, he shall give written notice to the permittee or owner thereof. If the permittee or owner fails to remove or alter the structure or sign so as to comply with the standards herein set forth within ten (10) days after such notice, or within three (3) days for temporary signs, such sign may be removed or altered to comply by the Chief Building Official or the Director and any expense incidental thereto shall be paid by the permittee or owner of the property upon which it is located. No permit shall be issued thereafter to any permittee or owner who has not paid the costs so

assessed. The Chief Building Official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

- (1) Removal of the copy of certain signs. The copy of any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product available for purchase by the public, shall be taken down, removed, painted over, or covered as approved by the Chief Building Official or the Director, by the owner, agent, or person having the beneficial use of the building, structure, or premises upon which such sign may be found. This action shall occur within ten (10) days after written notification from the Chief Building Official or the Director. Upon failure to comply with such notice within the time specified in such order, the Chief Building Official or Director is hereby authorized to take down, remove, paint over, or cover such sign or sign copy, or to cause such action to be taken. Any expense incidental thereto shall be paid by the owner of the building or structure to which such sign is attached, or by the owner of said sign.

SEC. 10-2.2106. SIGN VARIANCES.

Except for height, length, and area limitations, and the types of signs allowed in specific zones, the Board may grant variances from the provisions of this article in accordance with the provisions of Article 25 of Chapter 2 of Title X of this Code.

SEC. 10-2.2107. APPEALS.

Any person aggrieved or affected by any decision of an administrative official of the City which involves the application of any of the provisions of this article may appeal such decision to the Board in accordance with the provisions of Article 28 of Chapter 2 of Title X of this Code.

SEC. 10-2.2108. STATUS AFTER ANNEXATION OF COMMERCIAL SIGN RESTRICTIONS IMPOSED BY STANISLAUS COUNTY.

Whenever territory is annexed to the City of Modesto and within said territory there are located signs which have had restrictions or limitations imposed thereon by the County of Stanislaus, and said restrictions or limitations are more restrictive than those imposed by this article, said restrictions or limitations, after annexation, shall apply in and be enforced by the City of Modesto.

SEC. 10-2.2109. NONCONFORMING SIGNS: DEFINITIONS, REMOVAL, ALTERATION OR REPLACEMENT.

- (a) For the purpose of this article, a "nonconforming sign" is a sign which does not conform with the provisions of this article, but which:
- (1) Was lawfully in existence and in use within the City on March 1, 1977, including signs erected pursuant to use permits and to variances granted by the City prior to March 1, 1977;
 - (2) Was lawfully in existence and in use on property outside of the City on the date upon which the annexation of such property to the City was completed, including signs erected pursuant to use permits and variances granted by the County of Stanislaus;
 - (3) Was lawfully in existence and in use within the City on the effective date of an amendment of the Zoning Map of the City of Modesto for the property on which the sign is located; or
 - (4) Was lawfully in existence and in use within the City on the effective date of any future amendment of this article, which amendment makes such signs nonconforming.
- (b) A nonconforming sign shall not be replaced, altered, reconstructed, relocated or expanded in any manner unless it is made to conform with all the provisions of this article. However, other nonconforming signs on the same property need not be made to conform as a result.
- (1) Change in copy shall be permitted if no structural changes in the sign are necessary except that no change in copy shall be permitted for nonconforming painted wall signs.
 - (2) Ordinary maintenance and minor repairs which will not increase the normal life of the sign and which are required for safety purposes shall be permitted. Structural alterations to a nonconforming sign are prohibited.
 - (3) If the use identified by a nonconforming sign is discontinued, the sign shall be removed within thirty (30) days unless within that period of time it is made to conform to the provisions of this article. If such sign is not made to conform,

it shall thereafter be unlawful. "Discontinue" in this subsection shall mean cessation of operation or change of use. "Discontinue" shall not mean an ownership change or a name change as long as there is no cessation of operation and the use is not changed.

- (c) Each nonconforming sign shall be removed or made to conform to the provisions of this article at the sole cost of the owner thereof, not later than the expiration of the period of time applicable to a particular sign as set forth in this article or as set forth in the following table, whichever is the shorter period of time:

<u>Description of Sign</u>	<u>Abatement Schedule</u>
(1) Temporary signs annexed to the City	Three (3) calendar months from date of annexation to the City of Modesto
(2) Rotating, moving, flashing, changing or blinking portions of signs:	
(aa) Time and temperature signs	Excepted, no abatement necessary if sign otherwise conforms
(ab) Conventional clock	Excepted, no abatement necessary if sign otherwise conforms
(ac) Rotating signs, the stopping of the rotating portion of which would substantially destroy the utility of the sign, that are annexed to the City	Three (3) years from annexation to the City of Modesto
(ad) All others annexed to the City	Three (3) calendar months from date of annexation to the City of Modesto
(3) All other signs which do not conform with the provisions of this article:	

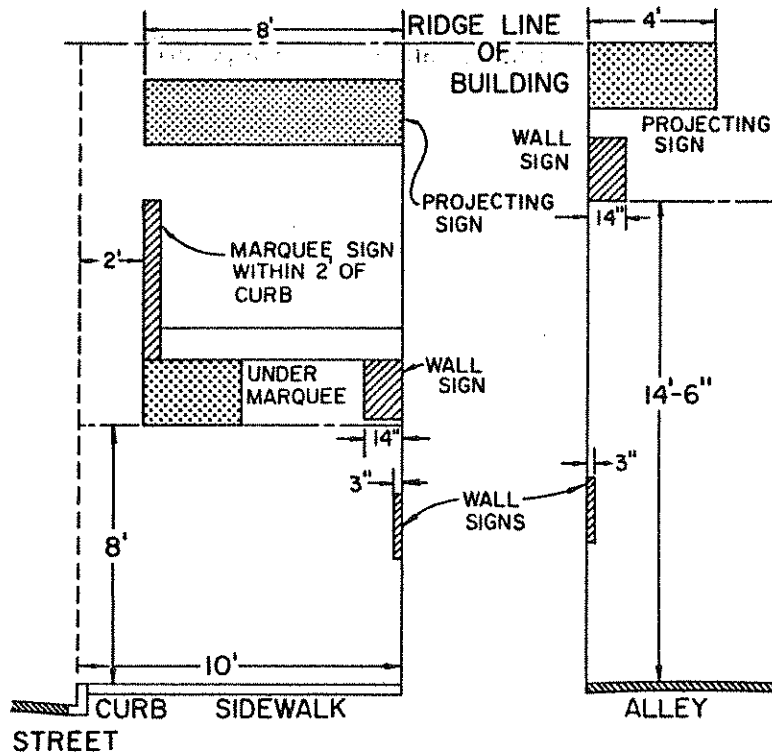
- | | |
|--|---|
| (aa) Nonconforming as a result of City-initiated rezoning of property within the City or sign code amendment | Ten (10) years from the effective date of the City-initiated rezoning or sign code amend amendment |
| (ab) Annexed to the City | Three (3) years from date of annexation to the City of Modesto |
| (4) Variance provision for signs made nonconforming by annexations | The Board may by a variance grant up to seven (7) years additional time, to the three (3) years allowed from the date such a sign is made nonconforming by annexation |
| (5) Motor fuel price signs per Section 10-2.2114(a)(10) | As allowed by State law |
| (6) All signs on nonconforming uses or nonconforming buildings shall conform to the sign regulations of the most restrictive zone in which the nonconforming use or nonconforming building would first be permitted: | |
| (aa) Signs conforming | When the nonconforming use or nonconforming building is terminated. |
| (ab) Signs not conforming | As permitted by Section 10-2.2109(c)(3) above |

