

*Clark*

ORDINANCE NO. 2837 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 1563-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 24-3-8 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (COLLEGE WEST PROPERTIES) (P-D(148))" AS PREVIOUSLY AMENDED BY ORDINANCE NOS. 1915-C.S. AND 2063-C.S. (WESTAR ASSOCIATES).

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

SECTION 1. AMENDMENT OF ORDINANCE NO. 1563-C.S.

Section 2 of Ordinance No. 1563-C.S. as previously amended by Ordinance Nos. 1915-C.S. and 2063-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(148) 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:

An industrial business park with uses as permitted in the M-1 Zone with the exception of the following: brewery, food products manufacturing, storage and processing; hatchery and sale of poultry; and animal shelter.

It is intended that any commercial uses shall be incidental only to an industrial or office use for those buildings labeled "A" and "B" on the plot plan. C-2 General Commercial uses can, however, be the primary use for that area as shown on the revised plot plan titled 'Retail Project-West Campus Business Center'.

Condominiums are permitted for any of the above uses."

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 January, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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, Acting City Attorney

Ord. No. 2837-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of January, 19 93, Councilmember Patterson moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 11, 1993

Cliff 5

ORDINANCE NO. 2838 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2127-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 30-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (PATRICK M. LYONS/VALLEY PLAZA SHOPPING CENTER)" (MANUEL AND MAGGIE MEJIA).

WHEREAS, the City Council, by Ordinance No. 2127-C.S., which was introduced on April 27, 1982, finally adopted on May 4, 1982, and which became effective on June 3, 1982, amended Section Map 30-3-9 of the Zoning Map to rezone from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(324), property located on the southeast corner of Kansas Avenue and Emerald Avenue to allow a restaurant serving alcoholic beverages and a general upgrading of a commercial center, and

WHEREAS, City Council Resolution No. 82-338, which was adopted on April 27, 1982, approved a development plan for P-D(324) and contained the conditions of approval thereof, and

WHEREAS, on July 15, 1985, by Resolution No. 85-140, the Planning Commission approved a revised development plan which deleted free-standing building "pads" and increased the parking along with an improved on-site/off-site circulation pattern, and

WHEREAS, a verified application for an amendment to P-D(324) was filed by Manuel and Maggie Mejia doing business as Club Suave on October 28, 1992, to allow a nightclub expansion which will require 52 parking spaces and a joint parking determination to account for a 27 parking space shortfall from the total 115 parking spaces provided on the site, and

WHEREAS, a public hearing was held by the Planning Commission on December 21, 1992, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and the Planning Commission, by its Resolution No. 92-62, approved the joint parking provisions and found and determined that an amendment to P-D(324), to allow a nightclub expansion is required by public necessity, convenience and general welfare for the following reasons:

1. The subject property as amended conforms to the General Plan which calls for a general commercial strip at the edge of a large industrial area.
2. The subject property is well insulated from adjoining residential areas to the south by the raised Kansas expressway (future highway 132) right-of-way.
3. The Club Suave hours of operation are different from those of nearly all the other establishments in P-D(324).

and

WHEREAS, said matter was set for a public hearing before the City Council at its regular meeting place in the Council Chambers in the City Hall, 801 11th Street, Modesto, California, at 4:00 p.m. on January 26, 1992,

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

SECTION 1. COUNCIL FINDINGS. After hearing evidence, both oral and documentary, the Council finds and determines that the requested amendment to P-D(324) to allow a nightclub

expansion is required by public necessity, convenience, and general welfare for the reasons set forth in Planning Commission Resolution No. 92-62 and quoted above.

SECTION 2. AMENDMENT OF ORDINANCE NO. 2127-C.S.

Section 2 of Ordinance No. 2127-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(324) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

All uses allowed in the C-1 zone and a restaurant allowed to serve alcoholic beverages.

Nightclub including dancing, live music, and entertainment."

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

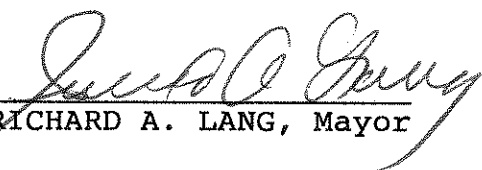
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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, Acting City Attorney

Ord. No. 2838-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of February, 19 93, Councilmember Patterson 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,  
Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Bird

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 2, 1993

*CLP*

ORDINANCE NO. 2839 -C.S.

AN ORDINANCE ADDING SECTION 7-1.304 TO ARTICLE 3 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO NOTICE OF SIDEWALK DEFECTS.

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

SECTION 1. AMENDMENT OF CODE. Section 7-1.304 is hereby added to Article 3 of Chapter 1 of Title VII of the Modesto Municipal Code to read as follows:

SEC. 7-1.304. NOTICE OF SIDEWALK DEFECTS.

If a public sidewalk abutting or on an owner's property appears to be in a condition which is dangerous to people using the sidewalk, that property owner shall give prompt written notice of that sidewalk condition to the City of Modesto's Public Works and Transportation Director. If the property owner fails to properly notify the city of such a condition, the property owner shall be liable for damages or injuries caused by the condition of the sidewalk.

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

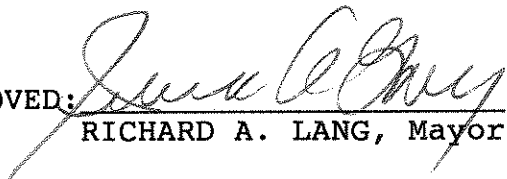
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, 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:

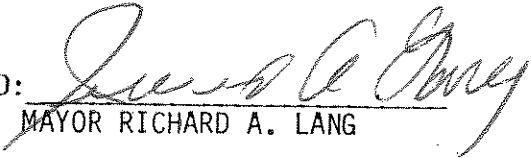
By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2839-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of February, 19 93, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 18, 1993

*Clerk*

ORDINANCE NO. 2840 -C.S.

AN ORDINANCE AMENDING SECTION 6-1.130 OF ARTICLE 1 OF CHAPTER 1 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO REFUNDS.

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

SECTION 1. AMENDMENT OF CODE. Section 6-1.130 of Article 1 of Chapter 1 of Title VI of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 6-1.130. REFUNDS.

Except as otherwise provided in Section 6-1.129 of this chapter, license taxes, penalties and costs collected or received by the City may be refunded as herein provided and not otherwise if a signed and verified claim therefor is filed with the Director within three (3) years after the date of payment. Such refund may be made only under the following conditions:

- (a) Where a refund is specifically authorized by the provision of law requiring payment of the license, permit or application tax.
- (b) Where the money is paid to secure a license or permit not required by law.
- (c) Where the amount paid was in excess of the amount required by law.
- (d) Where the money paid was not required by law.
- (e) Where the applicant for any license has not, at any time after the commencement of the period or term during which the requested license would have been effective, commenced or engaged in the business or occupation, or performed any act, for which the license was required.
- (f) Where the money paid was not required by law, or, was erroneously or illegally collected or received by the City through mistake, inadvertence or error of law or of fact, and whether paid or charged under color of any provision of this chapter, or otherwise.

If the refund is for Five Thousand and no/100ths Dollars (\$5,000.00) or more it shall be made only by the Council. If it is less than Five Thousand and no/100ths Dollars (\$5,000.00), it may be made by the Director after approval in writing by the City Attorney.

This section is remedial in purpose. Its terms and requirements shall not be deemed to limit or qualify the lawful right of any person to bring or maintain an action or proceeding based upon the general law of this State for any remedy provided by 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.

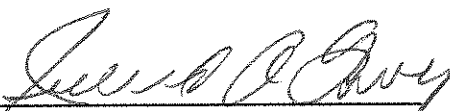
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 16th day of February, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2840-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23rd day of February, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED: Richard A. Lang  
MAYOR RICHARD A. LANG

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: March 24, 1993

Clerk  
B

ORDINANCE NO. 2841 -C.S.

AN ORDINANCE AMENDING SECTION 12-1.02 OF  
CHAPTER 1 OF TITLE XII OF THE MODESTO  
MUNICIPAL CODE RELATING TO LANDSCAPING AND  
IRRIGATION STANDARDS APPLICABILITY.

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

SECTION 1. AMENDMENT OF CODE. Section 12-1.02 of  
Chapter 1 of Title XII of the Modesto Municipal Code is hereby  
amended to read as follows:

SEC. 12-1.02. APPLICABILITY.

Whenever landscaping or a landscape plan is required by  
this Code or as a condition of any action authorized by  
this Code, the following standards of landscape and  
irrigation system design and landscape and irrigation  
specifications shall apply. Landscape areas of 10,000  
square feet and under are subject to the requirements  
defined in this Code. All landscape areas in excess of  
10,001 square feet will be subject to all portions of  
the State of California Water Efficient Landscape  
Ordinance except for Section 493, Provisions for  
Existing Landscapes. Landscape area shall mean the  
total area of the site not covered by buildings,  
parking lots, driveways or streets, and shall include  
planting areas, patios, plazas, sidewalks, hard-courts,  
water features, and parkway areas.

All single-family dwelling units that are not required  
to provide landscaping or a landscape plan as a  
requirement of this Code, State law or as a condition  
of any action authorized by this Code shall be exempt  
from landscaping and irrigation requirements.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of February, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

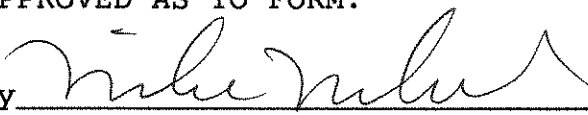
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2841-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of March, 1993, Councilmember \_\_\_\_\_ moved its final adoption, which motion being duly seconded by Councilmember \_\_\_\_\_, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: April 3, 1993

Amended 3/24/93

ORDINANCE NO. 2842 -C.S.

AN ORDINANCE REPEALING ARTICLE 9 OF CHAPTER 7 OF TITLE IV RELATING TO SMOKING IN THEATERS, AND CHAPTER 8 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO SMOKING POLLUTION CONTROL, AND ADDING CHAPTER 8 ENTITLED "SMOKING POLLUTION CONTROL" TO TITLE V OF THE MODESTO MUNICIPAL CODE.

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

SECTION 1. REPEALS. Article 9 of Chapter 7 of Title IV and Chapter 8 of Title V of the Modesto Municipal Code are hereby repealed upon the effective date of this ordinance.

SECTION 2. AMENDMENT OF CODE. Chapter 8 entitled "Smoking Pollution Control" is hereby added to Title V of the Modesto Municipal Code to read as follows:

CHAPTER 8 -- SMOKING POLLUTION CONTROL.

ARTICLE 1. FINDINGS, PURPOSES AND DEFINITIONS.

SEC. 5-8.101. FINDINGS.

The Council of the City of Modesto does hereby find that:

- (a) Numerous scientific studies have found that tobacco smoke is a major contributor to indoor air pollution;
- (b) Reliable scientific studies, including studies by the Surgeon General of the United States and studies commissioned and assessed by the U.S. Environmental Protection Agency, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children and teens, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory

function, including asthmatics and those with obstructive airway disease;

- (c) Health hazards induced by exposure to environmental tobacco smoke include lung and other forms of cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, broncho-constriction and broncho-spasm, and that the most common cause of premature death from environmental tobacco smoke is heart disease;
- (d) Reliable scientific studies assessed by the U.S. Environmental Protection Agency have found that sidestream and secondhand tobacco smoke is a leading cause of premature death and disability among nonsmokers;
- (e) Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand tobacco smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same;
- (f) Smoking in public places and work places is a major cause of fires and damage to merchandise and equipment as well as costly maintenance and repairs to furniture and fixtures. Studies have shown higher cost to the employer are associated with smoking in the work place due to increases in absenteeism, accidents, costs of medical care, loss of productivity, and cleaning and maintenance requirements;
- (g) The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community;
- (h) Substantial scientific evidence exists that the direct use of tobacco products causes cancer, heart disease, and various other medical diseases. The Surgeon General of the U.S. has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the U.S.;
- (i) The Surgeon General of the U.S. and U.S. Department of Health and Human Services have found that a majority of those Americans who die of tobacco-caused diseases became addicted to

nicotine in tobacco products as adolescents before the age of legal consent;

- (j) The National Institute on Drug Abuse has concluded that the nicotine in tobacco products is a powerful addictive drug and identifies nicotine addiction as the most widespread example of drug dependence in the U.S.;
- (k) Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort of nonsmokers and constitutes a public nuisance in public places and work places.

The City Council further finds it is within its basic police power to implement and enforce the provisions of this chapter.

#### SEC. 5-8.102. PURPOSES.

Accordingly, the City Council finds and declares that the purposes of this chapter are:

- to protect public health, safety and general welfare of the citizens of the City of Modesto by prohibiting tobacco smoking in public places and places of employment;
- to guarantee the right of nonsmokers to breathe tobacco smoke-free air, and to recognize that the need to breathe tobacco smoke-free air has priority over the desire to smoke.

#### 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 an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.
- (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 this section.
- (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.

ARTICLE 2. PROHIBITION OF SMOKING IN CITY VEHICLES  
AND FACILITIES.

SEC. 5-8.201. SMOKING PROHIBITED.

All City-owned vehicles, including buses and other means of public transit under the authority of the City, and all enclosed facilities owned, leased, rented and controlled by the City, and any council, board, commission and agency of the City shall be subject to the provisions of this chapter.

ARTICLE 3. PROHIBITION OF SMOKING IN PUBLIC PLACES.

SEC. 5-8.301. SMOKING PROHIBITED.

(a) Except as otherwise provided, smoking shall be prohibited in all enclosed public spaces within the City of Modesto, including, but not limited to, the following public places:

- (1) Elevators.
- (2) Buses, taxicabs, and other means of public transit under the authority of the City of Modesto and ticket, boarding, and waiting areas of public transit depots.
- (3) Rest rooms.
- (4) Service lines.
- (5) Retail stores.
- (6) All areas available to and customarily used by the general public in all business and nonprofit entities patronized by the public, including but not limited to offices (such as attorneys, doctors, and other professionals), banks, laundromats, malls, hotels and motels.
- (7) Restaurants.
- (8) Public areas of aquariums, galleries, libraries or museums when open to the public.
- (9) Any facility which is primarily used for exhibiting motion pictures, stage

productions, lectures, musical recitals or other similar performances, except when smoking is part of such production.

- (10) Sports arenas and convention halls.
- (11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee including joint committees, or agencies of the City or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.
- (12) Waiting rooms, hallways, wards and rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy, mental health, and drug and alcohol treatment facilities, doctors' and dentists' offices.
- (13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes, and other multiple-unit residential facilities.
- (14) Lobbies, hallways, and other common areas in multiple-unit commercial facilities.
- (15) Polling places.
- (16) Any school or educational institution operated by a business or nonprofit entity for the purpose of providing academic classroom instruction, trade, craft, computer or other technical training, or instruction in dancing, artistic, musical or other cultural skills.
- (17) Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment for facility may declare that entire establishment or facility as a nonsmoking establishment.

ARTICLE 4. PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.

SEC. 5-8.401. SMOKING PROHIBITED.

- (a) Within ninety (90) days of the effective date of this article, each employer having an enclosed place of employment located within the City shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, rest rooms, vehicles and all other enclosed facilities.

- (b) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption, and at least annually thereafter.
- (c) All employers shall comply with these nonsmoking provisions and shall be responsible for their implementation in their places of employment.
- (d) "No Smoking" signs shall be conspicuously posted at building entrances and in employee lounges, cafeterias and lunchrooms.
- (e) All employers shall supply a written copy of the smoking policy to any existing or prospective employee.

ARTICLE 5. EXEMPTED AREAS.

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.
  - (7) Smoking may be permitted at bingo game establishments but only in a separate, enclosed room away from lobby and rest rooms.
- (b) 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.

#### ARTICLE 6. SIGNS.

##### SEC. 5-8.601. POSTING OF SIGNS.

- (a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building, as well as on entrances at eye level, or other place where smoking is regulated by this article, by the owner, operator, manager or other person having control of such building or other place.
- (b) Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- (c) Every owner, operator, manager or other person having control of a motion picture theater shall

show upon each motion picture theater screen for at least five (5) seconds prior to the showing of each motion picture a notice that smoking is prohibited within the theater.

#### ARTICLE 7. EXEMPTION PROCEDURES

##### SEC. 5-8.701. SMOKING POLLUTION CONTROL ORDINANCE COMPLIANCE COMMITTEE.

There is established a Smoking Pollution Control Ordinance Compliance committee composed of the Health Officer of the City of Modesto as chairperson and two (2) other persons appointed by the City Council.

##### SEC. 5-8.702. PROCEDURE.

Any owner or manager of a business or other establishment subject to this chapter may make a written application to the committee for an exemption or modification to any provision of this chapter due to unusual circumstances or conditions. The committee shall consider such written application and may make any exemptions or modifications to the requirements of this chapter as are in keeping with the purposes of this chapter as may be necessary and proper considering the unusual conditions or circumstances presented.

#### ARTICLE 8. GENERAL PROVISIONS.

##### SEC. 5-8.801. ENFORCEMENT.

- (a) Notice of these regulations shall be given to all applicants for a business license.
- (b) Enforcement of this chapter shall be implemented by the Health Officer of the City of Modesto or his/her designee.
- (c) Any citizen who desires to register a complaint under this chapter may do so by filing a complaint with the Health Officer of the City of Modesto or his/her designee.
- (d) The Fire District or the County Health Department shall require, while an establishment is undergoing otherwise mandated inspections, self-certification from the owner, manager, operator or other person having control of such establishment that all requirements of this chapter have been complied with.

SEC. 5-8.802. VIOLATIONS AND PENALTIES.

- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of this chapter's provisions.
- (b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.
- (c) Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this chapter who violates any provision of this chapter, shall be deemed guilty of a misdemeanor, except that when the City Attorney shall elect to charge such violation as an infraction, it shall be an infraction. A conviction, or guilty or nolo contendere plea to a violation of this chapter shall be subject to payment of a fine as provided in Section 1-2.01 of the Modesto Municipal Code.

SEC. 5-8.803. NON-RETALIATION.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smoke-free environment afforded by this article.

SEC. 5-8.804. OTHER APPLICABLE LAWS.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

ARTICLE 9. SEVERABILITY.

SEC. 5-8.901. 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 there of, irrespective of

the fact that any one (1) or more section or portion may be declared invalid or unconstitutional.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation on and after thirty (30) days after its final passage and adoption, but shall not become operative until on and after June 1, 1993.

SECTION 4. PUBLICATION. Pursuant to Section 716 of the Charter of the City of Modesto, this ordinance shall be published in full as amended at least one (1) day before its adoption; and at least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of March, 1993, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2842-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 April, 1993, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 1, 1993

Ord. No. 2842-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 April, 1993, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

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

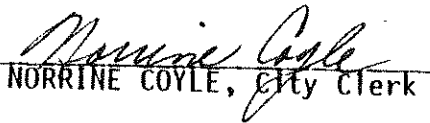
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 6, 1993

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ORDINANCE NO. 2843 -C.S.

AN ORDINANCE AMENDING SECTION 3-2.201 OF  
ARTICLE 2 OF CHAPTER 2 OF TITLE III OF THE  
MODESTO MUNICIPAL CODE RELATING TO AUTHORITY  
OF POLICE AND FIRE DEPARTMENT OFFICIALS.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.201 of  
Article 2 of Chapter 2 of Title III of the Modesto Municipal Code  
is hereby amended to read as follows:

SEC. 3-2.201. AUTHORITY OF POLICE AND FIRE DEPARTMENT  
OFFICIALS.

- (a) It shall be the duty of the officers of the Police Department or such officers as are assigned by the Police Chief to enforce all street traffic laws of the City and all of the State vehicle laws applicable to street traffic in the City.
- (b) Officers of the Police Department or such officers as are assigned by the Police Chief are hereby authorized to direct all traffic by voice, hand or other signal in conformance with traffic laws, provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.
- (c) Officers of the Fire Department, when at the scene of a fire or when in the course of their duties they are protecting the personnel or equipment of the Fire Department, may direct or assist the police in directing traffic.
- (d) The Police Chief or his designee may temporarily close a portion of any street when the closing is necessary for the safety and protection of persons who are using that street or to safeguard the property and persons of citizens.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, 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. 2843-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 April, 1993, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 6, 1993

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ORDINANCE NO. 2844 -C.S.

AN ORDINANCE AMENDING SECTIONS 3-2.1401 AND 3-2.1401.1 OF ARTICLE 14 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO SPEED LIMITS IN THE CITY OF MODESTO.

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

SECTION 1. AMENDMENT OF CODE. Sections 3-2.1401 and 3-2.1401.1 of Article 14 of Chapter 2 of Title III of the Modesto Municipal Code are hereby amended to read as follows:

SEC. 3-2.1401. CHANGE IN SPEED LIMITS SET BY STATE LAW.

Pursuant to authority contained in the California Vehicle Code Sections 22357 and 22358, it is hereby determined upon the basis of an engineering and traffic survey that the prima facie speed limits hereinafter set forth would facilitate the orderly movement of vehicular traffic and would be reasonable and safe, except when passing school grounds, and it is hereby determined that a speed limit greater than those hereinafter set forth would be more than is reasonable or safe. It is hereby declared that the prima facie speed limits hereinafter set forth are established according to law.