SEC. 10-2.2110. GENERAL REQUIREMENTS.

- (a) Height limitation. The maximum height of any sign shall be as stated herein, but in no case shall a sign exceed thirty-five (35) feet in height, except for freestanding signs along Freeway 99 permitted by Section 10-2.2114(a)(5)(ab) and Section 10-2.2116(a)(6)(ab) and wall signs permitted by Section 10-2.2114(a)(6)(ac).

- (b) Area allowance for decorative purposes on freestanding signs. A freestanding sign as defined in Section 10-2.2103(c) may have a decorative cap or other decorative feature subject to all of the following:
- (1) The area of the decorative feature shall not exceed fifteen (15) percent of the specified maximum area of a freestanding sign as noted elsewhere in these regulations.
 - (2) No allowance shall be given to exceed the maximum height for a given sign to accommodate a decorative feature.
 - (3) The decorative feature under this additional area allowance shall bear no commercial nor non-commercial message; it shall serve for decorative purpose only.
 - (4) The plans for a sign permit shall:
 - (aa) On the graphic, outline the perimeter of the basic sign and outline the perimeter of the decorative area.
 - (ab) Include a tabulation of four sign areas:
 - (i) Maximum sign area;
 - (ii) Area within the outlined perimeter of the basic sign;
 - (iii) Fifteen (15) percent of maximum sign area; and
 - (iv) Area within the outlined perimeter of the decorative features.
- (c) Rotating, moving, flashing, changing or blinking signs. No sign shall have or consist of any moving, rotating or otherwise animated part or any flashing, blinking, fluctuating or otherwise animated light. The provisions of this subsection shall not be applied so as to prohibit the following types of signs:
- (1) A conventional clock face.
 - (2) A sign showing digital time with changes in time not more often than once a minute.

- (3) A sign showing digital temperature with changes in temperature only when there is a rise or fall of one (1) degree or more. Changes from Fahrenheit readings to Centigrade readings shall occur not more frequently than five-second intervals.
 - (4) A sign showing time and temperature subject to changes not more frequently than at five-second intervals.
 - (5) An on-premises barber pole of a length not to exceed thirty (30) inches of traditional design which shall be permitted to revolve during the time that a barbershop is open for business. Said sign shall not exceed ten (10) feet in height.
- (d) Projections. All signs, if otherwise authorized, are permitted to project into required front, side and rear yards. The permitted projection of an authorized sign into any street or alley right-of-way is as follows:
- (1) Freestanding sign: No projection.
 - (2) Wall sign: Up to fourteen (14) inches in thickness.
 - (3) Marquee sign: Not closer than two (2) feet from the face of the curb.
 - (4) Projecting sign: Up to eight (8) feet into any street right-of-way and up to four (4) feet into any alley right-of-way, but not closer than two (2) feet from the face of the curb.
 - (5) Bus bench sign: Entirely within street right-of-way.



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

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

- (h) Illuminated signs. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity; and no sign shall be illuminated by or contain flashing intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- (i) Signs not to constitute vehicular traffic hazard. No sign, as regulated in this article, shall be erected at the intersection of any street, or at any railroad grade crossing, or at any driveway in such a manner as to obstruct free and clear vision of operators of motor vehicles, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "DANGER", or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse motorists.
- (j) Sign company identification. It shall be unlawful for any person to change copy on or to erect, alter, or relocate any sign without printing or causing to be printed in the lower right-hand corner of the sign in clearly legible letters the name of the person, firm or company doing such work, the date of such work, and the City of Modesto building permit number. Said information shall not exceed sixteen (16) square inches in area. If said information is not printed in the lower right-hand corner of a sign, the Chief Building Official may remove the sign pursuant to the provisions of Section 10-2.2105(k) of this article.
- (k) Temporary signs. It shall be unlawful for any person to erect, install or maintain any temporary sign.
- (l) Bench signs. It shall be unlawful for any person to erect, install or maintain any bench sign, except on public property pursuant to a franchise granted by the City of Modesto.
- (m) Wall signs, additional standards. No wall sign shall exceed fourteen (14) inches in thickness; no display or messages shall be permitted on the edges of wall signs except the sign company's identification as required by paragraph (j) of this section.
- (n) Ridgeline limitation. A wall, canopy, marquee or projecting sign shall not project above the ridgeline of the building on which the

sign is mounted. Where the ridgeline as defined in Section 10-2.2104(a) varies in height, such sign shall not project or be mounted above a ridgeline where it is placed nor above the height representing a minimum of seventy-five (75) of the ridgeline of the building.

- (o) Building outlining. Outlining of a building or its roof by means of permanent lighting by exposed neon tubing, exposed incandescent lighting or other artificial lighting, or an equivalent effect, is prohibited. "Outlining" means delineation, with a row or band of lights, of the edges of a roof or wall surface. This provision does not prohibit floodlighting or generally illuminating buildings and their roofs nor temporary Christmas displays.
- (p) No signs on street trees, utility poles or structure in street right-of-way. No signs will be attached to any City street tree, or any poles such as utility poles, street signals, street lights, street name signs, or traffic warning signs, or on any bus shelter.
- (q) It shall be unlawful and punishable as an infraction for any person to place or cause to be placed any sign not in conformity with this section.
- (r) A historic sign meeting the criteria in the "historic sign" definition, may be approved in any zone subject to the approval of a conditional use permit by the Board of Zoning Adjustment (BZA) in accordance with Article 25 of Chapter 2 of Title X of this Code. Each deviation from the pertinent sign regulations of the zone in which the site of a proposed historic sign is located should be noted in the BZA agenda report. The BZA should determine if each deviation is insignificant to the compatibility with other uses in the area and deny or impose conditions deemed necessary for those deviations that are not compatible.

SEC. 10-2.2111. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE R-1, R-2, AND R-3 ZONES - ORIENTED PARTICULARLY TO TYPICAL INDIVIDUAL USES.

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 R-1, R-2 and R-3 zones, the following signs are permitted, except as otherwise stated:

- (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) If a residential use, each numeral shall be not less than three (3) inches in height and shall have a stroke width of not less than one-quarter (0.75) inch and all of the numerals shall not exceed one (1) square foot in area.
 - (ac) If a nonresidential use and a conditional use, as noted in Section 10-2.504 (R-1), Section 10-2.604 (R-2), or Section 10-2.704 (R-3), each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) One (1) unlighted for sale or rent sign per street frontage, not exceeding eight (8) square feet in area and six (6) feet in height.
- (3) Three (3) unlighted open house directional signs, each not exceeding three (3) square feet in area and forty-two (42) inches in height, which shall be permitted during daylight hours only, for each house or group of houses offered for sale by the same realtor at the same general location, provided they do not bear any advertising message other than the real estate office name, and that such signs are located wholly on private property with permission of the property owner on whose property they are located.
- (4) One (1) wall-mounted name plate not exceeding one (1) square foot in area.
- (5) Political signs which may be erected, maintained and displayed as follows:
 - (aa) On lots or parcels upon which there is located a residential structure, except that:
 - (i) The area of each such sign shall not exceed six (6) square feet.

- (ii) The overall height shall not exceed six (6) feet.
 - (iii) The combined area of all such signs shall not exceed sixty (60) square feet.
 - (ab) On lots or parcels upon which there is not located a residential structure, except that:
 - (i) The area of each such sign shall not exceed thirty-two (32) square feet.
 - (ii) The overall height of each such sign shall not exceed ten (10) feet.
 - (iii) The combined area of all such signs shall not exceed one hundred (100) square feet.
 - (ac) Political signs shall not be lighted either directly or indirectly.
 - (ad) Such signs shall be erected no more than one hundred twenty (120) days prior to an election, and shall be removed within ten (10) days after the election.
- (6) Temporary signs are not permitted.
 - (7) Window signs are not permitted.
 - (8) Outdoor advertising signs are not permitted.
 - (9) Two (2) unlighted garage sale signs not exceeding three (3) square feet each in area may be displayed as follows:
 - (aa) Said signs may be displayed only during such times as the garage sale being advertised is actually being held or conducted.
 - (ab) Said signs may only be erected and displayed on private property with the consent of the owner thereof. They may not be erected or displayed on street trees, utility poles, or elsewhere in public rights-of-way.

SEC. 10-2.2112. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT FOR SIGNS IN THE R-1, R-2 AND R-3 ZONES - ORIENTED TO RESIDENTIAL PROJECTS AND NONRESIDENTIAL USES.

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 R-1, R-2 and R-3 zones, the following signs are permitted, except as otherwise stated:
 - (1) For public, parochial, and private schools:
 - (aa) The additional signage as permitted for uses permitted by conditional use permit in subsection 10-2.2112(a)(2).
 - (ab) After conditional use permit review, freestanding sign(s), each not exceeding seventy-two (72) square feet in area or twenty (20) feet in height.
 - (2) For uses permitted by conditional use permits additional signing as follows:
 - (aa) One (1) bulletin board or identification sign not exceeding twenty-five (25) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
 - (ab) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height. Canopy and wall identification signs may have external illumination only; no internal illumination shall be permitted.
 - (3) One (1) construction sign not exceeding twenty (20) square feet in area and six (6) feet in height, provided that such sign shall be removed not later than thirty (30) days after construction is completed.
 - (4) One (1) subdivision sign not exceeding sixty-four (64) square feet in area and ten (10) feet in height for each

recorded subdivision provided that such sign shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:

- (aa) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional one (1) year period.
 - (ab) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three (3) year period, such sign may remain for an additional two (2) year period.
- (5) Unlighted subdivision directional signs not exceeding sixteen (16) square feet in area and six (6) feet in height for each recorded subdivision as follows:
- (aa) Within the boundaries of the recorded subdivision, one (1) subdivision directional sign shall be permitted per block.
 - (ab) Outside the boundaries of any recorded subdivision, subdivision directional signs on private property shall be permitted as follows:
 - (i) One (1) at each street intersection where a change in direction (left turn, right turn) is required.
 - (ii) Three (3) where no change in direction is required. Placement of one (1) sign under this subsection shall be no closer than one thousand (1000) feet to another sign under this subsection for this subdivision.
 - (ac) Such signs shall be removed not later than three (3) years from the recording date of the subdivision, except as follows:
 - (i) Where building permits have been taken out for more than one-half (0.5), but less than sixty-five (65) percent, of the lots in such subdivision at the end of said three-year

period, such signs may remain for an additional one-year period.

- (ii) Where building permits have been taken out for one-half (0.5) or less of the lots in such subdivision at the end of said three-year period, such signs may remain for an additional two-year period.

- (6) Subdivision banners for grand openings as follows:
 - (aa) One (1) banner permitted not to exceed seventy-two (72) square feet in area to be located within the boundaries of the recorded subdivision.
 - (ab) The 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.
 - (ac) Banners shall be permitted for no more than sixty (60) days after obtaining a permit from the Director.
- (7) Interior directional, warning, and informational signs not exceeding six (6) square feet in area and six (6) feet in height.
- (8) One (1) exterior directional sign per driveway or pedestrian walkway serving five (5) or more dwelling units as follows:
 - (aa) Sign copy limited to any or all of the following: street name and address, housing project name and logo, for sale, for rent, for lease.
 - (ab) Twelve (12) square feet maximum area, external illumination only.
 - (ac) For a freestanding sign, six (6) feet maximum height; for a wall sign, first story maximum height not to exceed twelve (12) feet.
- (9) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:

- (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall not exceed thirty-five (35) feet in height, and shall have external illumination only, except for neon signs on the inside of windows.
- (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.

SEC. 10-2.2113. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT FOR SIGNS IN THE P-O ZONE.