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>
ALICE STREET, between Sycamore Avenue and McHenry Avenue	25 miles per hour
BLUE GUM AVENUE, between Carpenter Road and Culpepper Avenue	25 miles per hour
BRIGGSMORE AVENUE, between Sisk Road and Prescott Road	30 miles per hour
CARPENTER ROAD, between Blue Gum Avenue and Orangeburg Avenue	30 miles per hour

CARPENTIER ROAD, between the Tuolumne River and Robertson Road	35 miles per hour
CENTER STREET, between Rosedale Avenue and Calaveras Avenue	25 miles per hour
CONANT AVENUE, between Sisk Road and Rumble Road	25 miles per hour
CONANT AVENUE, between Standiford Avenue and Veneman Avenue	25 miles per hour
CROWS LANDING, between 7th Street and Blankenburg Avenue; those portions within the City	35 miles per hour
CROWS LANDING, between School Avenue and Imperial Avenue; those portions within the City	35 miles per hour
CROWS LANDING, between Imperial Avenue and Whitmore; those portions within the City	45 miles per hour
DEL VALE AVENUE, between Del Vista Avenue and Glenwood Drive	25 miles per hour
EMERALD AVENUE, between Maze Boulevard and Kansas Avenue within the City limits	25 miles per hour
ENSLER AVENUE, between Granger Avenue and Orangeburg Avenue	25 miles per hour
FAIRMONT AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
GRAPE AVENUE, between Pearl Street and Evergreen Avenue	25 miles per hour
GRISWOLD AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
HADDON AVENUE, between La Loma Avenue and Conejo Avenue	25 miles per hour
HASHEM DRIVE, between Sylvan Avenue and Oakdale Road	30 miles per hour

JEFFERSON STREET, between Paradise Road and 8th Street	25 miles per hour
K STREET, between Washington Street and 9th Street	25 miles per hour
LEGION PARK ROAD, between Santa Cruz Avenue and Tioga Drive	25 miles per hour
LEVELAND LANE, between College Avenue and TSRR tracks	25 miles per hour
LINCOLN OAK DRIVE, between Merle Avenue and Floyd Avenue	25 miles per hour
LUCERN AVENUE, between Johnson Street and Coffee Road	25 miles per hour
MADISON STREET, between Paradise Avenue and Laurel Avenue	25 miles per hour
MORTON BOULEVARD, between 9th Street and Downey Avenue	25 miles per hour
NEECE DRIVE, between Rouse Avenue and Sunset Avenue	25 miles per hour
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and Laurel Avenue	25 miles per hour
PEARL STREET, between Carver Road and Dougfir Drive	25 miles per hour
RIVER ROAD, between Herndon Avenue and 1,200 feet west of Herndon Avenue	35 miles per hour
ROBLE AVENUE, between Santa Ana Avenue and Rosina Avenue	25 miles per hour
SHERWOOD AVENUE, between Orangeburg Avenue and Briggsmore Avenue	25 miles per hour
SNYDER AVENUE, between Blue Bird Drive and Dale Road	25 miles per hour
STODDARD AVENUE, between McHenry Avenue and Virginia Avenue	25 miles per hour

TIOGA DRIVE, between Conejo Avenue and Legion Park Drive	25 miles per hour
WESTERN WAY, between Sutter Avenue and Roselawn Avenue	25 miles per hour
WINMOORE WAY, between Crowslanding Road and Jim Way	25 miles per hour
WRIGHT STREET, between Sycamore Avenue and McHenry Avenue	25 miles per hour
7TH STREET, between Sierra Drive and the Tuolumne River	25 miles per hour
9TH STREET, between 400 feet north of Tully Road and P Street	35 miles per hour
9TH STREET, between D Street and north end of the Tuolumne River Bridge	30 miles per hour
9TH STREET, on the Tuolumne River Bridge	40 miles per hour

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Morse Road and Carpenter Road	35 miles per hour	August 31, 1989
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	October 20, 1988

BRIGGSMORE AVENUE, east and westbound between Tully Road and McHenry Avenue	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, westbound between Coffee Road and McHenry Avenue	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, eastbound between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	March 12, 1992
BRIGGSMORE AVENUE, eastbound between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	October 20, 1988
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	45 miles per hour	October 20, 1988
BRIGHTON AVENUE, between Coffee Road and Locke Road	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	45 miles per hour	November 2, 1988
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	40 miles per hour	March 14, 1989
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	October 26, 1988

CARVER ROAD, between M.I.D. Lateral #6 and Brixton Lane	40 miles per hour	June 18, 1992
CARVER ROAD, between Brixton Lane and Briggsmore Avenue	35 miles per hour	March 12, 1992
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	35 miles per hour	June 29, 1992
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	30 miles per hour	March 12, 1992
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	45 miles per hour	October 26, 1988
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	35 miles per hour	October 27, 1988
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	October 27, 1988
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	October 27, 1988
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	October 27, 1988
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	March 13, 1992
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	30 miles per hour	May 29, 1990

CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	March 2, 1988
DALE ROAD, between Pelandale Avenue and Snyder Avenue, within the City limits	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	October 20, 1988
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	35 miles per hour	October 26, 1988
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	March 4, 1992
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	January 27, 1993
FLOYD AVENUE, between Oakdale Road and Roselle Avenue	40 miles per hour	October 27, 1992
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	35 miles per hour	October 26, 1988
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 # 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 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	45 miles per hour	March 14, 1989
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	January 8, 1993
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	January 8, 1993

ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 30, 1992
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	August 30, 1989
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	February 12, 1991
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	August 31, 1989
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	August 31, 1989
PARADISE ROAD, between Vernon Avenue and North Martin Luther King Drive within the City limits	35 miles per hour	March 14, 1989
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	October 20, 1988

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	May 26, 1992
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
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	35 miles per hour	May 21, 1990
SISK ROAD, between Pelandale Avenue and Vintage Drive	45 miles per hour	January 28, 1992
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 Dale Road and Prescott Road within the City limits	35 miles per hour	August 30, 1989

STANDIFORD AVENUE, between Prescott Road and Carver Road	35 miles per hour	August 30, 1989
STANDIFORD AVENUE, between Carver Road and Tully Road	35 miles per hour	October 5, 1989
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	March 14, 1989
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	January 28, 1993
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	August 31, 1989
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	35 miles per hour	August 30, 1989
SYLVAN AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	February 14, 1989
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 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 23rd day of March, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, 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:

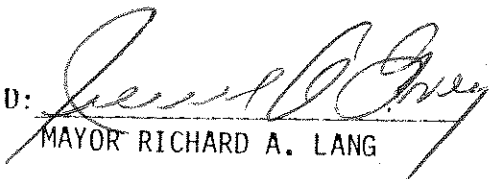
By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2844-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 April, 19 93, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 6, 1993

*Clark*  
①

ORDINANCE NO. 2845 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.2110 OF ARTICLE 21 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO SIGN REGULATIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.2110 of Article 21 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

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>
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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.

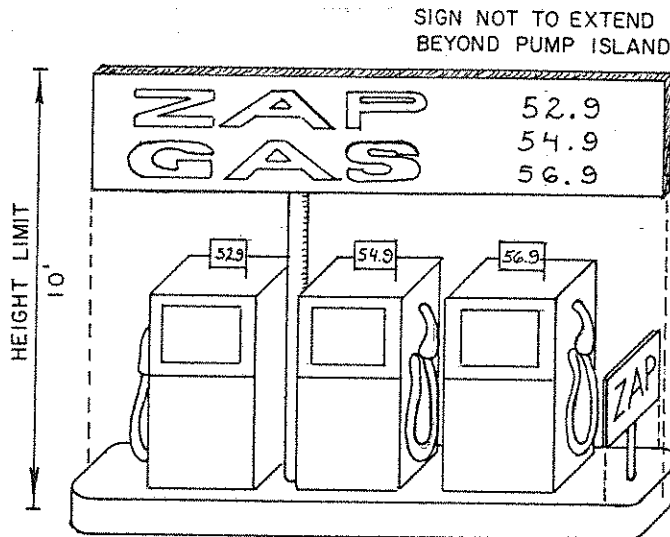
(ad) That signs hung from a canopy shall be not less than eight (8) feet above a private sidewalk or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic.

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

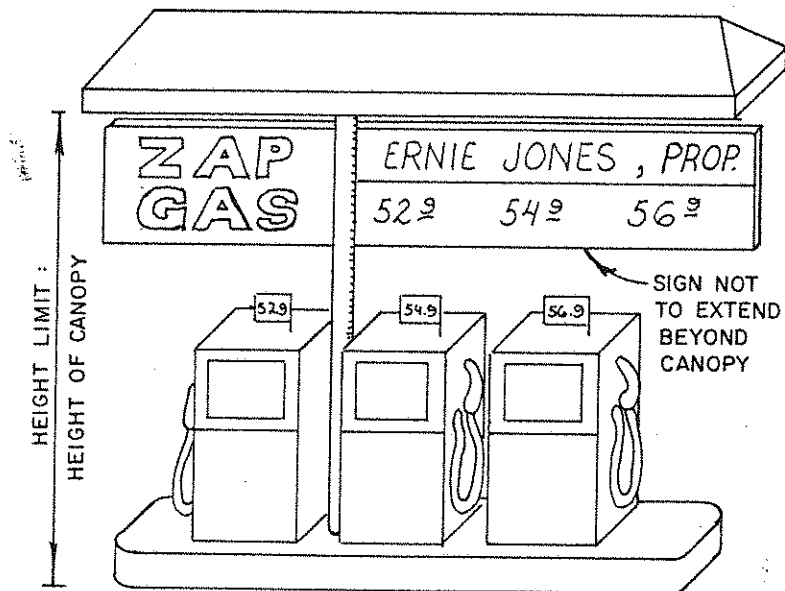
(aa) One (1) exterior directional sign per use per street frontage of the site, not exceeding twelve (12) square feet in area and six (6) feet in height, and provided business identification shall not exceed half of the area on a given sign face.

- (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 three (3) 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.

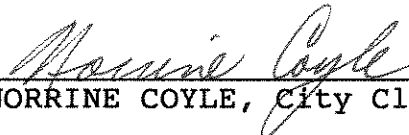
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 6th day of April, 1993, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2845-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 April, 19 93, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 13, 1993

*2846*

ORDINANCE NO. 2846 -C.S.

AN ORDINANCE AMENDING SECTION 7-1.701 OF ARTICLE 7 OF CHAPTER 1 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO STREET DEDICATION AND IMPROVEMENT.

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

SECTION 1. AMENDMENT OF CODE. Section 7-1.701 of Article 7 of Chapter 1 of Title VII of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-1.701. STREET DEDICATION AND IMPROVEMENT.

- (a) Except as provided in subsection (c) below, no building or structure shall be constructed or enlarged, and no building permit for such shall be issued, until sufficient right-of-way as determined by the City Engineer for the street(s) abutting the property has been dedicated and improved or the dedication and improvement has been insured to the satisfaction of the City Engineer.
- (b) No building or structure shall be constructed or enlarged, and no building permit for such shall be issued until any traffic impact study and mitigation measures which are required pursuant to criteria adopted from time to time by City Council resolution are submitted and determined to be acceptable by the City Engineer and until said mitigation measures have been installed, constructed, or bonded for to the satisfaction of the City Engineer.
- (c) The dedication and/or improvement required by subsection (a) above shall be limited as follows:
  - (1) The maximum area required to be dedicated shall not exceed twenty-five (25) percent of the lot area.
  - (2) No dedication shall be required of a portion of a lot containing a main building.

- (3) No additional improvements shall be required if complete roadway, curb, gutter, sidewalk and street lights exist within the existing right-of-way.
- (4) For minor expansions or reconstruction in any twenty-four-month period which cumulatively add less than twenty-five (25) percent additional floor space, no additional dedication or improvement shall be required.
- (5) If the person required to make a dedication or improvement pursuant to subsection (a) can prove to the satisfaction of the City Engineer that the application of subsection (a) would result in a severe hardship and the failure to obtain dedication and/or improvement would not be detrimental to the public health, safety or welfare, the City Engineer may grant a waiver to either the dedication and/or improvement requirements. The waiver may be conditioned to require dedication and/or improvement at a later date.

(d) Dedication procedure.

- (1) Any person required to dedicate land shall make an offer to dedicate in writing properly executed by all parties of interest. Such offer shall be on a form approved by the City Attorney, be in such terms as to be binding on the owners, their heirs, assigns or successors in interest; and shall continue until the City accepts or rejects such offer or until one (1) year from the date such offer is filed with the City Engineer for processing, whichever occurs first. The offer shall provide that the dedication will be complete upon acceptance by the City. The offer shall be recorded by the City in the Office of the County Recorder of Stanislaus County upon its acceptance by the City Engineer. The offer shall be promptly processed by the City departments concerned, in order to complete the dedication within one (1) year. If the offer is rejected by the City or not processed within one (1) year, the City Clerk shall issue a release from such offer which shall be recorded in the Office of the County Recorder unless the

parties making the offer wish to have the time extended.

- (2) For purposes of this section, dedication shall be considered as satisfactorily assured when the City Engineer accepts for recordation the offer to dedicate.
- (e) Improvement procedure.
- (1) Any person required to make improvements or mitigation by the provisions of this section shall complete them to the satisfaction of the City Engineer or shall, prior to issuance of the building permit, file a bond with the City in such an amount as the City Engineer shall estimate and determine to be necessary to complete all of the improvements or mitigation required before the issuance of a certificate of occupancy by the Chief Building Official.
  - (2) Such bond may be either a cash bond, savings and loan certificate or a bond executed by a company authorized to act as a surety in this State. The bond shall be payable to the City and be conditioned upon the faithful performance of any and all work required to be done, and that should such work not be done or completed within the time specified, the City may at its option, cause the same to be done or completed, and the parties executing the bond shall be firmly bound under a continuing obligation for the payment of all necessary costs and expenses incurred in the construction thereof. The bond shall be executed by the owner of the lot as principal, and if a surety bond, shall also be executed by a corporation authorized to act as a surety under the laws of the State.
  - (3) Whenever the owner elects to deposit a cash bond, or savings and loan certificate, the City is authorized, in the event of any default on the owner's part, to use any or all of the deposit money to cause all of the required work to be done or completed, and for payment of all costs and expenses therefor. Any money remaining shall be refunded to the owner.

- (4) When a substantial portion of the required improvement or mitigation has been completed to the satisfaction of the City Engineer and the completion of the remaining work is delayed due to conditions beyond the owner's control, the City Engineer may accept the completed portion and consent to a proportionate reduction of the surety bond in an amount estimated and determined by the City Engineer to be adequate to assure the completion of the required work remaining to be made.
  - (5) Whenever a surety bond has been filed in compliance with this section, the City is authorized, in the event of any default on the part of the principal, to enforce collection, under such bond, for any and all damages sustained by the City by reason of any failure on the part of the principal faithfully and properly to do or complete the required improvements, and in addition may cause all of the required work to be done or completed, and the surety upon the bond shall be firmly bound for the payment of all necessary costs.
  - (6) The term of the bond shall begin on the date of the deposit of the cash or savings and loan certificate or the filing of the surety bond, and shall end upon the date of the completion to the satisfaction of the City Engineer of all improvements or mitigation required to be made. The fact of such completion shall be endorsed by a statement thereof signed by the City Engineer and the deposit shall be returned to the owner, or the surety bond may be exonerated at any time thereafter.
  - (7) For the purposes of this section, improvements or mitigation shall be considered as satisfactorily assured when the City accepts the cash or surety bond or the improvements or mitigation required to be made have been completed to the satisfaction of the City Engineer.
- (f) Issuance of building permits after certification of dedication and improvement. When all dedication, improvements and mitigation required

by this section have been completed or satisfactorily assured, a building permit may be issued.

- (g) Fees waived. Notwithstanding any other provisions of this Code to the contrary, no fee shall be charged for the rendering of any service by the City in connection with any dedication, improvement or mitigation required by the provisions of this section and not a part of a subdivision or parcel map proceeding.
- (h) Lots affected by street widening. On a lot which is affected by street widening required by the provisions of this section, all required yards, setbacks, parking area, loading space and building locations for new buildings or structures or additions to buildings or structures shall be measured and calculated from the new lot lines being created by said widenings; provided, however, that for the purpose of establishing the required front yard depth on a frontage where the ultimate street line has been determined under the provisions of this section, the depths of all existing front yards may be measured from the ultimate street line instead of the front lot line. In applying all other provisions of this chapter, the area of the lot shall be considered as that which existed immediately prior to the required street widening.
- (i) Improvement standards.
  - (1) All State highways, major, collector and industrial streets shall be constructed and improved in accordance with the Standard Plans and Specifications of the City.
  - (2) The City Engineer may approve variations and deviations from the above requirements as he/she determines are made necessary by the conditions of the terrain and the existing improvements contiguous to the property.
- (j) Appeal.
  - (1) Any person required to dedicate land or make improvements or mitigation under the provisions of this section may appeal any determination made by the City Engineer in the enforcement or administration of the

provisions of this section to the Council. The appeal shall be made in writing, and shall state in clear and concise language the grounds therefor.

- (2) The Council may make modifications in the requirements of this section or may grant waivers or modifications of the determinations which are appealed to them as they shall determine are required to prevent any unreasonable hardship under the facts of each case so long as each modification or waiver is in conformity with the general spirit and intent of the requirements of this section.
- (k) City may share cost of making unusual improvements. Under proper application to the Council and upon recommendation of the City Engineer, the City may accept and provide for contribution toward the cost of making any improvement required by the provisions of this section which the City Engineer determines will cost any amount greatly in excess of the cost to other property owners who are required to make improvements under the provisions of this section in the immediate vicinity.
- (l) City Engineer to determine street alignment. Whenever uncertainty exists as to the proper application of the provisions of this section in the matter of street alignment, the City Engineer shall determine this application in conformity with the spirit and intent of this section.
- (m) Written notification to permit applicants required. When the City Engineer determines that the provisions of this section are applicable to any building permit application, the City Engineer shall inform the permit applicant of his/her determination, of the specific requirements of this section which he/she determines to be applicable and of the availability and procedure for appeal of his/her determination to the Council.

SECTION 2. 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 April, 1993, by Councilmember Bird, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2846-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 April, 1993, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 13, 1993

ORDINANCE NO. 2847 -C.S.

AN ORDINANCE AMENDING SECTION 4-4.503 OF ARTICLE 5 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO PARCEL MAPS.

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

SECTION 1. AMENDMENT OF CODE. Section 4-4.503 of Article 5 of Chapter 4 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-4.503. FILING PARCEL MAPS.

- (a) Filing Within Twenty-Four Months of Tentative Approval. The subdivider or his agent may file a parcel map with the City Engineer for his examination and certification within twenty-four (24) months after the approval or conditional approval of the tentative map. A map shall be deemed to be filed when it is accepted by the City as being in compliance with the provisions of this chapter and in substantial compliance with the tentative map. The twenty-four-month period shall not include any days during which the final map is being reviewed by the City. Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend the time for filing a parcel map for a period or periods not exceeding two (2) years if it determines that conditions affecting the parcel map have not substantially changed. In any case where a parcel map has not been recorded within twenty-four (24) months or such extended period of time as may be granted by the Planning Commission, approval of a new tentative parcel map shall be required.

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

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

- (b) Fees. A tracing of the parcel map shall be filed with the City Engineer. In addition, the subdivider shall deposit with the City the Recorder's fee for recording the parcel map.
- (c) Form of Parcel Map. The parcel map shall conform to the provisions of Section 4-4.602 for final maps where applicable. The map shall show the definite location of the parcel or parcels and particularly their relation to surrounding surveys. The location of any remainder of the original parcel shall be shown, but need not be shown as a matter of survey, but only by reference to the existing record boundaries if such remainder has a gross area of five (5) acres or more.

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

- (d) Consent by Owner. The parcel map shall contain a certificate, which shall be signed and acknowledged by all parties having any record title interest in the real property being subdivided, consenting to the preparation and recording of the parcel map. Such signatures shall be in accordance with the provisions of Section 4-4.603(a)(1) of this chapter pertaining to final maps.
- (e) Dedications. If dedications of streets, alleys, walkways, easements, public utility easements, or other public ways, or access rights are required by the Planning Commission as conditions of approval of a parcel map, such dedications shall either be shown on and offered by a certificate on the parcel map or made by separate instrument as

determined by the City Engineer. Such certificate or instrument shall be signed by those parties having any record title interest in the real property being subdivided in accordance with the provisions of Section 4-4.603(a)(1) of this chapter pertaining to final maps.

- (f) Certification by City Engineer. Upon receipt of the parcel map, together with the recording fees, and any required improvement security, the City Engineer shall examine the same to determine whether said map is technically correct and substantially conforms with the tentative parcel map and with all changes and requirements imposed as conditions of approval by the Planning Commission. The City Engineer shall also refer the parcel map to the Secretary of the Planning Commission for examination and determination if all of the lots and parcels created by said map conform with the requirements and the zoning regulations of the City of Modesto. If the City Engineer shall determine that the parcel map fully conforms with all of the requirements set forth herein, he shall so certify on said map.
- (g) Acceptance of Dedications. Offers of dedication as set forth in subsection (e) of this section shall be reviewed by the City Engineer for compliance with the conditions of approval imposed by the Planning Commission. If all offers of dedication are in accordance with the requirements of the Planning Commission, the City Engineer shall consent to such dedications and shall accept such dedications by a certificate on the parcel map.
- (h) Recordation of Parcel Maps. Upon certification by the City Engineer, the parcel map shall be transmitted to the City Clerk, who shall cause said map to be recorded in the office of the County Recorder.

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 April, 1993, by Councilmember Bird, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

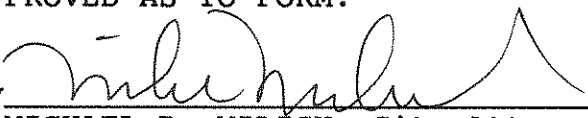
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2847-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 April, 1993, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 13, 1993

*Leak*

ORDINANCE NO. 2848 -C.S.

AN ORDINANCE AMENDING SECTION 12-4.202 OF ARTICLE 2 OF CHAPTER 4 OF TITLE XII OF THE MODESTO MUNICIPAL CODE RELATING TO GENERAL REGULATIONS GOVERNING USE OF PARKS.

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

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

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

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

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

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

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

specially provided or designated for that purpose.

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

- (36) To use any park facility or equipment which has been reserved or which is indicated by an authorized or official sign to have been reserved without first having received the written permission of the Director.
- (37) To remove any authorized or official sign indicating that any park facility or equipment is reserved.
- (38) For any male person to resort to any toilet set apart for women, and for any female person to resort to any toilet set apart for men, provided that this prohibition shall not apply to children accompanied by their father, mother or guardian.
- (39) It shall be unlawful to climb onto any building or structure in a park not designated for such activity.
- (40) To loiter or remain in any park at any time between midnight and 6:00 a.m. of the following morning, except as set forth below or unless prior written permission is obtained from the Director or the City Council.
- (41) The City Manager is authorized to designate certain city parks to be closed between the hours of 10:00 p.m. and 6:00 a.m. when those parks show a continuing pattern of the presence of persons fighting or challenging others to fight, or persons disturbing others by loud and unreasonable noise, or persons who are under the influence of an alcoholic beverage or any drug. These designated parks shall be posted with signs not less than one (1) square foot in area notifying people of the hours of closing.
- (42) It shall be unlawful for any person to enter, remain or loiter between the hours of 10:00 p.m. of one day and 6:00 a.m. of the next day, within the limits of any park which has been designated by the City Manager pursuant to Section 12-4.202(40).
- (43) The park curfew provisions shall not apply to the entry upon park property in the

course of duty of any peace officer or other duly authorized public employee.

- (44) It shall be unlawful for any person without authority to tear down, deface or destroy any sign posted pursuant to the above sections.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of April, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2848-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 April, 1993, Councilmember Bird 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 13, 1993

clk

ORDINANCE NO. 2849 -C.S.

AN ORDINANCE AMENDING SECTION MAP 28-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(492), PROPERTY LOCATED ON THE WEST SIDE OF BURNEY STREET, SOUTH OF 18TH STREET (GREAT VALLEY ADJUSTERS).

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

SECTION 1. ZONING CHANGE. Section 28-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(492):

R-3 to P-D(492)

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

Lots 5 and 6 in Block "M" of the City of Modesto, as per Map re-corded December 21, 1942 in Volume 15 of Maps, Stanislaus County

Including also all of the northeastern one-half of the twenty-foot wide alley in said Block "M", the west one-half of original 33-foot wide Burney Street and all directly adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(492) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to

the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Business/Professional Offices and storage for uses as allowed in the P-O Zone.
2. Off-street parking as shown on the approved plan.

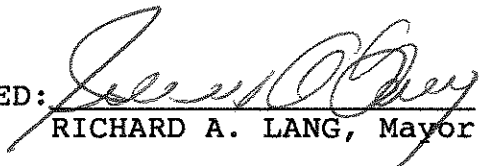
SECTION 3. ZONING MAP. Section Map 28-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

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

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2849-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 April, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Patterson, Mayor Lang

APPROVED: David E. Cogdill  
ACTING MAYOR DAVID COGDILL

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

EFFECTIVE DATE: May 20, 1993

Clark

ORDINANCE NO. 2850 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2603-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 7-3-9 OF THE ZONING MAP TO REZONE FROM A PORTION OF P-D(351), TO PLANNED DEVELOPMENT ZONE, P-D(451), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF STANDIFORD AVENUE AND CARVER ROAD. (ERNEST P.GRAHAM DEVELOPMENT COMPANY)" (GRAHAM DEVELOPMENT).

WHEREAS, the City Council, by Ordinance No. 2603-C.S., which was introduced on August 23, 1988, finally adopted on September 6, 1988, and which became effective on October 6, 1988, to rezone a portion of Planned Development Zone, P-D(351), to Planned Development Zone, P-D(451), to allow a three-story office complex with free-standing "pads" for restaurants or banks/financial institutions, property located on the southwest corner of Standiford Avenue and Carver Road, and

WHEREAS, City Council Resolution No. 88-628, which was adopted on August 23, 1988, approved a development plan for P-D(451) and contained the conditions of approval thereof, and

WHEREAS, on November 22, 1988, by Resolution No. 88-914, the Planning Commission approved a revised development plan allowing Ernest P. Graham Development Company to place a deposit in the amount of \$100,000 until completion of the final traffic signal design and approval by the City Traffic Engineer, and

WHEREAS, a verified application for an amendment to P-D(451) was filed by Graham Development on February 25, 1993, to allow development of two additional restaurants in lieu of the

second approved three-story office building and to allow C-1 Neighborhood Commercial Zone uses on the site in accordance with a revised development plan, and

WHEREAS, a public hearing was held by the Planning Commission on March 22, 1993, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and the Planning Commission, by its Resolution No. 93-10, approved the development of two additional restaurants in lieu of the second approved three-story office building and to allow C-1 Neighborhood Commercial Zone uses on the site for the following reasons:

1. The proposed amendment to P-D(451) will continue to allow a mixture of business/professional offices and commercial retail and service uses at its signalized major/collector street intersection.
2. The proposed amendment to P-D(451) conform to the General Plan which calls for C-1, Neighborhood Commercial, zoning and development at this site.

and

WHEREAS, said matter was set for a public hearing before the City Council at its regular meeting place in the Council Chambers in the City Hall, 801 11th Street, Modesto, California, at 7:30 p.m. on April 26, 1993,

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

SECTION 1. COUNCIL FINDINGS. After hearing evidence, both oral and documentary, the Council finds and determines that

the requested amendment to P-D(451) to allow development of two additional restaurants in lieu of the second approved three-story office building and to allow C-1 Neighborhood Commercial Zone uses on the site in accordance with a revised development plan it required by public necessity, convenience, and general welfare for the reasons set forth in Planning Commission Resolution No. 93-10 and quoted above.

SECTION 2. AMENDMENT OF ORDINANCE NO. 2603-C.S.

Section 2 of Ordinance No. 2603-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(451) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Maximum three-story office complex.
2. Two freestanding commercial pads containing restaurants and/or banks or financial institutions.
3. Off-street parking as shown on the approved plans.
4. Additional restaurants and/or other C-1 zone uses.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 20th day of April, 1993, 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: Bird, Dobbs, Friedman, Acting Mayor Cogdill

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Patterson, Mayor Lang

APPROVED: David Cogdill  
ACTING MAYOR DAVID COGDILL

ATTEST:

By Judy C. Hall  
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Ord. No. 2850-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of April, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bird, Cogdill, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 27, 1993

ORDINANCE NO. 2851 -C.S.

AN ORDINANCE AMENDING SECTION MAP 21-3-9 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(493), PROPERTY LOCATED ON THE SOUTH SIDE OF EAST ORANGEBURG AVENUE BETWEEN NELSON AND MELROSE AVENUES (DR. GREG TESLUK).

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

SECTION 1. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(493):

P-O to P-D(493)

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

COMMENCING at the southwest corner of Parcel A, as shown on the map filed in Book 41 of Parcel Maps, at page 42, Stanislaus County Records, said point lies on the East right-of-way line of Nelson Avenue; thence North 0 degrees 52'00" West, along said right-of-way line, 152.77 feet to the beginning of a tangent curve, concave to the Southeast, having a radius of 15.00 feet and a central angle of 91 degrees 05'00"; thence Northeasterly along the arc of said curve, 23.85 feet to a point on the South right-of-way line of East Orangeburg Avenue; thence South 89 degrees 47'00" East along said right-of-way line, 240.56 feet to the beginning of a tangent curve, concave to the Southwest, having a radius of 15.00 feet and a central angle of 88 degrees 57'08"; thence Southeasterly along the arc of said curve, 23.29 feet to a point on the West right-of-way line of Melrose Avenue; thence South 0 degrees 49'52" East along said right-of-way line, 153.33 feet; thence North 89 degrees 46'52" West, 270.47 feet to the Point of Beginning of this description.

Including also all of the South one-half of 80.00-foot-wide East Orangeburg Avenue, West one-half of 60.00-foot-wide Melrose Avenue, East one-half of 60.00-foot-wide Nelson Avenue and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(493) 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:

Air space office condominiums.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 20th day of April, 1993, 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: Bird, Dobbs, Friedman, Acting Mayor Cogdill

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Patterson, Mayor Lang

APPROVED: David Cogdill  
ACTING MAYOR DAVID COGDILL

ATTEST:

By Jerry C. Hall  
JERRY C. HALL, Acting City Clerk  
(SEAL)

APPROVED AS TO FORM:

By Mike Milich  
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By William Smith  
Planning and Community Development

Ord. No. 2851-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of April, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 27, 1993

Clerk

ORDINANCE NO. 2852 -C.S.

AN ORDINANCE AMENDING SECTION 4-4.405 OF ARTICLE 4 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO VESTING TENTATIVE MAPS.

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

SECTION 1. AMENDMENT OF CODE. Section 4-4.405 of Article 4 of Chapter 4 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-4.405. VESTING TENTATIVE MAPS.

- (a) **Filing.** On or after January 1, 1988, a vesting tentative map for residential and nonresidential developments may be filed with the Planning Commission instead of a tentative map otherwise required by this chapter. The filing and departmental approval, form, required statement, and action pertaining to a vesting tentative map shall be the same as required by this article for other tentative maps except that the words "Vesting Tentative Map" shall be printed conspicuously on the face of the map.
- (b) **Development Rights.** Planning Commission approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for the vesting tentative map is complete and accepted consistent with Government Code Section 66474.2 and as amended or repealed. The rights conferred by this section shall expire if a final map is not approved by the City Council prior to expiration of the vesting tentative map.
- (c) **Time Limits.** The development rights conferred by a vesting tentative map shall remain in effect for two (2) years after the recording of a final map. When multiple final maps are recorded on various phases of a project covered by a single vesting tentative map, the two-year time period shall begin for each phase when the final map for that phase is recorded. At any time prior to the expiration of the two-year period provided by this section, the subdivider may apply to the Planning Commission for a one-year extension. If the extension is denied

by the Planning Commission, the subdivider may appeal that denial to the City Council within fifteen (15) days. The time limits and extensions thereof for filing a final map based on an approved vesting tentative map shall be the same as specified by Section 4-4.601 for other tentative maps.

- (d) **Amendments.** Minor amendments to the vesting tentative map may be approved by the Secretary of the Planning Commission when the Secretary determines that the proposed changes substantially conform to the approved vesting tentative map. At any time prior to the expiration of the vesting tentative map, the subdivider may apply to the Planning Commission for an amendment to the map when such amendment does not substantially conform to the previously approved vesting tentative map. If the requested amendment is approved by the Planning Commission, the development rights conferred by the vesting tentative map shall allow development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for an amendment to the vesting tentative map is complete and accepted consistent with Government Code Section 66474.2 and as amended or repealed. The time limits for filing a final map or maps based on an amended vesting tentative map shall begin on the date such amendment is approved.
- (e) **Zoning.** If a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning of the property in effect at the time the vesting tentative map is filed, that inconsistency shall be noted on the map. The Planning Commission may deny such vesting tentative map or approve it conditioned on the subdivider's obtaining the necessary change in zoning to eliminate the inconsistency. If the change in zoning is obtained, the approved or conditionally approved tentative map shall confer the vested right to proceed with the development in substantial compliance with the change in zoning and the map as approved.
- (f) **Variances and Exceptions.** Notwithstanding any provisions of this section, a property owner or his designee may seek approvals or permits for development which depart from the ordinances, policies, and standards in effect at the time a complete application for a vesting tentative map is accepted for filing. Such requested approvals or permits may be granted to the extent authorized by the Modesto Municipal Code or other applicable laws.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 20th day of April, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Dobbs, Friedman, Acting Mayor Cogdill

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Patterson, Mayor Lang

APPROVED: David Cogdill  
ACTING MAYOR DAVID COGDILL

ATTEST:

By Judy C. Hall  
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Ord. No. 2852-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of April, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: May 27, 1993

ORDINANCE NO. 2853 -C.S.

AN ORDINANCE ADDING SECTION 5-4.207.1 TO ARTICLE 2 OF CHAPTER 4 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO REMOVAL OF ANIMAL DEFECATION.

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

SECTION 1. AMENDMENT OF CODE. Section 5-4.207.1 is hereby added to Article 2 of Chapter 4 of Title V of the Modesto Municipal Code to read as follows:

SEC. 5-4.207.1. REMOVAL OF ANIMAL DEFECATION.

- (a) It shall be unlawful for any person owning or being in charge, care, control or custody of any dog or cat or other household pet, referred to as "animal" in this Section, to permit, either willfully or through failure to exercise due care or control, such animal to defecate and to allow the feces to remain upon a public park, sidewalk, roadway of any public street or on any property not owned or possessed by the owner or person being in charge, care, control or custody of the animal. The person owning or being in charge, care, control or custody of any animal shall immediately and securely enclose all feces deposited by such animal in a bag, wrapper or other container and dispose of it in a sanitary manner.
- (b) Failure of any person owning or being in charge, care, control or custody of any animal to remove such feces immediately from the above-described property shall constitute a violation of this section and shall be punishable as an infraction.
- (c) The provisions of this section shall not apply to visually handicapped persons who have the charge or control of a guide dog.
- (d) Violation of this section shall be an infraction punishable by a fine of fifty dollars (\$50.00) for the first offense and two hundred dollars (\$200.00) for each subsequent offense.

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.

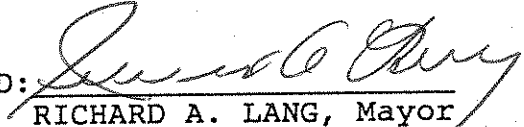
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs

APPROVED:

  
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2853-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of May, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 3, 1993

*Clerk*

ORDINANCE NO. 2854 -C.S.

AN ORDINANCE ADDING SECTION 1-2.10 TO CHAPTER 2 OF TITLE I OF THE MODESTO MUNICIPAL CODE RELATING TO DESIGNATION OF EMPLOYEES AUTHORIZED TO ISSUE CITATIONS FOR VIOLATIONS OF SAID CODE.

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

SECTION 1. AMENDMENT OF CODE. Section 1-2.10 is hereby added to Chapter 2 of Title I of the Modesto Municipal Code to read as follows:

SEC. 1-2.10. ISSUANCE OF CITATIONS BY DESIGNATED EMPLOYEES.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

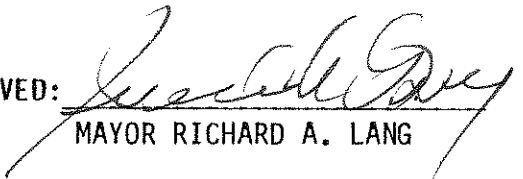
By   
MICHAEL D. MILICH, Acting City Attorney

Ord. No. 2854-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 18th day of May, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: June 17, 1993

Clark 10

ORDINANCE NO. 2855 -C.S.

AN ORDINANCE AMENDING SECTIONS 4-1.1202, 4-1.1211, AND 4-1.1212 OF ARTICLE 12 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO SIDEWALK FOOD VENDORS.

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

SECTION 1. AMENDMENT OF CODE. Sections 4-1.1202, 4-1.1211 and 4-1.1212 of Article 12 of Chapter 1 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-1.1202. PERMIT REQUIRED.

It shall be unlawful for any person to use, or cause to be used, a vending cart upon any public sidewalk in the City of Modesto before obtaining a permit to do so. This permit may be issued by the Finance Director or designee after the application has been reviewed and approved by the authorized representatives of the following agencies:

- (a) City of Modesto Finance Director
- (b) City of Modesto Office of City Clerk
- (c) City of Modesto Police Department
- (d) City of Modesto Fire Department

A permit shall be issued for a vending cart operation that conforms with all the requirements of the Modesto Municipal Code and which will not unduly interfere with the rights of the public or significantly contribute to traffic or other safety hazards. A permit is not transferable. A permit may be canceled if a vending cart operation is not commenced at the designated location within ninety (90) days after the permit is issued. A permit may be revoked as provided herein.

SEC. 4-1.1211. REVOCATION OF PERMIT.

- (a) Whenever there is reasonable cause to believe that any of the following conditions have occurred, the Finance Director or designee may initiate proceedings to consider revoking the permit in the manner prescribed herein.
  - (1) Violations. A vending cart operation shall not be conducted in violation of any provision of the Modesto Municipal Code.

- (2) Use of Untrue Information to Secure a Permit. A permit application at time of submission shall not contain information known by the applicant to be false.
  - (3) Unpaid Fees or Taxes. A permittee shall not fail to completely pay any fee or tax associated with a sidewalk food vending business license or permit within thirty-one (31) days of the due and payable date referred to in Section 4-1.1205 of this Code or any subsequent revisions.
- (b) Proceedings to consider revoking a permit shall be initiated by the Finance Director or designee by delivering a written notice to the permittee at the address on the permit application to inform the permittee of the date and time of a revocation hearing and shall state the reason(s) for the proposed revocation.

The permittee shall be informed of the right to be present at the hearing and to present oral and/or written information concerning why the permit should not be revoked.

- (c) A determination may be made to either revoke or to continue the permit. In either case, a written determination shall be mailed to the permittee, at the address given in the permit application, within six (6) days of the close of the hearing.

#### SEC. 4-1.1212. SALE OF CONTROLLED SUBSTANCES.

No operator or permittee shall unlawfully sell nor unlawfully distribute a controlled substance within twenty (20) feet of their designated location. The Finance Director or designee may revoke without a hearing any permit for a designated location if any permittee or operator is convicted of such sale or distribution. Prima facie evidence of violation shall be the court record. A permittee shall be notified in writing if the permit is revoked.

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 25th day of May, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

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

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Ord. No. 2855-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of June, 19 93, Councilmember Patterson 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED: 

MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: July 1, 1993

*Clerk*

ORDINANCE NO. 2856 -C.S.

AN ORDINANCE AMENDING SECTION MAP 28-3-9 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, AND MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(494), PROPERTY LOCATED ON THE NORTH SIDE OF DOWNEY AVENUE EAST OF MCHENRY AVENUE (CLS INVESTMENTS).

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

SECTION 1. ZONING CHANGE. Section 28-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Professional Office Zone, P-O, and Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(494):

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

R-3 to P-D(494)

All of Lots 16 and 17 and the Eastern 4.00 feet of Lot 15 and the Western 3.00 feet of Lot 18 in Block 568 of the City of Modesto.

Including also all of the Northern 40.00 feet of 80.00 foot wide Downey Avenue immediately adjacent to the above described property.

P-O to P-D(494)

All of Lots 11, 12, 13, 14, 36, 37, and portions of 10, 15, 35, 38, 39, and 40 in Block 568 of the City of Modesto, described as follows:

Beginning one foot West of the Southeast corner of Lot 10 in said Block, thence along the North line of 80.00 foot wide Downey Avenue, East 122.00 feet to a line 4.00 feet West of the East line of said Lot 15; thence North and

parallel to said Lot 15 and Lot 35 298.23 feet to the North line of said Lot 35 and the South line of 49.5 foot wide Jones Street; thence West along the South line of Jones Street 81.33 feet to a line 10.33 feet west of and parallel to the East line of said Lot 38; thence along said parallel line South 132.00 feet; thence West 40.67 feet to a line 1.00 feet West of and parallel to the East line of said Lot 40; thence along said parallel line South 167.20 feet to the POINT OF BEGINNING.

Including also all of the Northern 40.00 feet of 80.00 foot wide Downey Avenue immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(494) 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:

- A. All permitted and conditional uses allowed in the P-O Zone other than dwellings.
- B. Only those C-1 Zone uses as follows:
  - 1. Antique store
  - 2. Art supply store
  - 3. Art studio, art gallery
  - 4. Autograph and philatelist store
  - 5. Bookstore, newsstand
  - 6. Business services (duplicating, addressing, mailing, blueprinting, photostating, stenographic)
  - 7. Camera store
  - 8. Computer store (sales and repair)
  - 9. Interior decorating service
  - 10. Jewelry, watch or clock store (sales and repair)
  - 11. Luggage and leather goods store (sales and repair)
  - 12. Photographic studio, film processing
  - 13. Tailor, seamstress shop
  - 14. Tobacco store

15. Travel agency
16. Vocational school

C. Only those C-2 Zone uses as follows:

1. Broadcasting studio (radio or television)
2. Security agency, locksmith shop

D. Property management and maintenance business including the parking and dispatching of service vans or vehicles relating to all of the above.