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 P-O Zone, the following signs are permitted:
 - (1) For any uses permitted in the R-3 Zone, except those permitted by conditional use permit, any signs permitted in the R-3 Zone excepting Section 10-2.2112(a)(2).
 - (2) For any uses permitted by conditional use permit in the R-3 Zone, any signs permitted in the R-3 Zone, including Section 10-2.2112(a)(2).
 - (3) For uses other than those permitted in the R-3 Zone, the following signs are permitted:
 - (aa) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (i) So that the sign is visible from the street upon which the building is addressed.
 - (ii) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (ab) Any signs permitted in the R-3 Zone except Section 10-2.2112(a)(2).

- (ac) For each site, one (1) freestanding sign per street frontage. Each sign shall not exceed sixteen (16) square feet and eight (8) feet in height. For a sign facing the street of the address, a street address shall be included subject to the stroke and height of numerals noted in subsection (aa). The sign area may be increased by up to four (4) square feet for a street address.
 - (ad) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall, and not exceeding thirty-five (35) feet in height.
 - (ae) 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.
- (4) For the purpose of replacing one nonconforming use with another nonconforming use, additional signs as follows:
- (aa) Canopy and wall identification signs limited to one-half (0.5) square foot in combined sign area for each lineal foot of any wall facing a public street. Signs shall face only public streets, shall not exceed thirty-five (35) feet in height.
 - (ab) Window signs are permitted, shall face only public streets, and shall have external illumination only.

SEC. 10-2.2114. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE C-1, C-2, C-M, M-1, AND M-2 - ZONES 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) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
- (2) Only one (1) of the following signs for each use or occupancy:
 - (aa) Freestanding identification sign not exceeding seventy-two (72) square feet in area and twenty (20) feet in height; or
 - (ab) Projecting identification sign not exceeding seventy-two (72) square feet in area and thirty-five (35) feet in height; if any portion projects into or overhangs a public street or alley right-of-way, said sign shall not exceed forty-eight (48) square feet in area; or
 - (ac) Marquee identification sign at right angles to a street, not exceeding forty-eight (48) square feet in area and thirty-five (35) feet in height. A second such marquee identification sign is permitted if the two (2) signs are single-faced, are parallel, and are on opposite ends of a marquee.
 - (ad) Exception: Any sign existing on March 1, 1977, in the C or M zones on a pylon which extends above a ridgeline shall be allowed to remain in addition to one (1) of the above signs as a nonconforming sign subject to abatement according to the schedule set forth in Section 10-2.2109.
 - (ae) For the freestanding sign in subsection (aa) a street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.

- (3) One (1) freestanding identification sign for a shopping center, as herein defined, for each street upon which the shopping center fronts, subject to the following provisions:
- (aa) Each shopping center sign shall not exceed seventy-two (72) square feet in area and twenty (20) feet in height.
 - (ab) The identification on each shopping center sign shall be limited to the shopping center name with a reader board or a listing of uses within the center optional. The lettering for the reader board or the listing of such uses shall be of a size not greater than the lettering of the shopping center name. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased by up to four (4) square feet for a street address.
 - (ac) Any freestanding or projecting identification sign or signs erected at said shopping center on or after July 1, 1972, whether identifying said shopping center or any use or occupancy therein, shall be removed prior to obtaining a building permit for the erection of a shopping center sign.
 - (ad) After erection of a shopping center sign at a shopping center, even in those cases where the shopping center sign installation preceded this Code provision, no additional freestanding or projecting identification sign shall be erected at such shopping center for any use or occupancy therein.
 - (ae) A shopping center, eligible for a freestanding identification sign, is usually characterized by a cluster of retail uses:
 - (i) At one (1) location held out to the public as a distinct shopping area and having a minimum of five (5) retail uses on the same or adjacent sites.
 - (ii) On one (1) or more parcels not normally traversed by any public streets.

- (iii) With membership in a merchants' association comprising the cluster.
- (iv) That employ a common advertising program for such a center.

(4)

- (aa) For a shopping center, as defined in subsection 10-2.2114(a)(3)(ae) and with 250,000 square feet of gross floor area or more, and located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height is permitted.
- (ab) Subject to the applying for a conditional use permit from the Board of Zoning Adjustment in accordance with Article 25 of Chapter 2 of Title X of the code, the Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruction visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:
 - (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
 - (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.

- (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (5) For a freestanding tourist-oriented hotel, motel, restaurant or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
 - (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
 - (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-1 Zone.
 - (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:
 - (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so

that an accurate ground reading of height can be determined.

- (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
- (iii) The primary testimony at the public hearing will be the visual observations from the field trip.

(6) Canopy, marquee, and wall identification signs, provided:

- (aa) That said signs shall be limited to the portion of a building wherein the use or occupancy is conducted except for signs approved by a Conditional Use Permit under Section 10-2.2114(a)(6)(ac) that follows.
- (ab) That the maximum total area for all said signs shall be limited as follows:
 - (i) For the principal frontage of the building as designated by the applicant:

<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
--------------------------	--

First 50 feet	4 square feet per lineal foot of building frontage plus
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	1 square foot per lineal foot of building frontage

- (ii) For each other frontage of the building:

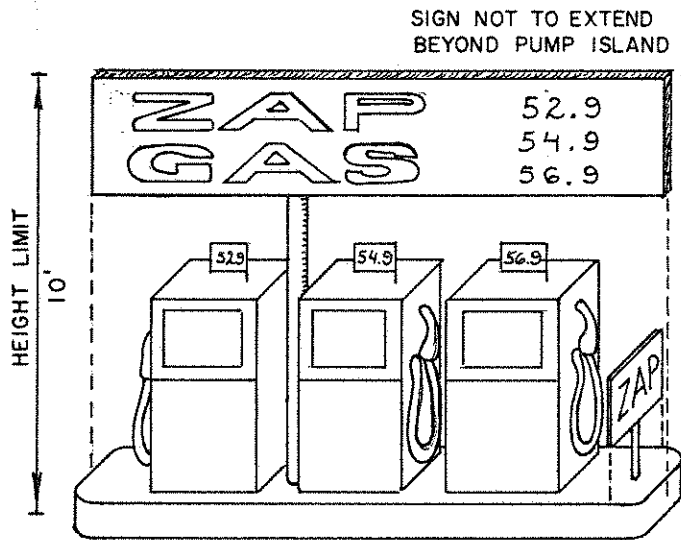
<u>Building Frontage</u>	<u>Maximum Total Area for All Canopy, Marquee, and Wall Identification Signs</u>
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First 50 feet	4 square feet per lineal foot of building frontage plus
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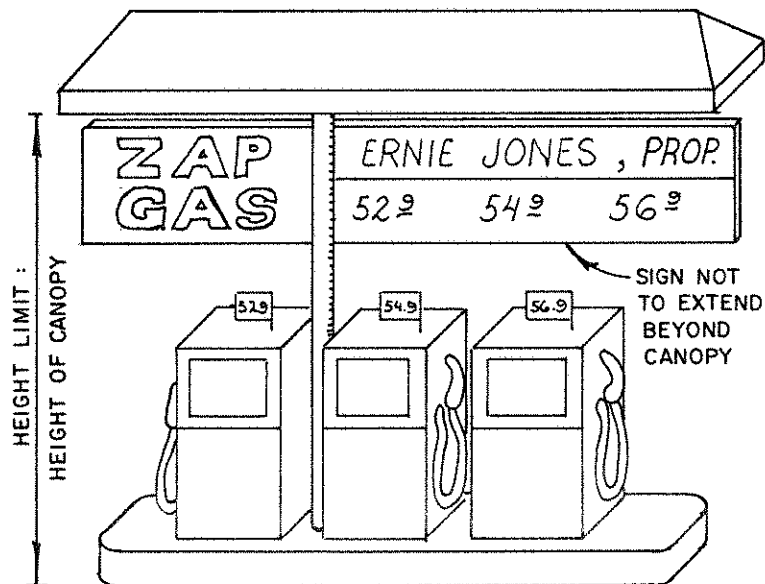
Next 50 feet	2 square feet per lineal foot of building frontage plus
Over 100 feet	0.5 square foot per lineal foot of building frontage

- (ac) That said signs shall not exceed thirty-five (35) feet in height nor project above a ridgeline, except that wall signs above thirty-five (35) feet in height may be approved 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. Said use permit will be dependent upon the following two (2) findings being shown:
 - (i) The building must exceed four (4) stories, or forty-eight (48) feet in height.
 - (ii) The applicant must show why wall signs at a thirty-five-foot height limit cannot properly identify and architecturally meet the design of the building. All options to reach a satisfactory solution must have been explored.
- (ad) That signs hung from a canopy shall be not less than eight (8) feet above a private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic.
- (7) One (1) sign hung from a marquee per street frontage for a given use, not exceeding six (6) square feet in area on any one (1) side or twelve (12) square feet maximum total area. Said sign shall be not less than eight (8) feet above a public sidewalk and may be mounted at an angle to the leading edge of a marquee.
- (8) One (1) freestanding identification sign, not exceeding seventy-two (72) square feet in area and twenty (20) feet in height, which shall be permitted to identify a use without any structures, such as a parking lot. For pumpkin and Christmas tree sale lots, one (1) freestanding identification sign shall be permitted, not exceeding thirty-two (32) square feet in area and twelve (12) feet in height.
- (9) Signs on service station pump islands, canopy uprights, and nonmovable structures on the pump islands, which

shall be permitted if the combined area of said signs and all other wall and canopy signs do not exceed the total sign area permitted in subsection (4) above for the building on the site and do not project beyond the canopy roof or raised pump island. Said signs shall not exceed ten (10) feet in height if there is no canopy. For self-service service stations with small attendant booths less than ten (10) feet on any side, a maximum total wall and canopy sign area of one hundred sixty (160) square feet is permitted.



SERVICE STATION WITHOUT A CANOPY



SERVICE STATION WITH A CANOPY

- (10) Freestanding motor fuel price signs are permitted, as hereinafter specified, for businesses dispensing motor fuel to the public. The message on said signs shall be limited to specifying the prices and grades of motor fuel, self-service or full service, and brand name of the motor fuel, as required by the California Business and Professions Code. Motor fuel price signs shall be permitted as follows:
 - (aa) One (1) motor fuel price sign per street frontage of the site.
 - (ab) Maximum area shall be twenty-five (25) square feet for the self-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; twenty-five (25) square feet for the full-service portion of the sign and six (6) square feet for a discount for cash portion of the sign; all can be combined as one (1) sign.
 - (ac) Maximum height of sign shall be fourteen (14) feet.

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 thirty (30) 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.

SEC. 10-2.2116. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE C-3 ZONE.

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-3 Zone, the following signs are permitted:
 - (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (2) Any signs allowed in the C-1 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1205 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2114(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2114(a)(3) are not permitted in the C-3 Zone.
 - (3) One (1) freestanding combined business identification sign subject to all of the following:
 - (aa) Sign is to serve a business area defined as follows:
 - (i) A block frontage along a street bounded by two (2) streets or a street and an MID or TID

canal, or a railroad right-of-way, or the Hetch Hetchy Right-of-Way; and

- (ii) A block frontage as defined above with six (6) or more businesses, and
- (ab) Existing, exterior, directional signs for all businesses within the business area are to be removed and no new ones installed, and
- (ac) The sign not exceed forty-eight (48) square feet in area and ten (10) feet in height, and
- (ad) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address, and
- (ae) From the bottom of the sign box or can to grade, there shall be a pole cover or skirting that gives the appearance of a solid base so that the sign appears as a monument sign.

(4)

- (aa) For a shopping center, as defined in subsection 10-2.2114(a)(3)(ae) and with 250,000 square feet of gross floor area or more, and located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign, not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height is permitted.
- (ab) Subject to the applying for a conditional use permit from the Board of Zoning Adjustment in accordance with Article 25 of Chapter 2 of Title X of the code, the Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruction visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:

- (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
 - (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
 - (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (5) Any signs allowed in the R-3 Zone are permitted in the C-3 Zone for uses permitted in Section 10-2.1204.
- (6) For a freestanding tourist-oriented hotel, motel, restaurant, or service station located on property within six hundred (600) feet of the Freeway 99 right-of-way, one (1) freestanding identification sign not exceeding one hundred fifty (150) square feet in area and thirty-five (35) feet in height may be approved 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) Said use permit shall be dependent upon the following two (2) findings being shown:
- (i) Except for a service station, that the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.