SECTION 3. ZONING MAP. Section Map 28-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of June, 1993, by Councilmember Friedman, 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, Muratore, Mayor Lang

NOES: Councilmembers: Bird, 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

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2856-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1993, 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: Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: Bird, Cogdill  
ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, MAYOR

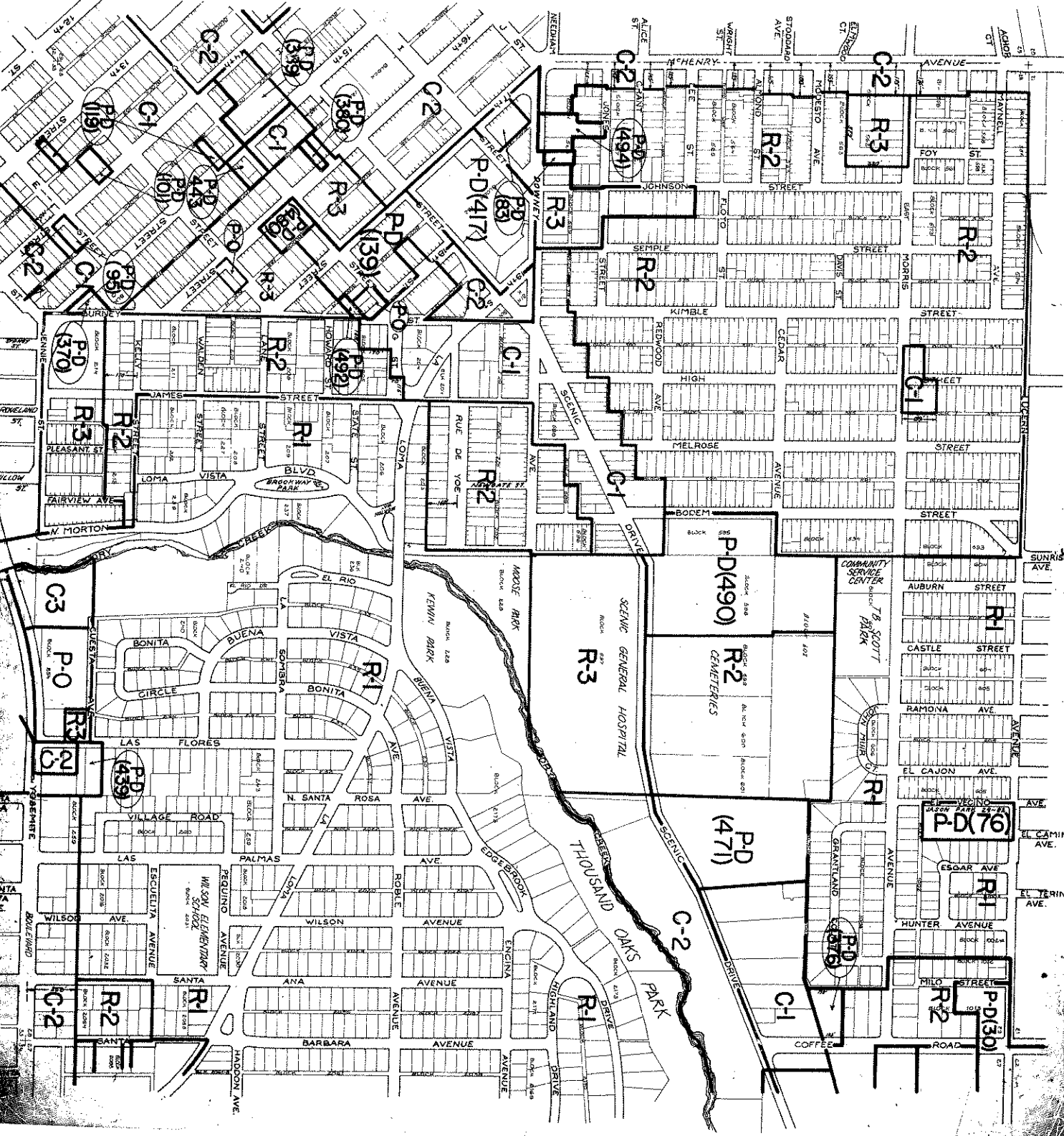
ATTEST:   
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: August 5, 1993

2854

ZONING MAP OF THE CITY OF MADERA

28-3-9



ORDINANCE NO. 2857 -C.S.

AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 12  
OF TITLE IV OF THE MODESTO MUNICIPAL CODE  
RELATING TO DEFACEMENT OF PROPERTY.

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 Code 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.

**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 violation of this Article shall be punishable by (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) **Graffiti on Public Property.** Where graffiti exists on property owned by a public agency other than the City, then graffiti may be removed by the City with the consent of the public agency owning said property, and the City may proceed with any enforcement actions authorized by law against any person responsible for the graffiti. Any fines or penalties collected as a result of the arrest and conviction of any person for a violation of this Article shall be credited to the City as reimbursement for its abatement of the graffiti.

(b) Graffiti on Private Property.

- (1) Graffiti shall be removed from private property within fifteen (15) calendar days after notification to the property owner by the City to remove such graffiti.
- (2) In the event a property owner fails to remove the graffiti after notice has been given, the City may, at its option, abate the graffiti as a nuisance, and the cost of such abatement may be placed as a lien or assessment against the property.

**SEC. 4-12.407. 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. 4-12.408. SUMMARY ABATEMENT.**

The City shall have the right but not the duty to obscure or remove, at its sole expense, any graffiti upon the exterior of walls or fences upon the perimeters of private property within the City. The City Manager shall direct such abatement when he or she finds that the graffiti is plainly visible to the public and is detrimental to the health or welfare of City residents; and, in the case of publicly owned property, after securing the consent of and appropriate release by the public entity having jurisdiction over the property. In the case of privately owned property, the City shall attempt to provide three (3) days' notice of the planned abatement activities, but failure so to do or nonreceipt of any notice shall not invalidate the City's powers hereunder. The provisions of this section authorize the removal of graffiti only upon the exterior of walls or fences upon the perimeter of private property. The scope of removal is limited to such areas as are determined appropriate by the City and not the repair or masking of a more extensive area.

**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 Chapter 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 ordinance 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. Sections 4-12.400, 4-12.401, 4-12.402, 4-12.403, 4-12.404, 4-12.405, 4-12.406, 4-12.408, 4-12.409, 4-12.410, and 4-12.411 shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. Section 4-12.407 shall go into effect and be in full force and operation from and after one hundred eighty (180) days after the final passage and adoption of this ordinance.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of June, 1993, 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: Bird, Cogdill, Dobbs, Friedman, 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:

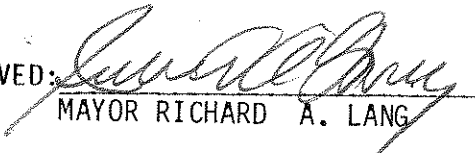
By   
MICHAEL D. MILICH, City Attorney

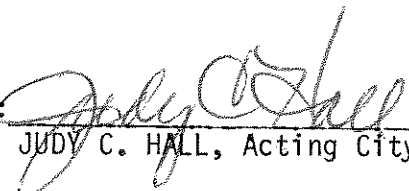
Ord. No. 2857-C.S.

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 June, 19 93, Councilmember Patterson 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: Bird, Cogdill, Dobbs, Friedman, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Muratore

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: July 22, 1993

Clerk

ORDINANCE NO. 2858-C.S.

AN ORDINANCE AMENDING SECTION 1-2.10 OF CHAPTER 2 OF TITLE I OF THE MODESTO MUNICIPAL CODE RELATING TO DESIGNATION OF EMPLOYEES AUTHORIZED TO ISSUE CITATIONS FOR VIOLATIONS OF SAID CODE.

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

SECTION 1. AMENDMENT OF CODE. Section 1-2.10 of Chapter 2 of Title I of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 1-2.10. ISSUANCE OF CITATIONS BY DESIGNATED EMPLOYEES.

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

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

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

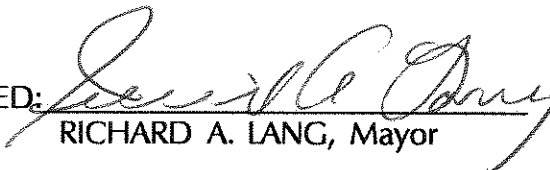
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of June, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, 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. 2858-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 June, 1993, Councilmember Patterson 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: Bird, Cogdill, Dobbs, Friedman, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Muratore

APPROVED: 

MAYOR RICHARD A. LANG

ATTEST: 

JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: July 22, 1993

ORDINANCE NO. 2859 -C.S.

AN ORDINANCE ADDING CHAPTER 11 ENTITLED "SECURITY ALARMS" TO TITLE III OF THE MODESTO MUNICIPAL CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 11 entitled "Security Alarms" is hereby added to Title III of the Modesto Municipal Code to read as follows:

CHAPTER 11--SECURITY ALARMS

SEC. 3-11.01. PERMIT TO OPERATE ALARM/ALARM SYSTEM.

It shall be unlawful for any person, either as principal, agent, servant, or employee to operate or install an alarm or alarm system without having an alarm use permit as herein specified.

- (a) Alarm systems which are not designed to summon public and/or Modesto Police Department attention, but which are privately monitored and responded to, are exempt from this requirement.

SEC. 3-11.02. DEFINITIONS.

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

- (a) **"Alarm or Alarm System"** means any device or system used to protect a structure against an unauthorized intrusion and to automatically activate upon violation of a barrier.
- (b) **"False Alarm"** means any time an alarm is activated by means other than by unauthorized intrusion.

SEC. 3-11.03. ALARM USE PERMIT AND ISSUANCE.

Applications for alarm use permits shall be in writing, on a form provided by the Modesto Police Department. These applications shall be filed with the Police Department. The Police Department is responsible for the investigation and decision of the application. If the Police Department finds from examination of the application and such further facts as may be officially brought to its attention that the

application is in proper form, the Police Department may approve the application and issue the permit applied for. If the Police Department finds that the application is not in proper form, the application may be denied. If the alarm owner fails to register an alarm system after proper notification, said alarm location could be placed on a "No Response" status.

#### SEC. 3-11.04. ALARM USE PERMITS.

There will be no filing fee for the alarm use permits.

Applicants for an alarm use permit shall provide the following information on the form provided by the Modesto Police Department:

- (a) Name, address, date of birth, and telephone number of the owner of the business or residence.
- (b) The type of alarm installed indicating if a silent or audible alarm is being used.
- (c) Name, address, and telephone number of the alarm company, if any.
- (d) Name, title, address, and telephone number of employee or person to contact who will be able to respond within a 30-minute period if business or residence is unoccupied at time of police response. The alarm permittee shall immediately contact the Modesto Police Department to update information concerning emergency response contacts.
- (e) Any other information as may be required by the Police Chief.

#### SEC. 3-11.05. REVOCATION AND REISSUANCE OF ALARM USE PERMITS.

An alarm use permit may be revoked if good cause exists. Good cause for revocation shall include, but not be limited to:

- (a) Failure to take corrective measures to prevent false alarms.
- (b) Failure to pay service charges resulting from excessive false alarms as authorized by this chapter.

Notice of alarm use permit revocation shall be made by the Modesto Police Department to the permittee by certified or registered mail.

Use of an alarm system after permit revocation notification has been issued is unlawful and may result in an administrative fine of five hundred dollars (\$500.00) for each documented occurrence.

Revoked permits may be reissued by the Modesto Police Department if the former permittee can show that action has been taken to correct the cause or causes which resulted in the revocation of the original alarm use permit. Reissuance of an alarm use permit shall be accomplished by the same procedure as the issuance of a new permit.

#### SEC. 3-11.06. FALSE ALARM SERVICE CHARGES.

A service charge shall be imposed on any Modesto alarm system permittee for each false alarm response made by the Modesto Police Department in excess of two (2) responses in any consecutive ninety (90) day period or four (4) responses in any twelve (12) month period.

- (a) Multiple false alarms occurring in any twenty-four (24) hour period may be charged as one (1) call, if shown that the owner was not notified and provided the opportunity to correct the defect.
- (b) A false alarm shall not be charged against a permittee if it is determined that the alarm was activated by a utility power outage.

The service charges will be based on an escalating scale determined by the frequency of false alarms after the authorized false alarm standard is met, and shall be in the amount established from time to time by resolution of the City Council.

#### SEC. 3-11.07. IMPERMISSIBLE SYSTEMS AND USES.

- (a) No person shall use or operate, cause to be used or operated, arrange, adjust, program, or otherwise provide for, or install any device or combination of devices that, upon activation of an alarm system, either mechanically, electrically, or automatically, or by other means, will initiate the intrastate calling, dialing, or connection to any police number, line or instrument assigned to the Modesto Police Department.
- (b) No person shall operate or use any alarm system that emits a sound similar to that of an emergency vehicle, siren, or civil defense warning system.

- (c) No person shall use or operate any alarm system that emits an exterior audible sound which such emission does not automatically cease within fifteen (15) minutes.
- (d) No person shall operate or use an alarm system for any other purpose than detecting and reporting an unauthorized entry upon the property protected by that system.

#### SEC. 3-11.08. APPEALS.

Any person who is denied an alarm use permit, or whose alarm use permit has been revoked, or who is denied an alarm use permit reissuance, or who has been assessed an administrative fine after revocation of an alarm permit or who has received an alarm service charge assessment, may appeal the action in writing to the Police Chief.

Within ten (10) days of receipt of an appeal, the Police Chief shall render a written decision on the appeal. If the appeal is denied, such decision shall be effective immediately upon service to the applicant/permittee or shall be effective ninety-six (96) hours after being deposited in the course of transmission with the United States Postal Service.

#### SEC. 3-11.09. LIABILITY LIMITATION.

The City of Modesto shall be under no duty or obligation to holders of alarm use permits or to any other persons by reason of any provision of this chapter. This includes, but is not limited to, any defects in Police alarm boards, or delays in transmission, and/or responses to an alarm call.

#### SEC. 3-11.10. PENALTIES.

A violation of any provisions of this chapter shall be punishable as an infraction.

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 June, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

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. 2859-C.S.

FINAL ADOPTION CLAUSE

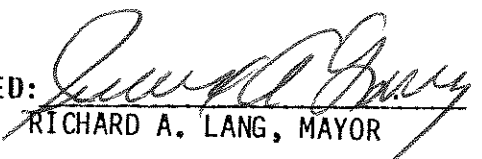
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of July, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

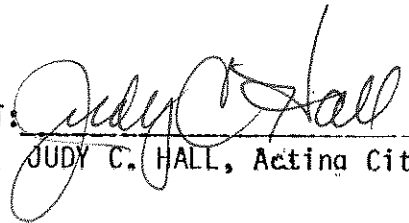
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
RICHARD A. LANG, MAYOR

ATTEST:

  
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: August 5, 1993

Clerk

ORDINANCE NO. 2860 -C.S.

AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1994, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS.

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed budget for the 1993-1994 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 1993-94", presented by the City Manager to the City Council at its meeting held June 22, 1993, 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 restriping of Scenic Avenue, as the budget for the City of Modesto for the fiscal year ending June 30, 1994, 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, 1993, are hereby appropriated for the purposes for which they are encumbered and shall be a part of the budget for the fiscal year 1993-1994 adopted hereby.

SECTION 3. That Capital Projects carried over from fiscal year 1992-1993 are hereby re-appropriated as a part of the budget for the fiscal year 1993-1994 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, 1993.

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 22nd day of June, 1993, by Councilmember Bird, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Friedman, Patterson, Mayor Lang

NOES: Councilmembers: None


ABSENT: Councilmembers: Dobbs, Muratore

APPROVED:

  
RICHARD A. LANG, Mayor

ATTEST:

By

  
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

*Clark*

ORDINANCE NO. 2861 -C.S.

AN ORDINANCE AMENDING SECTION 7-3.401 OF TITLE VII OF CHAPTER 3 OF ARTICLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO AIRPORT FEES.

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

SECTION 1. AMENDMENT OF CODE. Section 7-3.401 of Title VII of Chapter 3 of Article 4 of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 7-3.401. FEES.

The Council shall have the power by resolution to establish charges and fees for the following types of activities and services at the Modesto City-County Airport:

- (a) Rental of hangars.
- (b) Tie downs.
- (c) Office space.
- (d) Landing fees for nonscheduled transient aircraft carrying passengers and or cargo for hire.
- (e) Collection of a Passenger Facility Charge (PFC) from airline passengers enplaning flights at Modesto City-County Airport.
- (f) Permanently based commercial services, the fee to be in lieu of the license requirements imposed by Chapter 1 of Title VI of this Code, and shall be payable in advance.
- (g) Temporarily based commercial services, the fee to be in lieu of the license requirements imposed by Chapter 1 of Title VI of this Code, and shall be payable in advance.

An operator shall be considered as "temporarily based" at the Modesto City-County Airport within the meaning of this chapter unless the operator maintains an office at the airport and intends to engage in business from the base for a consecutive period of not less than six (6) months in duration. The requirements of this section may be modified or waived by action of the Council

during such times as are declared by it to be periods of public emergency.

- (h) Such other services for activities as are deemed proper by the Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

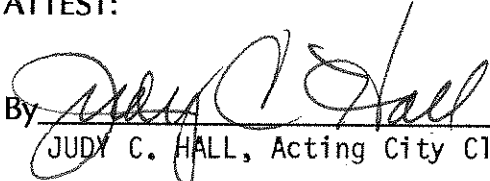
AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2861-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 July, 19 93, Councilmember \_\_\_\_\_ moved its final adoption, which motion being duly seconded by Councilmember \_\_\_\_\_, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 12, 1993

*clock*

ORDINANCE NO. 2862 -C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (TIM FISHER/ARCHITECTURE PLUS)

WHEREAS, a verified application for an amendment to Section 21-3-9 of the Zoning Map was filed by Tim Fisher/Architecture Plus on March 23, 1993, to reclassify from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O, property located on the north side of East Orangeburg between Nelson and Melrose Avenues, and

WHEREAS, after a public hearing held on June 7, 1993, 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. 93-22, adopted on June 7, 1993, the Planning Commission recommended to the Council that the application of Tim Fisher/Architecture Plus to amend Section 21-3-9 of the Zoning Map to reclassify the hereinafter described property from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O, be approved,

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

SECTION 1. After a public hearing held on July 13, 1993, in the Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the general plan and will serve the public health, safety and general welfare and provide the economic

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

1. The proposed P-O Zone is in conformance with the General Plan and will allow a medical/professional office development in a manner guided by the East McHenry Avenue Zoning and Development Policy and approved by a Board of Zoning Adjustment P-O plot plan review.
2. A Negative Declaration of environmental impact was recommended by the Environmental Assessment Committee in the initial study dated April 28, 1993, which should be certified as adopted.

SECTION 2. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O:

R-2 to P-O

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

Being a portion of the South 243.00 feet of Lot 12 of East Coolidge Colony, according to the official map thereof, filed in the office of the recorder of Stanislaus County, California, on November 15, 1910, in Volume 5 of Maps, Page 17, described as follows:

Beginning at the Southwest corner of said Lot 12, said corner being at the intersection of the center lines of 50.00-foot wide Nelson Avenue and 80.00-foot wide East Orangeburg Avenue, thence along the center line of said Nelson Avenue and the west line of said Lot 12, North 40.00 feet to a point of intersection with the westerly prolongation of the north line of said East Orangeburg Avenue; thence East along said prolongation and north line of East Orangeburg Avenue 75.00 feet to the true point of beginning this description; thence leaving said north line, North 85.00 feet; thence East 60.00 feet; thence North

118.00 feet; thence East 100.00 feet; thence South 203.00 feet to the north line of said East Orangeburg Avenue; thence West along said north line 160.00 feet to the true point of beginning.

Including also the north one-half of 80.00-foot wide East Orangeburg Avenue located immediately adjacent to the above described property.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 1993, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

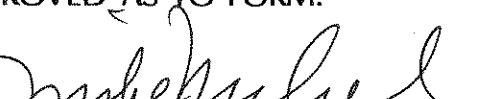
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning & Community Development

Ord. No. 2862-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 20th day of July, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: August 19, 1993

*Clark*

ORDINANCE NO. 2863 -C.S.