- (ii) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
- (ab) The Board may grant permission for said sign to be higher than thirty-five (35) feet if the applicant can show that an overcrossing of Freeway 99 or ramps thereto or trees or vegetation obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The minimum height necessary to clear said visual obstruction shall be based on the following to occur prior to the Board of Zoning Adjustment public hearing:
 - (i) The applicant or applicant's representative shall arrange for a boom truck with a sign target to be on the site at the location of the proposed sign, said target with a tape measure attached to the top of the target so that an accurate ground reading of height can be determined.
 - (ii) On the Board of Zoning Adjustment (BZA) field trip, the BZA will go to the site, pick up the applicant or applicant's representative to drive Freeway 99 north and south of the target on the subject site. The purpose will be to visually verify that the target is set at the minimum height necessary to clear said visual obstruction.
 - (iii) The primary testimony at the public hearing will be the visual observations from the field trip.
- (7) For any other freestanding use or occupancy, one (1) freestanding identification sign not to exceed seventy-two (72) square feet in area and twenty (20) feet in height may be approved 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. Said use permit will be dependent upon the following three (3) findings being shown:

- (aa) That the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity to each other or through common advertising.
- (ab) That the use or occupancy cannot be adequately identified by other signs permitted in the C-3 Zone.
- (ac) A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to (4) square feet for a street address.

SEC. 10-2.2117. SPECIFIC REQUIREMENTS FOR TYPE, AREA, AND HEIGHT OF SIGNS IN THE B-P AND P-D ZONE.

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 B-P Zone, the following signs are permitted:
 - (1) Street address sign required. Each building or group of buildings assigned a street address shall display a street address sign on a wall on the building:
 - (aa) So that the sign is visible from the street upon which the building is addressed.
 - (ab) Each numeral shall be not less than six (6) inches in height and shall have a stroke width of not less than one-half (0.5) inch and all of the numerals shall not exceed four (4) square feet in area.
 - (2) Any signs allowed in the C-1 Zone are permitted in the B-P Zone for uses permitted in Section 10-2.1602 excepting that freestanding, marquee, and projecting identification signs as allowed in Section 10-2.2114(a)(2) and freestanding shopping center identification signs as allowed in Section 10-2.2114(a)(3) are not permitted in the B-P Zone.

- (3) For each parcel, one (1) freestanding identification sign not exceeding seventy-two (72) square feet in area and six (6) feet in height. A street address shall be included subject to the stroke and height of numerals noted in subsection (1). The sign area may be increased up to four (4) square feet for a street address.
- (4) One (1) freestanding identification sign for a business park, as herein defined, for each street on which the business park fronts may be approved subject to the approval of a plot plan by the Board of Zoning Adjustment and subject to the following provisions:
 - (aa) Each business park sign shall not exceed seventy-two (72) square feet in area and six (6) feet in height.
 - (ab) The identification on each business park sign shall be limited to the business park name, and logo.
 - (ac) A business park, eligible for a freestanding identification sign, is characterized by a cluster of business park uses:
 - (i) In a contiguous area that can be traversed by public streets, of at least fifty (50) acres held out to the public as a single development.
 - (ii) Represented by a single association or organization.

(b) For P-D zones the following signs are permitted:

Sign limitations shall be made a condition of each P-D Zone and approval shall be based on the provisions of the zoning classification most closely approximating the uses proposed in the P-D Zone.

SEC. 10-2.2118. OUTDOOR ADVERTISING SIGNS.

It shall be unlawful for any person to erect, construct or maintain on any lot or parcel an outdoor advertising sign in violation of the following specific requirements:

- (a) In the C-2, C-M, M-1 and M-2 zones, only the following outdoor advertising signs are permitted:

- (1) For freestanding tourist-oriented hotels, motels, and restaurants only, directional outdoor advertising signs, as defined in Section 10-2.2103(m)(1), each not to exceed seventy-two (72) square feet in area and twenty (20) feet in height subject to obtaining a conditional use permit for each sign from the Board. Said use permit shall be dependent upon the following two (2) findings:
 - (aa) That the use or occupancy is a freestanding use. For the purposes of this section, a freestanding use is defined as a use or occupancy that does not attract customers by its proximity to another business or businesses and is not part of a shopping center or any group of businesses that jointly attract customers through their proximity or through common advertising.
 - (ab) That the combined total of all approved directional outdoor advertising signs for a motel, hotel or restaurant be deemed necessary for the public welfare and not excessively promote said motel, hotel or restaurant.
- (2) Noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), not to exceed seventy-two (72) square feet in area and twenty (20) feet in height, except that:
 - (aa) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be as large as one hundred fifty (150) square feet and thirty-five (35) feet in height.
 - (ab) Signs located on property within two hundred (200) feet of the Freeway 99 right-of-way may be higher than thirty-five (35) feet subject to the securing of a conditional use permit from the Board in accordance with Article 25 of Chapter 2 of Title X of this Code.
 - (i) The Board shall grant approval if the applicant can show that an overcrossing of Freeway 99 or ramps thereto obstruct visibility of said sign to the northbound or southbound lanes of Freeway 99. The applicant shall also present plans illustrating the means by which

the minimum height necessary to clear said visual obstruction was determined.

- (ii) In deciding whether to grant the conditional use permit, the Board shall not take into consideration the copy, subject matter or message of the proposed sign.
- (b) In the C-1 Zone, noncommercial outdoor advertising signs, as defined in Section 10-2.2103(m)(2), not to exceed seventy-two (72) square feet in area and twenty (20) feet in height, are permitted.
- (c) In all zones other than those enumerated in subsections (a) and (b) above, outdoor advertising signs are not permitted.

SEC. 10-2.2119. NONCOMMERCIAL USE OF PERMITTED COMMERCIAL SIGNS.

Notwithstanding any other provisions of this Chapter to the contrary, any sign or portion thereof which is otherwise legally permitted as a result of the commercial use or occupancy of a building, lot or parcel may contain noncommercial messages in accordance with the definition provided by Section 10-2.2103(m)(2). When the commercial use or occupancy of the building, lot or parcel ceases, said sign must comply with the applicable provisions of this Chapter relating to the removal of obsolete signs and outdoor advertising signs.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 1994, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Mayor Lang was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: Friedman, 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

Ord. No. 2934-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of December, 1994, Councilmember ^{McClanahan} 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, McClanahan, Mayor Lang

NOES: Councilmembers: Friedman, Muratore

ABSENT: Councilmembers: Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 19, 1995

ORDINANCE NO. 2935 -C.S.

AN ORDINANCE AMENDING SECTION MAP 14-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(449) TO PLANNED DEVELOPMENT ZONE, P-D(505), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MANOR OAK DRIVE AND OAKDALE ROAD (NORALCO, INC.).

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

SECTION 1. ZONING CHANGE. Section 14-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(449), to Planned Development Zone, P-D(505):

P-D(449) to P-D(505)

All that certain real property shown as "Remainder" on the map of Manor Oak Estates, filed in Book 32 of Maps, at Page 46, Stanislaus County Records, and lying in the Southwest quarter of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, State of California. Including also all of the East 50.00 feet of Oakdale Road and South one half of Manor Oak Drive and both immediately adjacent to the above property referred to as "Remainder".

SECTION 2. USES. The following uses shall be permitted in said P-D(505) 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. Single-family subdivision in a gated community setting.

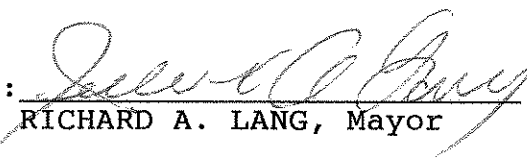
SECTION 3. ZONING MAP. Section Map 14-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 1994, 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, Muratore, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: Patterson

APPROVED: 
RICHARD A. LANG, Mayor

ATTEST:

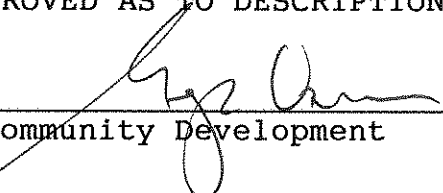
By 
NORRINE COYLE, City Clerk

(SEAL)

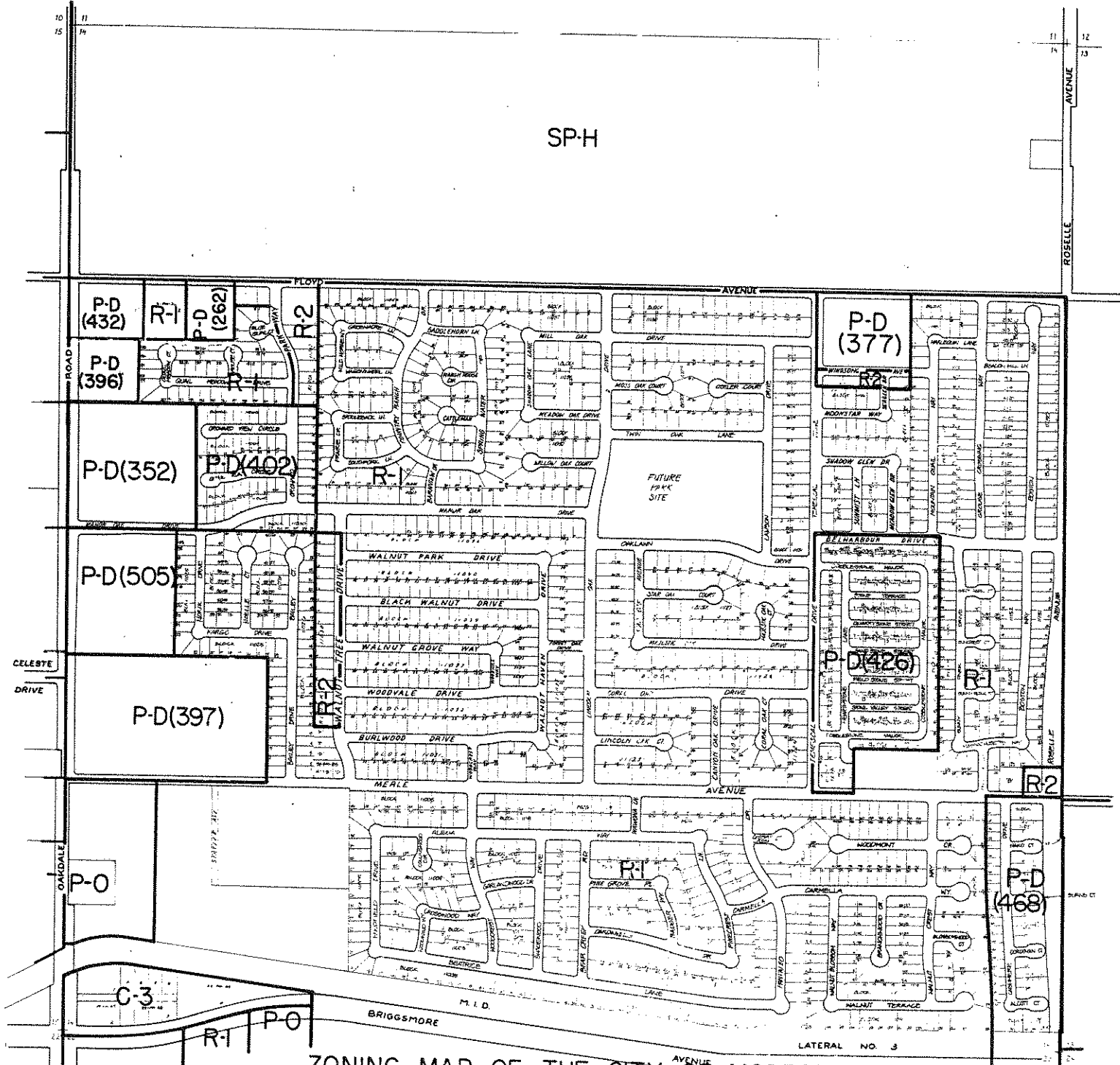
APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development

SPH



ZONING MAP OF THE CITY OF MODESTO

14-3-9

Ord. No. 2935-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of December, 1994, Councilmember McClanahan moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, Patterson

APPROVED:


MAYOR RICHARD A. LANG

ATTEST:


NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 12, 1995

ORDINANCE NO. 2936-C.S.

AN ORDINANCE AMENDING SECTION 3-2.808 OF ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.808 of Article 8 of Chapter 2 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

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

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

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 6th day of December, 1994, 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. 2936-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of December, 1994, Councilmember^{McClanahan} moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 12, 1995

Check (12)

ORDINANCE NO. 2937-C.S.

AN ORDINANCE AMENDING SECTIONS 8-7.03 AND 8-7.05 OF CHAPTER 7 OF TITLE VIII OF THE MODESTO MUNICIPAL CODE RELATING TO QUALIFICATIONS FOR REBATE FOR ENTERPRISE ZONE.

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

SECTION 1. AMENDMENT OF CODE. Sections 8-7.03 and 8-7.05 of Chapter 7 of Title VIII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 8-7.03. DEFINITIONS.

- (a) "Business" as used in this chapter shall apply only to the categories of businesses qualified for Enterprise Designation Benefits specified by resolutions adopted from time to time by the City Council.
- (b) "New business" as used in this chapter is any business which is start-up in nature or an existing business which has been relocated to Modesto from areas outside the County of Stanislaus. A business which has been sold, resulting in a change of ownership, will not be considered a new business.
- (c) "Expanding business" as used in this chapter is any business which meets the criteria set forth below:
 - (1) A physical move of an existing business into a new location within the Enterprise Designation area that results in an increase of at least four (4) permanent, on-site full-time employees per acre.
 - (2) A physical expansion of existing facilities in the Enterprise Designation area which results in an increase of at least four (4) permanent, on-site full-time employees per acre.