AN ORDINANCE AMENDING SECTION 26-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, AND GENERAL COMMERCIAL ZONE, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(495), PROPERTY LOCATED ON THE NORTH SIDE OF YOSEMITE BOULEVARD WEST OF NORTH RIVERSIDE DRIVE (MID-VALLEY ENGINEERING/ CALIFORNIA EQUIPMENT RENTAL)

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

SECTION 1. ZONING CHANGE. Section 26-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Medium High Density Residential Zone, R-3, and General Commercial Zone, C-2, to Planned Development Zone, P-D(495):

R-3 to P-D(495)

The North 165.00 feet of the East 200.00 feet and the North 15.00 feet of the West 80.00 feet of the following described property:

ALL that portion of the Southeast quarter of the Southwest quarter of Section 26, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at the South quarter corner of said Section 26, said point of commencement being on the centerline of a State Highway known as Yosemite Boulevard; thence along the South line of said Section 26, North 89 degrees 54' 15" West, 456.51 feet thence North 0 degrees 34' 54" West, 33.00 feet to a point that is South 89 degrees 54' 15" East, 100 feet from the Southeast corner of the property conveyed to Dave E. Wilson, et al, by deed recorded June 4, 1958, as Instrument No. 13548, and the TRUE POINT OF BEGINNING; thence continuing North 0 degrees 34' 45" West, parallel to the East line of said Wilson property and the Northerly extension of said East line, 375.66 feet to a point on the Easterly extension of the

South line of the LOS ALTOS TRACT as recorded in Book 17 of maps, at Page 45, Stanislaus County Records; thence along said Easterly extension, North 89 degrees 54' 30" West, 200.00 feet to the Southeast corner of said tract; thence South 0 degrees 34' 45" East along the West line of the East half of the Southeast quarter of the Southwest quarter of said Section 26, 150.00 feet to the Northeast corner of PARCEL 1, as described in the deed to Ronald Eugene Trimble, recorded September 24, 1980, as Instrument No. 18806; thence North 89 degrees 54' 15" West along the North line of said Trimble property, 80.00 feet to the Northwest corner thereof; thence South 0 degrees 34' 45" East along the West line of said Trimble property and the Southerly extension thereof, 225.62 feet; thence South 89 degrees 54' 15" East, 280.00 feet to the TRUE POINT OF BEGINNING.

C-2 to P-D(495)

ALL that portion of the Southeast quarter of the Southwest quarter of Section 26, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at the South quarter corner of said Section 26, said point of commencement being on the centerline of a State Highway known as Yosemite Boulevard; thence along the South line of said Section 26, North 89 degrees 54' 15" West, 456.51 feet; thence North 0 degrees 34' 54" West, 33.00 feet to a point that is South 89 degrees 54' 15" East, 100 feet from the Southeast corner of the property conveyed to Dave E. Wilson, et al, by deed recorded June 4, 1958, as Instrument No. 13548, and the TRUE POINT OF BEGINNING; thence continuing North 0 degrees 34' 45" West, parallel to the East line of said Wilson property and the Northerly extension of said East line, 375.66 feet to a point on the Easterly extension of the South line of the LOS ALTOS TRACT as recorded in Book 17 of maps, at Page 45, Stanislaus County Records; thence along said Easterly extension, North 89 degrees 54' 30" West, 200.00 feet to the Southeast corner of said tract; thence South 0 degrees 34' 45" East along the West line of the East half of the Southeast quarter of the Southwest quarter of said Section 26, 150.00 feet to the Northeast corner of PARCEL 1, as described in the deed to Ronald

Eugene Trimble, recorded September 24, 1980, as Instrument No. 18806; thence North 89 degrees 54' 15" West along the North line of said Trimble property, 80.00 feet to the Northwest corner thereof; thence South 0 degrees 34' 45" East along the West line of said Trimble property and the Southerly extension thereof, 225.62 feet; thence South 89 degrees 54' 15" East, 280.00 feet to the TRUE POINT OF BEGINNING. Including also all of Yosemite Boulevard located between the above described property and the South line of said Section 26.

EXCEPTING THEREFROM the North 165.00 feet of the East 200 feet and the North 15.00 feet of the West 80.00 feet of the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(495) 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. Equipment rental yard.
2. Trailer haul concrete mixing system.

SECTION 3. ZONING MAP. Section Map 26-3-9 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 27th day of July, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2863-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 August, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: September 2, 1993

ORDINANCE NO. 2864-C.S.

AN ORDINANCE ADDING SECTION 9-10.09 TO CHAPTER 10 OF TITLE IX OF THE MODESTO MUNICIPAL CODE RELATING TO LANDMARK PRESERVATION CONTRACTS.

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

SECTION 1. AMENDMENT OF CODE. Section 9-10.09 is hereby added to Chapter 10 of Title IX of the Modesto Municipal Code to read as follows:

SEC. 9-10.09. LANDMARK PRESERVATION CONTRACTS.

Any owner of a property which has been designated as a Modesto Landmark Preservation Site shall be eligible to apply for the property tax incentive program through the use of an Historical Property Contract pursuant to Section 50280 through 50290 of the California Government Code. All applications filed for Landmark Preservation Contracts shall be considered by the Landmark Preservation Commission at a public hearing. The recommendation of the Landmark Preservation Commission shall be forwarded to the City Council for consideration at a public hearing.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

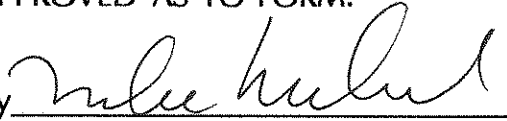
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2864-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of August, 19 93, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
Mayor Richard A. Lang

ATTEST:

  
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: September 16, 1993

*Clack*

ORDINANCE NO. 2865-C.S.

AN ORDINANCE AMENDING SECTION 30-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(496), PROPERTY LOCATED ON THE NORTH SIDE OF MAZE BOULEVARD WEST OF MODESTO IRRIGATION DISTRICT LATERAL NO. 5 (MODESTO SENIOR HOUSING INVESTORS)

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

SECTION 1. ZONING CHANGE. Section 30-3-9 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(496):

R-1 to P-D(496)

Lot 24 of the MAZE RANCH SUBDIVISION, as per Map thereof recorded March 19, 1909, in Book 4, of Maps, Page 18, Stanislaus County Records, more particularly described as follows:

Commencing at the corner common to Sections 29, 30, 31, and 32, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence North 89° 45' 30" West 1536.70 feet and along the section line to center of Lateral No. 5 of the Modesto Irrigation District, thence along the center of Lateral No. 5, North 24° 04' 30" East 224.16 feet; thence North 7° 18' 30" East 67.07 feet to the True Point of Beginning; thence continuing North 7° 18' 30" East 238.73 feet to a point in Lateral No. 4 of the Modesto Irrigation District; thence along the center of said Lateral No. 4, North 72° 39' 30" West 503.80 feet; thence leaving said Lateral South 0° 14' 30" West 656.66 feet; thence South 89° 45' 30" East 40.00 feet; thence North 0° 14' 30" East 286.35 feet; thence South 89° 45' 30" East 179.59 feet; thence South 0° 14' 30" West 14.74 feet; thence South 89° 45' 30" East 232.56 feet to the True Point of Beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(496) 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. 38-unit, one-story elderly housing complex.

SECTION 3. ZONING MAP. Section Map 30-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17th day of August, 1993, by Councilmember Dobbs, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

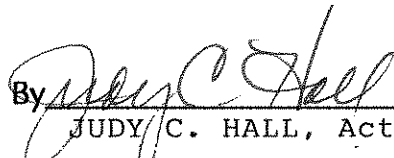
AYES: Councilmembers: Bird, Dobbs, Friedman, Patterson, Mayor Lang

NOES: Councilmembers: Cogdill, Muratore

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

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

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2865-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of September, 1993, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bird, Dobbs, Friedman, Patterson, Mayor Lang

NOES: Councilmembers: Cogdill, Muratore

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 7, 1993

Clerk

ORDINANCE NO. 2866-C.S.

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

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

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Morse Road and Carpenter Road	35 miles per hour	August 31, 1989
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	October 20, 1988
BRIGGSMORE AVENUE, eastbound between Tully Road and McHenry Avenue	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, westbound between Tully Road and McHenry Avenue	45 miles per hour	July 28, 1993

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	40 miles per hour	March 12, 1992
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 Coffee Road and Rose Avenue	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	July 28, 1993
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	August 5, 1993
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	45 miles per hour	October 26, 1988

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	March 12, 1992
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	35 miles per hour	June 29, 1992
CARVER ROAD, between Orangeburg Avenue and 9th Street within the City limits	30 miles per hour	March 12, 1992
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	March 4, 1992
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	January 27, 1993
FLOYD AVENUE, between Oakdale Road and Roselle Avenue	40 miles per hour	October 27, 1992
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
LAKEWOOD 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	45 miles per hour	March 14, 1989
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	January 8, 1993
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	January 8, 1993
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 30, 1992
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	August 30, 1989
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	February 12, 1991

ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	August 31, 1989
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	August 31, 1989
PARADISE ROAD, between Vernon Avenue and North Martin Luther King Drive within the City limits	35 miles per hour	March 14, 1989
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	May 26, 1992
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
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	35 miles per hour	May 21, 1990
SISK ROAD, between Pelandale Avenue and Vintage Drive	45 miles per hour	January 28, 1992
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, eastbound between Dale Road and Prescott Road	40 miles per hour	May 14, 1993
STANDIFORD AVENUE, westbound between Dale Road and Prescott Road	40 miles per hour	May 14, 1993
STANDIFORD AVENUE, between Prescott Road and Carver Road	35 miles per hour	August 30, 1989
STANDIFORD AVENUE, between Carver Road and Tully Road	35 miles per hour	October 5, 1989
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	March 14, 1989
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	January 28, 1993
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	August 31, 1989
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	35 miles per hour	August 30, 1989

SYLVAN AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	February 14, 1989
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 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 24th day of August, 1993, by Councilmember Friedman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Bird, Cogdill, Friedman, Muratore, Patterson

NOES: Councilmembers: None

ABSENT: Councilmembers: Dobbs, Mayor Lang

APPROVED:   
DAVID COGDILL, Vice Mayor

ATTEST:

By   
JUDY C. HALL, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2866-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of September, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED: 

MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: October 7, 1993

ORDINANCE NO. 2867-C.S.

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE VIII OF THE MODESTO MUNICIPAL CODE RELATING TO CITY CONTRACTS.

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

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

CHAPTER 3 - CITY CONTRACTS

ARTICLE 1. AUTHORITY

SEC. 8-3.101. AUTHORITY.

In conformance with the provisions of Sections 801(k) and 1313 of the City Charter, the following policies and procedures governing the contracting for goods and services by the City are established.

SEC. 8-3.102. CONTRACTING AUTHORITY.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the amount of twenty thousand dollars (\$20,000.00) or less. Except as noted below, no contract involving an expenditure in excess of twenty thousand dollars (\$20,000.00) may be authorized, approved or executed without City Council approval. The twenty thousand dollars (\$20,000.00) limit set forth in the preceding sentences does not apply to contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred thousand dollars (\$200,000.00) or less. Any contract for public works projects which may be so approved and authorized by the City Manager is not subject to the public bidding requirements of article 3 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval

shall be approved as to form by the City Attorney or his authorized representative before presentation to the City Council.

**SEC. 8-3.103. ADOPTION OF CENTRAL PURCHASING SYSTEM.**

A central purchasing system is hereby established in order:

- (a) To establish efficient procedures for the purchase of the City's supplies, materials and equipment at the lowest possible cost commensurate with quality needed.
- (b) To exercise positive financial control over purchases.
- (c) To clearly define authority for the purchasing function.
- (d) To establish procedures for contracting for services needed by City from the most qualified persons at the most reasonable cost.
- (e) To assure the quality of the purchases.

**SEC. 8-3.104. PROFESSIONAL SERVICES.**

Professional services shall mean accounting, appraisal, architectural, auditing, engineering, environmental land surveying, construction management, legal financial planning, medical or planning services or any service which is similarly professional, scientific, expert, or technical in nature.

**SEC. 8-3.105. PUBLIC WORKS PROJECTS.**

Except as set forth in Section 8-3.102, every project exceeding twenty thousand dollars (\$20,000.00) for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds and streets (exclusive of projects for resurfacing, maintenance and repair of streets) shall be deemed a public works project and be subject to the provisions set forth in Article 3 of this chapter commencing with Section 8-3.301.

**ARTICLE 2. CENTRAL PURCHASING**

**SEC. 8-3.201. ORGANIZATION.**

The central purchasing system shall be a division of the Finance Department of the City under the supervision of the Finance Director.

**SEC. 8-3.202. GENERAL RESPONSIBILITIES AND DUTIES OF THE PURCHASING OFFICER.**

The position of Purchasing Officer is established by the Personnel Rules. The Purchasing Officer shall be appointed in accordance with the Personnel Rules and shall have the following responsibilities and duties:

- (a) Subject to the provisions of this section, shall be responsible to the Finance Director for contracting for and purchasing supplies, equipment, materials and contractual services required by all City departments and for the administration of the rules established by this chapter or by the City Charter not applicable to public work projects.
- (b) Encourage bulk and seasonal buying and prevent to the extent possible the subdivision of contracts and purchases to avoid the requirements of this chapter.
- (c) Be responsible for assuring written specifications for supplies, materials, equipment and contractual services as may be needed to conform to good and accepted purchasing practices and to the provisions of this chapter.
- (d) Prepare and maintain vendors' and contractors' files of persons, firms and corporations dealing in supplies, materials, equipment or services used by the City.
- (e) Strive to obtain all Federal and other tax exemptions to which the City is entitled.
- (f) Require that all supplies, materials, equipment or services purchased by the City be inspected by the respective receiving departments and that the procurement complies with the specifications.
- (g) Make such recommendations as may be necessary to implement the rules and regulations of the central purchasing system.
- (h) With the approval of the Council, join with the State of California and other units of government in cooperative purchasing plans when the best interest of the City would be served thereby.

**SEC. 8-3.203. EXCEPTIONS TO FORMAL BIDDING REQUIREMENTS.**

Except as otherwise provided by this chapter or when directed by the City Manager, all purchases of supplies, materials, equipment and

contractual services involving an expenditure of City funds in the amount of twenty thousand dollars (\$20,000.00) or less, shall be purchased, when feasible and when in the best interest of the City, in the open market by letter inquiry, informal solicitation, or telephone or facsimile solicitations, with or without newspaper advertisement, and without observation of prescribed formal bid procedures.

Open market purchases, whenever possible and practicable, shall be based on at least three (3) competitive quotations (letter inquiries and/or telephone solicitations), and shall be awarded to the person, firm or corporation submitting the lowest responsible quotation. In determining the lowest quotation, the City shall do so on the basis defined in Section 8-3.204 for establishing the lowest responsible bid used in formal bid purchases.

The Purchasing Officer shall keep a record of all open market orders and the quotations submitted in competition thereof. Such records shall be open to public inspection during business hours. Records of said open market orders or purchases may be disposed of by the Purchasing Officer following two (2) years from the date of the purchase.

All purchases in excess of twenty thousand dollars (\$20,000.00), or when directed by the City Manager for any purchase of twenty thousand dollars (\$20,000.00) or less, shall follow formal bid procedures, except for the following, which shall be exempt from the bid requirement:

- (a) Contracts for professional services as defined in Section 8-3.104.
- (b) Where the Purchasing Agency's requirements can be met solely by a single patented article or process.
- (c) Where the Purchasing Officer, in his discretion, determines that calling for bids on a competitive basis as set forth in Section 8-3.204 is undesirable due to exigent circumstances.
- (d) Where the Purchasing Officer, in his discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.204 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality. Such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation.

**SEC. 8-3.204. FORMAL BID PROCEDURES.**

The formal bid procedure shall include the following:

- (a) Notice Inviting Bids. Notice inviting bids shall be published in the official newspaper by one (1) or more insertions, the first of which shall be at least seven (7) days before the time of bid opening, in accordance with the provisions of Section 1307 of the City Charter. The required newspaper notice shall include a general description of the supplies, materials, equipment, and contractual services to be purchased, state where bid blanks and specifications may be secured and the time and place for opening bids.

Wherever feasible, the Purchasing Officer shall send copies of the "request for proposals/bids" to prospective vendors and contractors. It shall be the responsibility of the Purchasing Officer to encourage as wide a response as possible from prospective vendors or contractors.

- (b) Bid Deposits. Where required by the City Charter and when not so required but deemed necessary or desirable by the Purchasing Officer, all bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than the amount specified in the notice inviting bids or in the specifications referred to therein, or if no amount is specified by the notice inviting bids, then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, provide supplies, materials, equipment, or contractual services according to specifications within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City, and shall be collected and paid into its General Fund, and all bonds forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

All bids not submitted with the required deposit shall be rejected. Unsuccessful bidders shall be entitled to the return of deposits when such have been required after acceptance of the contract by the selected bidder.

- (c) Sealed Bids. Bids shall be sealed, shall be identified as bids on the envelope, shall be submitted at the place and no later than

the time stated in the public notice inviting bids, and shall be opened at a public meeting at the time and place stated in the public notice. Bids received after the stated time shall not be accepted and shall be returned to the bidder unopened.

- (d) Council May Reject Bids. The Council shall have the authority to accept or reject any or all bids, or to waive any informalities or minor irregularities in a bid. The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the purchase in question may be made without a formal bid procedure and, after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council, may proceed to have said purchase made in the manner stated without further observation of the provisions of this section.
- (e) Lowest Responsive and Responsible Bidder. In addition to price in determining the "lowest responsive and responsible bidder", consideration will be given to quality and performance of the commodity to be purchased, or service provided by the seller. Criteria for determining low bid shall include, but not be limited to, the following:
  - (1) The ability, capacity and skill of the bidder to provide the supplies, materials, equipment or contractual services as required.
  - (2) The ability of the bidder to provide the supplies, materials, equipment or contractual services within the time specified.
  - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
  - (4) The quality or performance of previous purchases from said bidder.
  - (5) The ability of the bidder to provide future maintenance, repair parts and services for the use of the commodity purchased.
- (f) Faithful Performance Bond. When the specifications so provide, the successful bidder shall furnish surety in the form of certified or cashier's check, corporate surety bond or savings and loan certificate for faithful performance of the contract.

**SEC. 8-3.205. INSPECTION AND TESTING.**

All supplies, materials, equipment or contractual services shall be adequately inspected or tested by the receiving department (assisted by the using department when necessary) upon delivery to the City. Approval of commodities purchased shall be indicated in writing by the receiving department to the Accounting Division on forms provided by the Central Purchasing Division.

**SEC. 8-3.206. PREFERENCE TO LOCAL MERCHANTS.**

Preference shall be given to the purchase of supplies, materials, equipment and contractual services from local merchants, quality and price being equal, if the local merchant meets the requirement of the lowest responsible bidder.

**SEC. 8-3.207. TRADE-IN ALLOWANCES.**

When replacing personal property belonging to the City, the Purchasing Officer is authorized to request quotations for trade-in allowances. Where the trade-in allowance is determined to be adequate and advantageous, the City Manager is authorized to accept said quotation. In those instances the Purchasing Officer is authorized to make the purchase.

**SEC. 8-3.208. PURCHASING-REVOLVING FUND.**

A Purchasing-Revolving Fund has been created and is authorized for the use of the Purchasing Officer for the purchase of office, janitorial and other supplies for the use of all departments of the City. Said funds shall be accounted for as recommended by GAAP standards. By resolution the Council may provide the amount needed for the Purchasing-Revolving Fund and may, by resolution, increase or decrease the amount as the needs of the City change.

**ARTICLE 3. GENERAL PROVISIONS**

**SEC. 8-3.301. WAIVER OF FORMAL BID PROCEDURES NOT INVOLVING PUBLIC WORKS PROJECTS.**

Formal bid procedure shall not be required when such purchase is waived by Council resolution passed by at least five (5) affirmative votes.

**SEC. 8-3.302. EMERGENCY PURCHASES.**

If an emergency occurs at times other than during regular business hours, the City Manager may authorize City department heads to purchase directly any supplies, materials, equipment, or contractual services where immediate procurement is essential to prevent delays in the work of the using department which may vitally affect the life, health or convenience of citizens. Except in events of defense or disaster, the authorized expenditure for each such emergency purchase shall not exceed the amount of five hundred and dollars (\$500.00).

The head of such using department shall submit, as soon as possible, to the Central Purchasing Division a record of the emergency purchase together with a report of the circumstances of the emergency.

**SEC. 8-3.303. COLLUSION WITH BIDDER.**

Any officer of the City or any department thereof who shall aid or assist a bidder in securing a contract to furnish supplies, materials, equipment or contractual services at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the materials or supplies called for, or who shall knowingly accept commodities of a quality inferior to those called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount or different kind of materials or supplies than have actually been received, shall be deemed guilty of malfeasance and shall be removed from office.

**SEC. 8-3.304. COLLUSION BY BIDDER.**

If at any time it shall be found that the person to whom a contract has been awarded has in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void.

**ARTICLE 4. PROVISIONS APPLICABLE ONLY TO  
PUBLIC WORKS PROJECTS**

**SEC. 8-3.401. GENERAL REQUIREMENTS.**

The general requirements relating to the award of contracts for public works is contained in Section 1307 of the City Charter. The purpose of this article is to implement the provisions of that section. Other than the provisions of this article and Sections 8-3.102, 8-3.209, and 8-3.105,

none of the provisions of this chapter shall apply to public works projects.

**SEC. 8-3.402. FILING OF BIDS.**

All bids for public works projects shall be sealed and filed with the City Clerk no later than the opening time specified in the Notice of Bids. The City Clerk shall be custodian of such bids and shall keep all things pertaining thereto confidential until they are opened and declared.