SEC. 8-7.05. QUALIFICATIONS FOR REBATE.

- (a) A new or expanding business will qualify for a partial or total rebate in the percentages set forth below if at the anniversary date determined as of three (3) years from the start of operation

the business can establish an increase in the numbers of full-time employees per acre as specified below:

- (1) A new business may have a fifty (50) percent rebate if there is an increase of at least four (4) employees per acre.
 - (2) A new business may have a one hundred (100) percent rebate if there is an increase of at least eight (8) employees per acre.
 - (3) An existing business may have a one hundred (100) percent rebate if there is an increase of at least eight (8) employees on-site.
- (b) A new or expanding manufacturing business will qualify for a one hundred (100) percent rebate at the three (3) year anniversary of the start of operation if at that date the percentage of the business site covered by new building construction is at least twenty (20) percent and the size of new building construction exceeds one hundred fifty thousand (150,000) square feet.

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 6th day of December, 1994, 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. 2937-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 13th day of December, 1994, Councilmember ^{McClanahan} moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, Patterson

APPROVED: 
MAYOR RICHARD A. LANG

ATTEST: 
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 12, 1995

W.K.

ORDINANCE NO. 2938 -C.S.

AN ORDINANCE AMENDING SECTION 5-5.02 OF
CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL
CODE RELATING TO GARBAGE DISPOSAL DEFINITIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 5-5.02 of Chapter 5 of

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

SEC. 5-5.02. DEFINITIONS.

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

- (a) **"Authorized curbside recycling collector"** means a person, firm, organization or company which the City has authorized to provide curbside recycling service in residential areas and other locations designated by the Utility Services Director.
- (b) **"City-sponsored recycling container"** means any container provided by the City, recycling program sponsors, or authorized curbside recycling collectors to participants in the curbside recycling program for the purpose of segregating salvageable waste from household garbage, and containing salvageable waste at a designated recycling collection location for collection by an authorized curbside recycling collector. City-sponsored recycling containers shall be clearly marked to indicate purpose and to warn that theft of the container, theft of its contents, or diversion for uses other than curbside recycling are punishable under the Municipal Code.
- (c) **"Customer"** shall mean any person, firm or corporation receiving garbage service under the provisions of this chapter.
- (d) **"Designated recycling collection location"** means the location where an authorized curbside recycling collector has agreed with the City to pick up segregated salvageable waste. This location will customarily be the curbside of streets in residential neighborhoods, a specifically identified area within a multi-family residential development, or other locations designated by the Utility Services Director.

- (e) **"Detachable container"** means a metal container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one (1) cubic yard in capacity, as approved by the Director of Public Works, and furnished by a licensed collector.
- (f) **"Director of Finance"** means the Director of Finance of the City of Modesto or his her duly authorized agent.
- (g) **"Director of Public Works"** means the Director of Public Works of the City of Modesto or his her duly authorized agent.
- (h) **"Disposal Area"** as used in this chapter shall mean any area designated or provided by the City Council from time to time for the purpose of disposal of garbage.
- (i) **"Drop box container"** means a metal box designed for loading upon a vehicle for transportation to the disposal area, with a minimum of twenty (20) cubic yards' capacity, of a design approved by the Director of Public Works, and furnished by a licensed collector.
- (j) **"Garbage"** means any and all matter and materials which are rejected, abandoned or discarded by the owners or producers thereof as offensive, or useless, or no longer desired by said owners or producers thereof, and or which by their presence or accumulation may injuriously affect the health, comfort or safety of the community. It shall include rubbish, waste matter, swill, garden refuse, and similar substances or materials of the nature described above, but shall not include salvageable waste as defined herein or source-separated pruned refuse or leaves set out for collection pursuant to Article 11 of Chapter 7 of Title IV of the Modesto Municipal Code.
- (k) **"Garbage collector"** means an agent or employee of the City or any person, or the agents, assignees or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of garbage as hereinafter set forth.
- (l) **"Garden refuse"** means leaves, weeds, grass cuttings, vines, shrubbery, and similar soft vegetative materials, except that "garden refuse" shall not include source separated leaves set out for collection between November 1 and December 31 of each year pursuant to Article 11 of Chapter 7 of Title IV of the Modesto Municipal Code.

- (m) **"Health Officer"** means the Health Officer of the City of Modesto or his her duly authorized agent.
- (n) **"Industrial garbage"** means garbage produced by any person, firm or corporation engaged in the business of processing or manufacturing agricultural products, animals, poultry, goods, wares or other products or materials, who processes or manufactures the same for the purpose of wholesale in processed or manufactured form. "Industrial garbage" also means garbage produced by any person, firm or corporation engaged in the business of building construction and or building demolition.
- (o) **"Industrial garbage collector"** means an agent or employee of the City, or any person, or the employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of industrial garbage.
- (p) **"Place" or "Premises"** means every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, hospital, office building, department store; manufacturing, processing or assembling shop or plant; warehouse; and every other property or building where any person resides or any business or activity is carried on or conducted within the City of Modesto.
- (q) **"Property value"** means a worth to the extent that a person will collect the materials involved with compensation to the owner or producer, or at no cost to the owner or producer.
- (r) **"Rubbish"** means nonputrescible, useless, unused, unwanted or discarded material or debris, either combustible or noncombustible, which by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.
- (s) **"Salvageable waste"** means matter and material which will be reused and which has a property value.
- (t) **"Standard container"** means a plastic container, watertight and with a close-fitting cover, of not less than sixty (60) nor more than ninety (90) gallons' net capacity of a design satisfactory to the Director of Public Works or such other disposal unit approved by the Director of Public Works, and supplied by the licensed garbage collector to its residential customers. The

Director of Public Works shall make the determination whether a residential customer receives a sixty- or a ninety-gallon container.

- (u) "Swill" means all classes of putrescible, animal, fish, fowl, fruit or vegetable matter, and shall include matter or substances used in the preparation, cooking, dealing in or storage of meats, fowl, fish, fruits and vegetables that are subject to immediate decay and the attraction of flies or rodents, and having a property value.
- (v) "Swill collector" means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, to whom a license shall have been issued under the terms of this chapter for the collection of swill.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 1994, 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, Muratore, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, 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. 2938-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of December, 1994, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: 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: January 19, 1995