**SEC. 8-3.403. OPENING OF BIDS.**

All bids shall be publicly opened and declared at the time and place fixed in the Notice Inviting Bids. Thereafter, the bids shall be tabulated and analyzed by the head of the department supervising the proposed work, who shall submit them, together with his recommendations thereon, to the City Manager. The City Manager shall review the bids and submit them to the Council, along with his recommendations at the next regular meeting of the Council.

**SEC. 8-3.404. BONDS.**

At the time of the execution of the contract, the contractor shall execute and file with the City Clerk a payment bond executed by a corporate surety in the sum of not less than fifty (50) percent of the total amount payable by the terms of the contract. The provisions of such bond shall be in accordance with the provisions of California Civil Code Section 3248 as it now exists or is hereafter amended.

In addition to the foregoing bond, the contractor shall execute and file with the City Clerk, at the time of execution of the contract, a performance bond executed by a corporate surety, in the sum of not less than fifty (50) percent of the total amount payable by the terms of the contract. The provisions of such bond shall guarantee performance of the contract.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 1993, 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: Bird, Cogdill, Dobbs, Friedman, 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

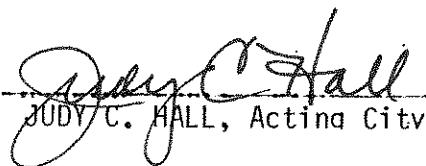
Ord. No. 2867-C.S.

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 October, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: November 4, 1993

*Jack*  
*(6)*

ORDINANCE NO. 2868 -C.S.

AN ORDINANCE GRANTING TO MODESTO GARBAGE COMPANY INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO, INCLUDING THE COLLECTION OF INDUSTRIAL GARBAGE, RECYCLABLE MATERIALS, AND SALVAGEABLE WASTE, AND REPEALING ORDINANCE NO. 2720-C.S.

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

SECTION 1. This ordinance is enacted pursuant to the authority provided in, and pursuant to, all of the provisions, terms, and conditions of, Article XIV of the Charter of the City of Modesto and Chapter 5 of Title V of the Modesto Municipal Code.

SECTION 2. A license to collect garbage, industrial garbage, and salvageable waste, including recyclable materials, in the City of Modesto is hereby granted to Modesto Garbage Company Inc., a California Corporation, subject to the following terms and conditions:

- a. This license shall be for a term of eight (8) calendar years commencing on January 1, 1994. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may apply to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code. In addition to the information required by Chapter 5 of Title V of the Modesto Municipal Code, such an application shall also include a financial analysis, in a form acceptable to the City's Finance Director, and prepared by an independent Certified Public Accountant. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provisions of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase

of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

- b. This license shall be an exclusive license to collect garbage and a nonexclusive license to collect industrial garbage, salvageable waste, and recyclable materials within the areas delineated and marked on that certain map entitled "Garbage Districts" dated September 29, 1993, on file in the office of the City Clerk, and to which reference is hereby made.
- c. In accepting this license, Licensee thereby agrees to serve the areas covered by the license for the terms herein specified in compliance with the provisions of this ordinance and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.
- d. This license shall automatically extend to any portion of the Licensee's service area, as shown on the map referred to in paragraph (b) above, which is hereafter annexed to the City, except that City may permit any person or firm licensed by the County of Stanislaus and then serving such area or portions thereof to continue to serve such area or portions thereof for such period of time, not to exceed five (5) years from the date of annexation, as the City deems proper. The Licensee, when required to serve new portions of the City, shall promptly extend its routes and services and, when necessary, shall hire additional personnel and obtain additional equipment.
- e. Rates and charges to be charged by the Licensee for the collection of garbage shall be established by the Council by resolution. Service charges and costs of operation of the Licensee will be reviewed annually by the City and, if deemed necessary by the City Council, rate adjustments shall be made to become effective on or after January 1 of each year.

The City reserves the right to require adjustments in operations of the Licensee due to changing community needs, and or developments in the field of garbage collection and disposal. Rate adjustments, if necessary, will be considered in such cases.

- f. The Licensee shall bill and collect all garbage service charges, provided, however, that the City may require that all or some of said garbage service charges shall be billed and collected by the City, and may require the Licensee to pay to the City fees, to be determined by the City, for such billing and collection service.

- g. The City reserves the right to revise the provisions of Chapter 5 of Title V of the Modesto Municipal Code, from time to time, as required in order to protect the public health, safety and welfare of the City.
- h. The Licensee shall comply with all existing and future State and Federal laws, and all ordinances and regulations which may in any manner affect the Licensee's operations under the terms and conditions of this license.
- i. The Public Works and Transportation Director of the City of Modesto shall administer and supervise the Licensee's operations under the terms of this license and in accordance with the provisions of Chapter 5 of Title V of the Municipal Code.

In the event of any disagreement between the Licensee and customers regarding the amount of charges for garbage collection service or the type or extent of service provided by the Licensee, the Public Works and Transportation Director shall make an investigation and determination, and the decision of the Public Works and Transportation Director shall be final.

- j. The Licensee shall establish and maintain an office within the City of Modesto, or other location approved by the City Manager, and shall keep said office open for business from 8:00 a.m. to 5:00 p.m. of every day except Saturday, Sunday, and all legal holidays observed by the City of Modesto.

The Licensee shall keep and maintain in said office at all times during the hours it is required to be open, competent personnel who shall have authority to represent the Licensee in its relations with the City and with the public. The Licensee shall obtain and keep in said office sufficient listed telephones and personnel to courteously, quickly, and expeditiously receive and answer all telephone and other calls to said office. A daily log of service calls received and the disposition thereof shall be kept by the Licensee for all operations hereunder.

- k. The Licensee shall maintain full and complete books of account and other records showing all business transacted in connection with this license by said Licensee including but not limited to records of all special monthly collections, receipts, expenses, profits, supporting statements and vouchers, balance sheets, profit and loss statements, and other documents, accurately reflecting and showing all business of the Licensee. All such books and records shall be subject to audit and inspection at any

and all reasonable times by the City and its authorized officers, agents, or employees, and shall be made available at said office for such inspection or audit at any and all reasonable times upon written request or demand of the City Attorney, Auditor, Manager, or Public Works and Transportation Director.

- l. The Licensee shall provide the City annually, not later than ninety (90) days after the end of the fiscal year ending June 30th, with five (5) copies of an annual balance sheet and profit and loss statement. The annual financial statement shall include a separate description of costs and revenues resulting from salvage and recycling operations hereunder and shall encompass cumulative data from the monthly statistical reports required by Section 2 subparagraph y.(4), below. Licensee may include the operating costs of the curbside recycling license when calculating profits of Licensee's entire waste collection license hereunder. Financial statements submitted by the Licensee to the City shall be regarded by the City as confidential financial records of the Licensee, and shall not be released as a public record for inspection by any party other than authorized City officers unless the City is so ordered by a court of competent jurisdiction.

The City may require a complete financial audit prepared by a Certified Public Accountant with his or her opinion attached thereto and such other financial information deemed necessary by the City when considering a request for rate adjustments.

- m. The Licensee shall collect and remove from any and all premises, not later than twenty-four (24) hours after notice, demand or request, any and all garbage and recyclables which Licensee shall have failed to collect and remove at the regularly scheduled time. The customer's failure to place garbage and recyclables for collection at the regularly scheduled time and place shall not be deemed a missed collection.
- n. The Licensee shall collect garbage and recyclables at least once each calendar week, Mondays through Fridays, for residential collections, and on Mondays through Saturdays for commercial and industrial collections. For purposes of such collection, the Licensee shall divide the City into collection routes. Such collection routes shall be each wholly within the City limits, and shall be approved by the Public Works and Transportation Director. Upon approval of the proposed routes by the Public Works and Transportation Director, the Licensee shall prepare route books as soon as possible which shall indicate the address of each service, number of containers, frequency of collection,

and such other pertinent information as the Public Works and Transportation Director may require. The Licensee shall keep route books up to date at all times. The Licensee shall give reasonable notice to the general public as to the days and times for collection on each route. No changes in collection schedules shall be made without the approval of the Public Works and Transportation Director and reasonable notice thereof to the customers concerned by the Licensee.

The Licensee is not required to make collections on Sundays or legal holidays observed by the City. The Licensee may arrange with commercial and industrial customers for Sunday and holiday collections, however. Scheduled collections not made on legal holidays shall be made within twenty-four (24) hours, Sundays excepted.

- o. The Licensee shall make garbage collection service available on request to all schools, public agencies, institutions, and other nonresidential premises at the same rates established for business locations. In special cases where unusual quantities of materials, special types of materials, or special methods of handling and or disposing are required, the Public Works and Transportation Director may permit independent arrangements between Licensee and the special customer.
- p. The Licensee shall furnish, to all residential customers, a standard sixty (60) gallon or ninety (90) gallon automated collection container for the containerization of household garbage and garden refuse. The Licensee shall be responsible for the general repair and upkeep of all the standard automated collection containers furnished to the residential customers. Containers shall be kept in serviceable condition at all times.

The Licensee shall have approved detachable containers for apartment, commercial, business and industrial services on a rental basis. The Licensee shall be responsible for the general repair and upkeep of all detachable containers. Containers shall be kept in serviceable condition at all times. The Licensee shall provide detachable container cleaning service at a rate approved by the Public Works and Transportation Director.

Detachables shall be metal and so constructed that no liquid can leak from said containers. However, containers made of materials other than metal may be proposed by the Licensee for the approval of the Public Works and Transportation Director

during the term of this license. No materials may be substituted without prior approval.

- q. The Licensee shall supply all occupants or premises in the Licensee's service areas with printed information cards approved by the Public Works and Transportation Director containing information regarding amounts of garbage and recyclables which will be collected, complaint procedures, charges, regulations, and days of collection. Such cards shall be distributed as required by the Public Works and Transportation Director, and, in addition, upon request by occupants or owners of any premises and in advance of route, charge, or regulation changes.
- r. The Licensee shall not litter any premises or public property in making collections of garbage, nor shall garbage be allowed to leak, blow, or fall from collection vehicles; however, if in spite of normal precautions against spillage, litter is caused on any premises or public property, the Licensee shall immediately remove same and clean up the area of spillage. The Licensee shall, without delay, after removing garbage from any container, replace the container in its designated position on the premises with covers closed on lidded containers, and shall repair or replace at its expense any containers damaged as a result of its handling thereof, normal wear and tear excepted. The Licensee shall close all gates after making collections and shall avoid crossing private or public planted areas and climbing or jumping over hedges and fences. Licensee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. If, for any reason, garbage is not picked up, such as overweight container, not in container, etc., the Licensee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

The Licensee's collection vehicles shall be operated in full compliance with the California Vehicle Code and local ordinances. Vehicles shall be thoroughly washed and disinfected inside the collection body each day, or as approved by the Public Works and Transportation Director, and the exterior of each vehicle shall be cleaned and washed at least once a week.

- s. All equipment used for the collection and hauling of garbage shall be approved by the Public Works and Transportation Director and shall be so constructed and maintained as to prevent leakage, spillage, or overflow. Trucks shall not be loaded in excess of requirements of the California Vehicle Code.

All trucks and equipment shall be clearly identified by an assigned equipment number and with the firm name and local telephone number affixed thereto. Collection trucks shall be painted white, or another color approved by the Public Works and Transportation Director, and shall be equipped with the safety devices and warning lights required by the California Vehicle Code.

All vehicles and equipment used in the collection of garbage, if kept within the boundaries of the City, shall, at all times when not in use in the collection of garbage, be kept on private property in the appropriate zone and not on streets or other public ways.

- t. All garbage collection vehicles shall be well maintained, properly identified, painted, clean and in satisfactory mechanical condition. The Licensee shall institute a complete and comprehensive system of preventive maintenance on all vehicles and shall keep them lubricated and in good repair. Records in a form approved by the Public Works and Transportation Director to provide data on operating, maintenance and repair costs shall be kept on each piece of equipment.
- u. For purposes of this paragraph the following definitions apply:
  - (1) "Interruption of service" means:
    - (a) Any time period during which garbage collection services by the Licensee are interrupted by a labor dispute and scheduled collections are discontinued or substantially reduced; or
    - (b) Any time period after notice by the City of the termination of the license by reason of a breach or default by the Licensee and until other suitable equipment can reasonably be purchased or otherwise acquired by the City for such purpose.
  - (2) "Equipment" means any and all vehicles and equipment used by the Licensee for the purpose of performing the services provided for in the license at any time within the ninety (90) days immediately prior to the commencement of the interruption of service.
  - (3) "Payment for use" has the following meaning:

- (a) In the case of equipment subject to a contract, "payment for use" shall mean any installment payment coming due under a contract for such equipment while the City is possessing and using such equipment pursuant to this paragraph during an interruption of service. Payment for use shall not be deemed to include any payment coming due under such contract either prior to, or after the expiration of, such period. Payment for use shall be made by the City, from time to time, directly to the person or company to whom the payment is owed under the contract, and the making of such payment or payments shall constitute full compensation to all persons for the City's temporary use of such equipment.
- (b) In the case of equipment not subject to a contract, "payment for use" shall mean the reasonable rental value of such equipment for such period of time during which the City possesses and uses such equipment pursuant to this paragraph during an interruption of service. Such payment shall, at termination of service interruption, be applied against any sums then owed to the City by the Licensee, or, if none, shall be paid by the City to the Licensee.
- (4) "Contract" means any conditional sales contract, mortgage, encumbrance, lease, rental agreement, or other agreement which provides for retention of title to said equipment or grants a security interest therein, that may exist at the commencement of the interruption of service.
- (5) "Notice" means written notification actually received by the person to be notified or mailed to him or her by registered or certified mail at the most recent address furnished by him or her to the City Clerk of the City of Modesto. As to the holder of a contract, the City shall be required to give notice only if the holder's identity is known to the City and the holder has furnished his or her address to said City Clerk.

In the event of an interruption of service, the City shall be entitled to have the temporary possession of all or any portion of the equipment of Licensee on the condition that

the City shall, from time to time, make the payment for use as provided in Section 2 subparagraph u.(3), above. Upon taking such temporary possession, City shall forthwith give notice thereof to the Licensee and to the holder at that time, if any, of the contract on such equipment. Such temporary use shall not be deemed a breach of the terms of any contract regarding said equipment, but it shall otherwise be subject to the terms of such contract which are not in conflict herewith, except that the City shall not be required to make any payment other than the payment for use prescribed in Section 2 subparagraph u.(3), above. The City's payment for use prescribed in Section 2 subparagraph u.(3) shall be deemed to be compensation only for the temporary use of such equipment and the City shall not thereby acquire any ownership interest in such equipment.

So long as the City continues to make the payment for use of equipment when due or within ten (10) days thereafter, such equipment may be retained by the City and shall not be repossessed from the City. In the event the City fails to make a payment for use when due or within ten (10) days thereafter, the City's right to continued temporary use of such equipment shall cease, and possession of such equipment may be retaken by the Licensee or by the holder of any contract thereon.

At the expiration of the City's temporary possession of any such equipment, the City shall give written notice of such expiration to the Licensee and to the current holder, if any, of a contract on such equipment. In the event the Licensee shall fail to take possession of such equipment within ten (10) days after such notice, the Licensee shall be deemed to have abandoned such equipment and waived all interest therein, and the City shall be free to use and dispose of such equipment without liability or compensation to the Licensee, subject to the terms of any contract that may then exist with regard to such equipment.

All equipment used by the Licensee for the purpose of performing the services provided for in this license shall be solely owned by the Licensee except that the Licensee may, with the prior approval of the City Manager, enter into contracts as defined in Section 2 subparagraph u.(4), above, with respect to such equipment. All such contracts

shall provide for temporary possession by the City as set forth herein and shall provide that such temporary possession shall not be deemed a breach of such contract.

- v. All vehicles and equipment used by the Licensee for the collection and hauling of garbage shall be solely owned by Licensee, except that the Licensee may, with the prior approval of the City Manager, enter into conditional sales contracts, mortgages, encumbrances, leases, rental agreements, and other appropriate agreements for the purpose of purchasing, leasing or renting vehicles and equipment to be used in providing the services provided for in this license. All such documents shall provide for temporary possession by the City as set forth in Section 2 subparagraph u.(5) above and shall provide that such temporary possession shall not be deemed a breach of the agreement.
- w. Garbage collected by the Licensee shall be disposed of at the Fink Road sanitary landfill or at the resource recovery facility depending on the makeup of the waste. The City reserves the right to designate other sanitary landfill areas for disposal and other methods of disposal or diversion. Disposal of garbage at the sanitary landfill will be in compliance with regulations in effect for the same as they now exist or may hereafter be amended. Industrial garbage collected by the Licensee may be disposed of at such other locations as are approved by the Health Officer.
- x. Pursuant to Licensee's nonexclusive license to collect salvageable waste and recyclable materials, Licensee shall, at its sole cost and expense, furnish all labor and equipment required to perform curbside collection pursuant to this Ordinance and to bear all costs and charges in connection with the sale of recyclable and salvageable materials. Besides collection of sorted recyclable materials, salvaging or scavenging by the Licensee's employees is prohibited on collection routes; however, salvaging activities are encouraged at properly zoned and otherwise suitable locations.
- y. For the purposes of this Ordinance, recyclable materials means newspapers, glass containers, tin cans, aluminum cans, used motor oil, PET plastic, and such other materials as may be mutually agreed upon in writing by Licensee and the Public Works and Transportation Director, which are collected by Licensee pursuant to this Ordinance. Licensee shall perform recycling services in the City of Modesto as follows:

- (1) Licensee shall collect and remove all recyclable materials that have been segregated, donated, and placed on scheduled service days at the curb of the public street fronting on all single-family residences and from designated locations near multi-family dwellings located within the service areas as established in Section 2 subparagraphs b., c., and d., above. Licensee shall have the sole right to any and all funds and proceeds from the sale of salvaged and recycled materials. Such funds and proceeds shall be accounted for as part of Licensee's gross revenues.
- (2) Licensees recycling rights and duties hereunder shall commence upon the effective date of this Ordinance and shall thereafter coincide with the license term and extension provisions contained in Section 2 subparagraph a. of this Ordinance.
- (3) Licensee shall collect recyclable materials sorted and placed at the curbside for collection once each week, regardless of weather conditions. Collection shall be scheduled as for regular garbage collection service in Section 2.n, above. Licensee may collect recyclable materials between 6:00 a.m. and 6:00 p.m. Licensee shall service missed collections as provided in Section 2 subparagraph m., above.
- (4) Licensee shall file with the City written monthly statistical reports, not later than the tenth of each month to report statistics for the previous month. Reports shall be directed to the Recycling Program Coordinator of the City of Modesto, Suite 16, 1012 I Street, Modesto, California 95354. The following statistics shall be included in the monthly reports:
  - (a) Daily record of volumes collected for aluminum cans, tin cans, PET plastic, glass, newspaper, and used motor oil.
  - (b) Daily record of the number of set-outs, stops, or pick ups.
  - (c) Monthly totals for each of the above.

- (d) A copy of the Recycling Miss Log of the missed pickups reported to Licensee during the preceding month.
  - (e) A summary of the preceding month's sale of recyclables, identifying purchaser, purchase price, costs involved, and quantity sold.
  - (f) Information regarding any problems, changes in routes, drivers, and or equipment.
  - (g) Suggestions for the expansion or improvement of the recycling program.
- (5) Licensee shall provide reasonable public access to Licensee's facility where recyclable materials, including items not picked up at curbside, may be dropped off and where waste oil may be deposited.
  - (6) Licensee shall not deposit, in any landfill or waste-to-energy facility, wherever located, any substantial quantity of easily separable recyclable materials without City's prior written consent.
- z. The Licensee shall file with the City Clerk and maintain during the term of this license a corporate surety bond or other form of security satisfactory to the City Attorney in the sum of One Hundred Thousand and no 100ths (\$100,000.00) Dollars. Said bond or security shall be conditioned upon the faithful performances of the terms and conditions of this license and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.
  - aa. Licensee agrees, in connection with the performance of all operations under or pursuant to this license, to be an Equal Opportunity Employer and to refrain from discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, or handicap.
    - (1) Licensee agrees that it will undertake an affirmative action program to ensure that no person shall on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any employment activities or opportunities. Licensee shall fully document these efforts and shall submit to City on or before January 31 of each year a report detailing the affirmative actions Licensee has taken during the prior calendar year. Licensee shall ensure

that seniority practices, job classifications, work assignments, and other personnel practices, including employment reduction actions, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the equal employment opportunity actions required by this License are being carried out.

- (2) Licensee agrees to ensure and maintain a working environment free of harassment, intimidation, and coercion at all job locations and in all facilities where Licensee's employees are assigned to work. Licensee shall specifically ensure that all foremen and forewomen, superintendents, and other on-site supervisory personnel are aware of and carry out the Licensee's obligation to maintain such a working environment with specific attention to minority and women at such work locations or in such facilities.
  - (3) In the event of breach of any of the above nondiscrimination, equal opportunity, and affirmative action covenants, the Council of the City of Modesto shall have the right to revoke this license in accordance with the provisions of Section 5-5.31 of the Modesto Municipal Code.
- ab. Licensee and City shall cooperate, on such terms as shall be agreed upon, to support, develop, publicize, expand, and promote the concept and benefits of recycling by any reasonable and effective methods. Licensee shall reimburse City for its expenses and mailing costs whenever City determines that it is in the best interest of the curbside recycling program to distribute information and promotional materials to Licensee's customers."

SECTION 2. SUPERSEDES AND REPEALS. This ordinance supersedes and repeals Ordinance No. 2720-C.S.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance

thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 1993, by Councilmember Muratore who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and order printed and published by the following vote:

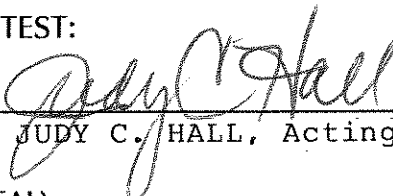
AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

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

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2868-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of October, 1993, Councilmember Friedman moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NURRINE COYLE, City Clerk

EFFECTIVE DATE: November 11, 1993

ORDINANCE NO. 2869-C.S.

AN ORDINANCE ADDING CHAPTER 13 ENTITLED "CRIMINAL OFFENDER REGISTRATIONS" TO TITLE IV OF THE MODESTO MUNICIPAL CODE TO PROVIDE FOR THE REGISTRATION OF CONVICTED ARSON, NARCOTICS AND SEX OFFENDERS.

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

SECTION 1. AMENDMENT OF CODE. Chapter 13 entitled "Criminal Offender Registrations" is hereby added to Title IV of the Modesto Municipal Code to read as follows:

CHAPTER 13 -- CRIMINAL OFFENDER REGISTRATIONS

ARTICLE 1. REGISTRATION OF  
ARSON OFFENDERS, NARCOTICS OFFENDERS AND SEX OFFENDERS

SEC. 4-13.101. DEFINITIONS.

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

- (a) **"Sex Offender"** is as defined in Section 290 of the Penal Code of the State of California and incorporated herein by reference.
- (b) **"Arson Offender"** is as defined in Section 457.1 of the Penal Code of the State of California and incorporated herein by reference.
- (c) **"Narcotics Offender"** is as defined in Section 11590 of the Health and Safety Code of the State of California and incorporated herein by reference.
- (d) **"Registration"** means registering with the local law enforcement authorities as required by Section 290 of the Penal Code of the State of California for sex offender, Section 457.1 of the Penal Code of the State of California for arson offender, and Section 11590 of the Health and Safety Code of the State of California for narcotics offender.

- (e) "Local Law Enforcement" for purposes of criminal offender registrations mentioned herein means the Modesto Police Department.
- (f) "Police Chief" means the Police Chief of the City of Modesto or his authorized designee.

**SEC. 4-13.102. REGISTRATION FEE.**

Any arson offender, narcotics offender, or sex offender required by Penal Code Section 457.1, Health and Safety Code Section 11590-11595, and Penal Code Section 290, respectively, to register with the Chief of Police and or the Police Department shall be charged a fee for each such registration to cover to the costs incurred in registering each such offender. The fee shall be paid at the time of registration. Said fees shall be in the amount as established by a resolution adopted by the City Council from time to time. There shall be no charge to update the registration form relating to an address change.

The Modesto Police Department shall not refuse to register an offender based on the inability of said offender to pay the required fee. Persons not able to pay the required registration fee may be referred to a collection agency.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2869-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 November, 19 93, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED: \_\_\_\_\_  
MAYOR RICHARD A. LANG

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 9, 1993

*Clerk*

ORDINANCE NO. 2870 -C.S.

AN ORDINANCE AMENDING SECTION 8-4-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(457), TO PLANNED DEVELOPMENT ZONE, P-D(498), PROPERTY LOCATED ON THE SOUTH SIDE OF ALGEN AVENUE AND WEST OF CROWS LANDING ROAD (PAUL AND DEAN HOLTZCLAW)

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

SECTION 1. ZONING CHANGE. Section 8-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(457), to Planned Development Zone, P-D(498):

P-D(457) to P-D(498)

All that certain real property situate in the southeast quarter of Section 8, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, California, described as follows:

BEGINNING at the Southeast corner of Parcel 3 as shown on the map filed in Book 30 of Parcel Maps, at Page 84, Stanislaus County Records; thence North 0° 02' 00" East on the East line of said Parcel 3, a distance of 120.00 feet to the present South line of 60-foot wide Algen Avenue; thence continuing on said East line North 0° 06' 24" East, 30.00 feet to the centerline of said Algen Avenue; thence South 89° 19' 05" East on the centerline of Algen Avenue 360.00 feet; thence South 0° 02' 00" West, 150.00 feet to the South line of the Northeast quarter of the Southeast quarter of said Section 8; thence North 89° 19' 05" West, on said South line 360.00 feet to the POINT OF BEGINNING of this description.

SECTION 2. USES. The following uses shall be permitted in said P-D(498) 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. One-story, de facto zero-lot-line single-family detached homes.

SECTION 3. ZONING MAP. Section Map 8-4-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 1993, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:


By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2870-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 October, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
MORRINE COYLE, City Clerk

EFFECTIVE DATE: November 25, 1993

Clark

ORDINANCE NO. 2871-C.S.

AN ORDINANCE AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL ZONE, C-2, AND PLANNED DEVELOPMENT ZONE, P-D(219), TO PLANNED DEVELOPMENT ZONE, P-D(497), PROPERTY LOCATED ON THE EAST SIDE OF MCHENRY AVENUE BETWEEN HINTZE AND HELEN AVENUES (RICHARD NEAULT)

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

SECTION 1. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to reclassify the following described property from General Commercial Zone, C-2, and Planned Development Zone, P-D(219), to Planned Development Zone, P-D(497):

P-D(219) to P-D(497)

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

COMMENCING at the Southwest corner of said Section 21; thence North 0° 56' 00" West 1,046.54 feet along the West line of said Section 21 to the Westerly extension of the South line of 60-foot wide Hintze Avenue; thence North 88° 57' 00" East 238.00 feet along said South line to the POINT OF BEGINNING of this description; thence continuing along said South line of Hintze Avenue North 88° 57' 00" East 198.58 feet; thence North 80° 57' 00" East 56.97 feet along said South line; thence South 0° 39' 00" East 109.02 feet; thence South 22° 41' 00" East 62.69 feet; thence South 89° 34' 00" East 146.71 feet to the West line of the 10-foot abandoned alley adjoining Block 621 of the Amended Map of Leslie Hugh Tract; thence South 0° 54' 00" East 95.00 feet along said West line; thence North 88° 55' 00" West 421.14 feet more or less; thence North 0° 56' 00" West 245.28 feet, more or less to the end of this description.

Including the Southerly 30 feet of Hintze Avenue immediately adjacent to the above described property.

C-2 to P-D(497)

Commencing at the Southwest corner of said Section 21; thence North 0° 56' 00" West 1,046.54 feet along the West line of said Section 21 to the Westerly extension of the South Line of 60-foot wide Hintze Avenue; thence North 88° 57' 00" East along said extension Easterly 40.00 feet to the Southeast corner of 80.00-foot wide McHenry Avenue and said Hintze Avenue and the POINT OF BEGINNING of this description; thence continuing along said South line of Hintze Avenue North 88° 57' 00" East 198.00 feet; thence leaving said South line of Hintze Avenue South 0° 56' 00" East 251 feet more or less; thence North 88° 55' 00" West 6.00 feet; thence South 0° 56' 00" East 110.00 feet to the North line of 60.00-foot wide Helen Avenue; thence along said North line Westerly 192.01 feet to the East line of said McHenry Avenue; thence along said East line North 0° 56' 00" West 355.28 feet to the point of beginning of this description.

Including the East 40.00 feet of 80.00-foot wide McHenry Avenue, South 30.00 feet of 60.00-foot wide Hintze Avenue, and North 30.00 feet of 60.00-foot wide Helen Avenue and all immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(497) 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. Senior Housing
2. Residential Care Facility

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 1993, 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: Bird, Cogdill, Dobbs, Friedman  
Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2871-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of November, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 2, 1993

*Clerk*

ORDINANCE NO. 2872-C.S.

AN ORDINANCE GRANTING TO GILTON SOLID WASTE MANAGEMENT, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO, INCLUDING THE COLLECTION OF INDUSTRIAL GARBAGE, RECYCLABLE MATERIALS, AND SALVAGEABLE WASTE, AND REPEALING ORDINANCE NO. 2745-C.S.

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

SECTION 1. This ordinance is enacted pursuant to the authority provided in, and pursuant to, all of the provisions, terms, and conditions of, Article XIV of the Charter of the City of Modesto and Chapter 5 of Title V of the Modesto Municipal Code.

SECTION 2. A license to collect garbage, industrial garbage, and salvageable waste, including recyclable materials, in the City of Modesto is hereby granted to Gilton Solid Waste Management, Inc., a California Corporation, subject to the following terms and conditions:

- a. This license shall be for a term of eight (8) calendar years commencing on January 1, 1994. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may apply to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code. In addition to the information required by Chapter 5 of Title V of the Modesto Municipal Code, such an application shall also include a financial analysis, in a form acceptable to the City's Finance Director, and prepared by an independent Certified Public Accountant. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provisions of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the

initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

- b. This license shall be an exclusive license to collect garbage and a nonexclusive license to collect industrial garbage, salvageable waste, and recyclable materials within the areas delineated and marked on that certain map entitled "Garbage Districts" dated September 29, 1993, on file in the office of the City Clerk, and to which reference is hereby made.
- c. In accepting this license, Licensee thereby agrees to serve the areas covered by the license for the terms herein specified in compliance with the provisions of this ordinance and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.
- d. This license shall automatically extend to any portion of the Licensee's service area, as shown on the map referred to in paragraph (b) above, which is hereafter annexed to the City, except that City may permit any person or firm licensed by the County of Stanislaus and then serving such area or portions thereof to continue to serve such area or portions thereof for such period of time, not to exceed five (5) years from the date of annexation, as the City deems proper. The Licensee, when required to serve new portions of the City, shall promptly extend its routes and services and, when necessary, shall hire additional personnel and obtain additional equipment.
- e. Rates and charges to be charged by the Licensee for the collection of garbage shall be established by the Council by resolution. Service charges and costs of operation of the Licensee will be reviewed annually by the City and, if deemed necessary by the City Council, rate adjustments shall be made to become effective on or after January 1 of each year.

The City reserves the right to require adjustments in operations of the Licensee due to changing community needs, and/or developments in the field of garbage collection and disposal. Rate adjustments, if necessary, will be considered in such cases.

- f. The Licensee shall bill and collect all garbage service charges, provided, however, that the City may require that all or some of said garbage service charges shall be billed and collected by the City, and may require the Licensee to pay to the City fees, to be determined by the City, for such billing and collection service.

- g. The City reserves the right to revise the provisions of Chapter 5 of Title V of the Modesto Municipal Code, from time to time, as required in order to protect the public health, safety and welfare of the City.
- h. The Licensee shall comply with all existing and future State and Federal laws, and all ordinances and regulations which may in any manner affect the Licensee's operations under the terms and conditions of this license.
- i. The Public Works and Transportation Director of the City of Modesto shall administer and supervise the Licensee's operations under the terms of this license and in accordance with the provisions of Chapter 5 of Title V of the Municipal Code.

In the event of any disagreement between the Licensee and customers regarding the amount of charges for garbage collection service or the type or extent of service provided by the Licensee, the Public Works and Transportation Director shall make an investigation and determination, and the decision of the Public Works and Transportation Director shall be final.

- j. The Licensee shall establish and maintain an office within the City of Modesto, or other location approved by the City Manager, and shall keep said office open for business from 8:00 a.m. to 5:00 p.m. of every day except Saturday, Sunday, and all legal holidays observed by the City of Modesto.

The Licensee shall keep and maintain in said office at all times during the hours it is required to be open, competent personnel who shall have authority to represent the Licensee in its relations with the City and with the public. The Licensee shall obtain and keep in said office sufficient listed telephones and personnel to courteously, quickly, and expeditiously receive and answer all telephone and other calls to said office. A daily log of service calls received and the disposition thereof shall be kept by the Licensee for all operations hereunder.

- k. The Licensee shall maintain full and complete books of account and other records showing all business transacted in connection with this license by said Licensee including but not limited to records of all special monthly collections, receipts, expenses, profits, supporting statements and vouchers, balance sheets, profit and loss statements, and other documents, accurately reflecting and showing all business of the Licensee. All such books and records shall be subject to audit and inspection at any and all reasonable times by the City and its authorized officers,

agents, or employees, and shall be made available at said office for such inspection or audit at any and all reasonable times upon written request or demand of the City Attorney, Auditor, Manager, or Public Works and Transportation Director.

- I. The Licensee shall provide the City annually, not later than ninety (90) days after the end of the fiscal year ending June 30th, with five (5) copies of an annual balance sheet and profit and loss statement. The annual financial statement shall include a separate description of costs and revenues resulting from salvage and recycling operations hereunder and shall encompass cumulative data from the monthly statistical reports required by Section 2 subparagraph y.(4), below. Licensee may include the operating costs of the curbside recycling license when calculating profits of Licensee's entire waste collection license hereunder. Financial statements submitted by the Licensee to the City shall be regarded by the City as confidential financial records of the Licensee, and shall not be released as a public record for inspection by any party other than authorized City officers unless the City is so ordered by a court of competent jurisdiction.

The City may require a complete financial audit prepared by a Certified Public Accountant with his or her opinion attached thereto and such other financial information deemed necessary by the City when considering a request for rate adjustments.

- m. The Licensee shall collect and remove from any and all premises, not later than twenty-four (24) hours after notice, demand or request, any and all garbage and recyclables which Licensee shall have failed to collect and remove at the regularly scheduled time. The customer's failure to place garbage and recyclables for collection at the regularly scheduled time and place shall not be deemed a missed collection.
- n. The Licensee shall collect garbage and recyclables at least once each calendar week, Mondays through Fridays, for residential collections, and on Mondays through Saturdays for commercial and industrial collections. For purposes of such collection, the Licensee shall divide the City into collection routes. Such collection routes shall be each wholly within the City limits, and shall be approved by the Public Works and Transportation Director. Upon approval of the proposed routes by the Public Works and Transportation Director, the Licensee shall prepare route books as soon as possible which shall indicate the address of each service, number of containers, frequency of collection, and such other pertinent information as the Public Works and Transportation Director may require. The Licensee shall keep

route books up to date at all times. The Licensee shall give reasonable notice to the general public as to the days and times for collection on each route. No changes in collection schedules shall be made without the approval of the Public Works and Transportation Director and reasonable notice thereof to the customers concerned by the Licensee.

The Licensee is not required to make collections on Sundays or legal holidays observed by the City. The Licensee may arrange with commercial and industrial customers for Sunday and holiday collections, however. Scheduled collections not made on legal holidays shall be made within twenty-four (24) hours, Sundays excepted.

- o. The Licensee shall make garbage collection service available on request to all schools, public agencies, institutions, and other nonresidential premises at the same rates established for business locations. In special cases where unusual quantities of materials, special types of materials, or special methods of handling and/or disposing are required, the Public Works and Transportation Director may permit independent arrangements between Licensee and the special customer.
- p. The Licensee shall furnish, to all residential customers, a standard sixty (60) gallon or ninety (90) gallon automated collection container for the containerization of household garbage and garden refuse. The Licensee shall be responsible for the general repair and upkeep of all the standard automated collection containers furnished to the residential customers. Containers shall be kept in serviceable condition at all times.

The Licensee shall have approved detachable containers for apartment, commercial, business and industrial services on a rental basis. The Licensee shall be responsible for the general repair and upkeep of all detachable containers. Containers shall be kept in serviceable condition at all times. The Licensee shall provide detachable container cleaning service at a rate approved by the Public Works and Transportation Director.

Detachables shall be metal and so constructed that no liquid can leak from said containers. However, containers made of materials other than metal may be proposed by the Licensee for the approval of the Public Works and Transportation Director during the term of this license. No materials may be substituted without prior approval.

- q. The Licensee shall supply all occupants or premises in the Licensee's service areas with printed information cards approved by the Public Works and Transportation Director containing information regarding amounts of garbage and recyclables which will be collected, complaint procedures, charges, regulations, and days of collection. Such cards shall be distributed as required by the Public Works and Transportation Director, and, in addition, upon request by occupants or owners of any premises and in advance of route, charge, or regulation changes.
- r. The Licensee shall not litter any premises or public property in making collections of garbage, nor shall garbage be allowed to leak, blow, or fall from collection vehicles; however, if in spite of normal precautions against spillage, litter is caused on any premises or public property, the Licensee shall immediately remove same and clean up the area of spillage. The Licensee shall, without delay, after removing garbage from any container, replace the container in its designated position on the premises with covers closed on lidded containers, and shall repair or replace at its expense any containers damaged as a result of its handling thereof, normal wear and tear excepted. The Licensee shall close all gates after making collections and shall avoid crossing private or public planted areas and climbing or jumping over hedges and fences. Licensee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. If, for any reason, garbage is not picked up, such as overweight container, not in container, etc., the Licensee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

The Licensee's collection vehicles shall be operated in full compliance with the California Vehicle Code and local ordinances. Vehicles shall be thoroughly washed and disinfected inside the collection body each day, or as approved by the Public Works and Transportation Director, and the exterior of each vehicle shall be cleaned and washed at least once a week.

- s. All equipment used for the collection and hauling of garbage shall be approved by the Public Works and Transportation Director and shall be so constructed and maintained as to prevent leakage, spillage, or overflow. Trucks shall not be loaded in excess of requirements of the California Vehicle Code.

All trucks and equipment shall be clearly identified by an assigned equipment number and with the firm name and local telephone number affixed thereto. Collection trucks shall be

painted white, or another color approved by the Public Works and Transportation Director, and shall be equipped with the safety devices and warning lights required by the California Vehicle Code.

All vehicles and equipment used in the collection of garbage, if kept within the boundaries of the City, shall, at all times when not in use in the collection of garbage, be kept on private property in the appropriate zone and not on streets or other public ways.

- t. All garbage collection vehicles shall be well maintained, properly identified, painted, clean and in satisfactory mechanical condition. The Licensee shall institute a complete and comprehensive system of preventive maintenance on all vehicles and shall keep them lubricated and in good repair. Records in a form approved by the Public Works and Transportation Director to provide data on operating, maintenance and repair costs shall be kept on each piece of equipment.
- u. For purposes of this paragraph the following definitions apply:
  - (1) "Interruption of service" means:
    - (a) Any time period during which garbage collection services by the Licensee are interrupted by a labor dispute and scheduled collections are discontinued or substantially reduced; or
    - (b) Any time period after notice by the City of the termination of the license by reason of a breach or default by the Licensee and until other suitable equipment can reasonably be purchased or otherwise acquired by the City for such purpose.
  - (2) "Equipment" means any and all vehicles and equipment used by the Licensee for the purpose of performing the services provided for in the license at any time within the ninety (90) days immediately prior to the commencement of the interruption of service.
  - (3) "Payment for use" has the following meaning:
    - (a) In the case of equipment subject to a contract, "payment for use" shall mean any installment payment coming due under a contract for such equipment while the City is possessing and using

such equipment pursuant to this paragraph during an interruption of service. Payment for use shall not be deemed to include any payment coming due under such contract either prior to, or after the expiration of, such period. Payment for use shall be made by the City, from time to time, directly to the person or company to whom the payment is owed under the contract, and the making of such payment or payments shall constitute full compensation to all persons for the City's temporary use of such equipment.

- (b) In the case of equipment not subject to a contract, "payment for use" shall mean the reasonable rental value of such equipment for such period of time during which the City possesses and uses such equipment pursuant to this paragraph during an interruption of service. Such payment shall, at termination of service interruption, be applied against any sums then owed to the City by the Licensee, or, if none, shall be paid by the City to the Licensee.
- (4) "Contract" means any conditional sales contract, mortgage, encumbrance, lease, rental agreement, or other agreement which provides for retention of title to said equipment or grants a security interest therein, that may exist at the commencement of the interruption of service.
- (5) "Notice" means written notification actually received by the person to be notified or mailed to him or her by registered or certified mail at the most recent address furnished by him or her to the City Clerk of the City of Modesto. As to the holder of a contract, the City shall be required to give notice only if the holder's identity is known to the City and the holder has furnished his or her address to said City Clerk.

In the event of an interruption of service, the City shall be entitled to have the temporary possession of all or any portion of the equipment of Licensee on the condition that the City shall, from time to time, make the payment for use as provided in Section 2 subparagraph u.(3), above. Upon taking such temporary possession, City shall forthwith give notice thereof to the Licensee and to the holder at that time, if any, of the contract on such equipment. Such temporary use shall not be deemed a

breach of the terms of any contract regarding said equipment, but it shall otherwise be subject to the terms of such contract which are not in conflict herewith, except that the City shall not be required to make any payment other than the payment for use prescribed in Section 2 subparagraph u.(3), above. The City's payment for use prescribed in Section 2 subparagraph u.(3) shall be deemed to be compensation only for the temporary use of such equipment and the City shall not thereby acquire any ownership interest in such equipment.

So long as the City continues to make the payment for use of equipment when due or within ten (10) days thereafter, such equipment may be retained by the City and shall not be repossessed from the City. In the event the City fails to make a payment for use when due or within ten (10) days thereafter, the City's right to continued temporary use of such equipment shall cease, and possession of such equipment may be retaken by the Licensee or by the holder of any contract thereon.

At the expiration of the City's temporary possession of any such equipment, the City shall give written notice of such expiration to the Licensee and to the current holder, if any, of a contract on such equipment. In the event the Licensee shall fail to take possession of such equipment within ten (10) days after such notice, the Licensee shall be deemed to have abandoned such equipment and waived all interest therein, and the City shall be free to use and dispose of such equipment without liability or compensation to the Licensee, subject to the terms of any contract that may then exist with regard to such equipment.

All equipment used by the Licensee for the purpose of performing the services provided for in this license shall be solely owned by the Licensee except that the Licensee may, with the prior approval of the City Manager, enter into contracts as defined in Section 2 subparagraph u.(4), above, with respect to such equipment. All such contracts shall provide for temporary possession by the City as set forth herein and shall provide that such temporary possession shall not be deemed a breach of such contract.

- v. All vehicles and equipment used by the Licensee for the collection and hauling of garbage shall be solely owned by Licensee, except that the Licensee may, with the prior approval

of the City Manager, enter into conditional sales contracts, mortgages, encumbrances, leases, rental agreements, and other appropriate agreements for the purpose of purchasing, leasing or renting vehicles and equipment to be used in providing the services provided for in this license. All such documents shall provide for temporary possession by the City as set forth in Section 2 subparagraph u.(5) above and shall provide that such temporary possession shall not be deemed a breach of the agreement.

- w. Garbage collected by the Licensee shall be disposed of at the Fink Road sanitary landfill or at the resource recovery facility depending on the makeup of the waste. The City reserves the right to designate other sanitary landfill areas for disposal and other methods of disposal or diversion. Disposal of garbage at the sanitary landfill will be in compliance with regulations in effect for the same as they now exist or may hereafter be amended. Industrial garbage collected by the Licensee may be disposed of at such other locations as are approved by the Health Officer.
- x. Pursuant to Licensee's nonexclusive license to collect salvageable waste and recyclable materials, Licensee shall, at its sole cost and expense, furnish all labor and equipment required to perform curbside collection pursuant to this Ordinance and to bear all costs and charges in connection with the sale of recyclable and salvageable materials. Besides collection of sorted recyclable materials, salvaging or scavenging by the Licensee's employees is prohibited on collection routes; however, salvaging activities are encouraged at properly zoned and otherwise suitable locations.
- y. For the purposes of this Ordinance, recyclable materials means newspapers, glass containers, tin cans, aluminum cans, used motor oil, PET plastic, and such other materials as may be mutually agreed upon in writing by Licensee and the Public Works and Transportation Director, which are collected by Licensee pursuant to this Ordinance. Licensee shall perform recycling services in the City of Modesto as follows:
  - (1) Licensee shall collect and remove all recyclable materials that have been segregated, donated, and placed on scheduled service days at the curb of the public street fronting on all single-family residences and from designated locations near multi-family dwellings located within the service areas as established in Section 2 subparagraphs b., c., and d., above. Licensee shall have the sole right to any and all funds and proceeds from the

sale of salvaged and recycled materials. Such funds and proceeds shall be accounted for as part of Licensee's gross revenues.

- (2) Licensees recycling rights and duties hereunder shall commence upon the effective date of this Ordinance and shall thereafter coincide with the license term and extension provisions contained in Section 2 subparagraph a. of this Ordinance.
- (3) Licensee shall collect recyclable materials sorted and placed at the curbside for collection once each week, regardless of weather conditions. Collection shall be scheduled as for regular garbage collection service in Section 2.n, above. Licensee may collect recyclable materials between 6:00 a.m. and 6:00 p.m. Licensee shall service missed collections as provided in Section 2 subparagraph m., above.
- (4) Licensee shall file with the City written monthly statistical reports, not later than the tenth of each month to report statistics for the previous month. Reports shall be directed to the Recycling Program Coordinator of the City of Modesto, Suite 16, 1012 I Street, Modesto, California 95354. The following statistics shall be included in the monthly reports:
  - (a) Daily record of volumes collected for aluminum cans, tin cans, PET plastic, glass, newspaper, and used motor oil.
  - (b) Daily record of the number of set-outs, stops, or pick ups.
  - (c) Monthly totals for each of the above.
  - (d) A copy of the Recycling Miss Log of the missed pick ups reported to Licensee during the preceding month.
  - (e) A summary of the preceding month's sale of recyclables, identifying purchaser, purchase price, costs involved, and quantity sold.
  - (f) Information regarding any problems, changes in routes, drivers, and/or equipment.

- (g) Suggestions for the expansion or improvement of the recycling program.
- (5) Licensee shall provide reasonable public access to Licensee's facility where recyclable materials, including items not picked up at curbside, may be dropped off and where waste oil may be deposited.
- (6) Licensee shall not deposit, in any landfill or waste-to-energy facility, wherever located, any substantial quantity of easily separable recyclable materials without City's prior written consent.
- z. The Licensee shall file with the City Clerk and maintain during the term of this license a corporate surety bond or other form of security satisfactory to the City Attorney in the sum of One Hundred Thousand and no/100ths (\$100,000.00) Dollars. Said bond or security shall be conditioned upon the faithful performances of the terms and conditions of this license and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.
- aa. Licensee agrees, in connection with the performance of all operations under or pursuant to this license, to be an Equal Opportunity Employer and to refrain from discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, or handicap.
  - (1) Licensee agrees that it will undertake an affirmative action program to ensure that no person shall on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any employment activities or opportunities. Licensee shall fully document these efforts and shall submit to City on or before January 31 of each year a report detailing the affirmative actions Licensee has taken during the prior calendar year. Licensee shall ensure that seniority practices, job classifications, work assignments, and other personnel practices, including employment reduction actions, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the equal employment opportunity actions required by this License are being carried out.
  - (2) Licensee agrees to ensure and maintain a working environment free of harassment, intimidation, and coercion at all job locations and in all facilities where Licensee's employees are assigned to work. Licensee shall

specifically ensure that all foremen and forewomen, superintendents, and other on-site supervisory personnel are aware of and carry out the Licensee's obligation to maintain such a working environment with specific attention to minority and women at such work locations or in such facilities.

(3) In the event of breach of any of the above nondiscrimination, equal opportunity, and affirmative action covenants, the Council of the City of Modesto shall have the right to revoke this license in accordance with the provisions of Section 5-5.31 of the Modesto Municipal Code.

ab. Licensee and City shall cooperate, on such terms as shall be agreed upon, to support, develop, publicize, expand, and promote the concept and benefits of recycling by any reasonable and effective methods. Licensee shall reimburse City for its expenses and mailing costs whenever City determines that it is in the best interest of the curbside recycling program to distribute information and promotional materials to Licensee's customers."

SECTION 2. SUPERSEDES AND REPEALS. This ordinance supersedes and repeals Ordinance No. 2745-C.S.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in the Modesto

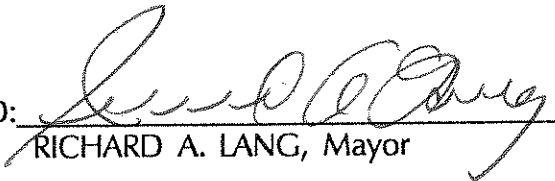
Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction, and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 1993, by Councilmember Dobbs who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and order printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

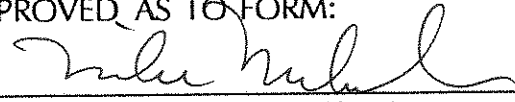
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

ACCEPTANCE OF LICENSE

GILTON SOLID WASTE MANAGEMENT, INC., a California corporation, hereby accepts that certain license, and all the terms and conditions thereof, granted by the City Council of the City of Modesto by Ordinance No. 2872 -C.S., entitled "An Ordinance Granting to Gilton Solid Waste Management, Inc., a California corporation, a License for the Collection of Garbage in the City of Modesto, including the Collection of Industrial Garage, Recyclable Materials, and Salvageable Waste" Gilton Solid Waste Management, Inc., and Repealing Ordinance No. 2745-C.S."

Licensee hereby agrees to provide the services authorized by the license for the duration of the term of the license. Licensee further agrees to be bound by, to comply with, and to do all things required by the provisions of said Ordinance No. 2872 -C.S. and of Chapter 5 of Title V of the Modesto Municipal Code, as such provisions now exist or may hereafter be amended.

Dated: \_\_\_\_\_

GILTON SOLID WASTE MANAGEMENT, INC.  
A California corporation,

By \_\_\_\_\_,  
President

By \_\_\_\_\_,  
Secretary

(SEAL)

APPROVED AS TO FORM:

By \_\_\_\_\_  
MICHAEL D. MILICH, City Attorney

Note: The signatures of the persons authorized to sign for Licensee must be notarized.

\*\*\*\*\*

CERTIFICATE OF CLERK

I hereby certify that the foregoing Acceptance of License was received by me at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
NORRINE COYLE, City Clerk

Ord. No. 2872 C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of November, 19 93, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 2, 1993

ORDINANCE NO. 2873-C.S.

AN ORDINANCE ADOPTING A PRECISE PLAN AND UNDERLYING ZONING FOR AREA 27 OF VILLAGE ONE, AMENDING SECTION MAP 13-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM SPECIFIC PLAN, S-P, TO R-1:SP-27 AND R-3:SP-27, LOCATED IN AREA 27 OF VILLAGE ONE, LOCATED ON THE EAST SIDE OF ROSELLE AVENUE, SOUTH OF BELHARBOUR DRIVE, NORTH OF MERLE AVENUE. (ART MARTIN APPEAL)

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

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

SECTION 1. APPROVAL OF PRECISE PLAN. The Precise Plan for Area 27 implementing a portion of the Village 1 Specific Plan, identified as approved by the City Council on October 26, 1993, as revised, and to which reference is made in City Council Resolution Nos. 93-589 and 93-589A, and providing the precise development pattern and guidelines for the area bounded by Merle Avenue, Esta Avenue, Road K, Belharbour Drive and Roselle Avenue is hereby approved. A copy of the Precise Plan is on file in the Office of the City Clerk.

SECTION 2. ZONING CHANGE. Section 13-3-9 of the Zoning Map of the City of Modesto is hereby amended to reclassify from Specific Plan Zone, (SP), to Low Density Residential Zone,

(R-1:SP-27), as described on Exhibit "A" attached hereto, and from Specific Plan Zone, (SP), to Medium High Density Residential Zone (R-3:SP-27), as described on Exhibit "B" attached hereto:

SECTION 3. FINDINGS. As required by Section 10-2.1907 the Council hereby finds:

1. The precise plan and zoning referred to in section 1 and 2 are consistent with the Modesto General Plan, and
2. The precise plan and zoning referred to in section 1 and 2 are consistent with the Village One Specific Plan.

SECTION 4. ZONING MAP. Section Map 13-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 1993, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: Friedman

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

## LEGAL DESCRIPTION

## VILLAGE I REZONE R1

## EXHIBIT "A"

All that certain real property, situate, lying and being in the City of Modesto, County of Stanislaus, State of California, described as follows:

A portion of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Commencing at the Southwest corner of the Northwest quarter of the Southwest quarter of said Section 13; thence South  $89^{\circ}52'22''$  West, a distance of 50.00 feet; thence North  $01^{\circ}13'11''$  East, a distance 222.06 feet to the POINT OF BEGINNING; thence continue North  $01^{\circ}13'11''$  East, a distance 165.99 feet to the beginning of a curve concave to the east, having a radius of 5000.00 feet, a central angle of  $02^{\circ}46'18''$ , with a chord bearing North  $02^{\circ}36'20''$  East 241.85 feet; thence northeasterly, along the arc of said curve, 241.87 feet; thence North  $03^{\circ}59'29''$  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  $04^{\circ}31'52''$ , with a chord bearing North  $01^{\circ}43'33''$  East 395.31 feet; thence northwesterly, along the arc of said curve, 395.41 feet; thence N  $00^{\circ}32'23''$  West, a distance of 62.22 feet to a point on a curve thence concave to the northwest, having a radius of 1340.00 feet, a central angle of  $62^{\circ}46'58''$ , a chord bearing North  $58^{\circ}04'08''$  East 1395.96 feet and from which the radius point bears North  $00^{\circ}32'23''$  West; thence northeasterly, along the arc of said curve, 1468.33 feet; thence South  $62^{\circ}58'37''$  East, a distance of 826.55 feet; thence South  $24^{\circ}36'40''$  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  $25^{\circ}06'40''$ , a chord bearing South  $12^{\circ}03'20''$  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  $00^{\circ}30'00''$  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  $89^{\circ}52'22''$  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  $00^{\circ}32'09''$  East along west line of said Parcel 1, a distance of 85.60 feet; thence South  $89^{\circ}52'22''$  West, a distance of 359.24 feet to the point of beginning.

Contains 51.02 more or less Acres

Bill Hysell  
L.S. 4876

149409.600  
12/7/93



SCALE 1" = 300'

$\Delta = 62^{\circ}46'58''$   
 $R = 1340.00'$   
 $L = 1468.32'$

$N 00^{\circ}32'23'' W$   
62.22'

$\Delta = 04^{\circ}31'52''$   
 $R = 5000.00'$   
 $L = 395.41'$

R-1

I.N. 91031962

$\Delta = 02^{\circ}46'18''$   
 $R = 5000.00'$   
 $L = 241.87'$

$\Delta = 25^{\circ}06'40''$   
 $R = 500.00'$   
 $L = 219.13'$

ROSELLE AVENUE

PARCEL 43-PM-81

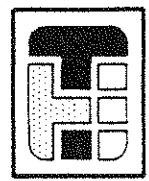
SECTION LINE

MERLE AVENUE

S.W. COR. OF N.W.  
1/4 OF S.W. 1/4  
SECTION 13

B..	MJM
DATE:	12/7/93
SHEET:	2 OF 2

# VILLAGE I REZONE R1



**THOMPSON-HYSELL  
ENGINEERS**

1016 12TH ST. - MODESTO, CA. 95354  
(209) 521-8986

LEGAL DESCRIPTION  
VILLAGE I REZONE R3  
EXHIBIT "B"

All that certain real property, situate, lying and being in the City of Modesto, County of Stanislaus, State of California, described as follows:

A portion of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly 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 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.

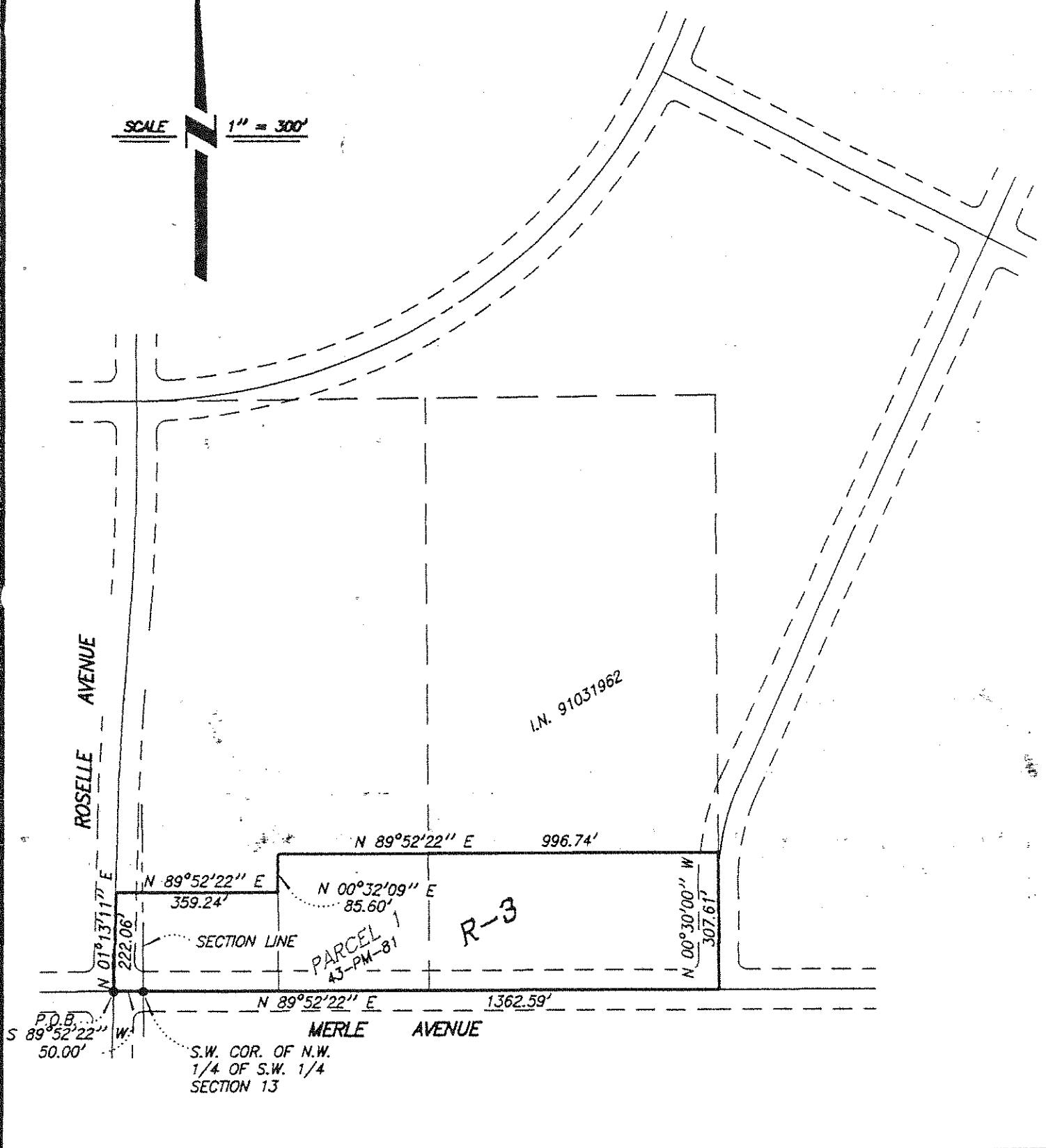
Contains 8.89 more or less Acres

Bill Hysell  
L.S. 4876

149409.610  
12/7/93

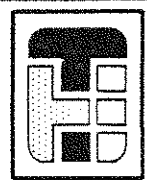


SCALE 1" = 300'



MJM
DATE: 12/7/93
SHEET: 2 OF 2

**VILLAGE I  
REZONE R3**



**THOMPSON-HYSELL  
ENGINEERS**  
1016 12TH ST. - MODESTO, CA. 95354  
(209) 521-8986

LEGAL DESCRIPTION  
VILLAGE I REZONE R1  
EXHIBIT "A"

All that certain real property, situate, lying and being in the City of Modesto, County of Stanislaus, State of California, described as follows:

A portion of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Commencing at the Southwest corner of the Northwest quarter of the Southwest quarter of said Section 13; thence South  $89^{\circ}52'22''$  West, a distance of 50.00 feet; thence North  $01^{\circ}13'11''$  East, a distance 222.06 feet to the POINT OF BEGINNING; thence continue North  $01^{\circ}13'11''$  East, a distance 165.99 feet to the beginning of a curve concave to the east, having a radius of 5000.00 feet, a central angle of  $02^{\circ}46'18''$ , with a chord bearing North  $02^{\circ}36'20''$  East 241.85 feet; thence northeasterly, along the arc of said curve, 241.87 feet; thence North  $03^{\circ}59'29''$  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  $04^{\circ}31'52''$ , with a chord bearing North  $01^{\circ}43'33''$  East 395.31 feet; thence northwesterly, along the arc of said curve, 395.41 feet; thence N  $00^{\circ}32'23''$  West, a distance of 62.22 feet to a point on a curve thence concave to the northwest, having a radius of 1340.00 feet, a central angle of  $62^{\circ}46'58''$ , a chord bearing North  $58^{\circ}04'08''$  East 1395.96 feet and from which the radius point bears North  $00^{\circ}32'23''$  West; thence northeasterly, along the arc of said curve, 1468.33 feet; thence South  $62^{\circ}58'37''$  East, a distance of 826.55 feet; thence South  $24^{\circ}36'40''$  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  $25^{\circ}06'40''$ , a chord bearing South  $12^{\circ}03'20''$  West 217.39 feet; thence southwesterly, along the arc of said curve, 219.14 feet to a point on the east line of Lot 1 of the "O. McHenry-Ranch", as shown on the map filed in Volume 2 of maps, Page 7, Stanislaus County Records; thence North  $00^{\circ}30'00''$  West along the said east line of Lot 1, 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  $89^{\circ}52'22''$  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  $00^{\circ}32'09''$  East along west line of said Parcel 1, a distance of 85.60 feet; thence South  $89^{\circ}52'22''$  West, a distance of 359.24 feet to the point of beginning.

Contains 51.02 more or less Acres

Bill Hysell  
L.S. 4876

149409.600  
12/7/93



SCALE 1" = 300'

$\Delta = 62^{\circ}46'58''$   
 $R = 1340.00'$   
 $L = 1468.32'$

$N 00^{\circ}32'23'' W$   
 $62.22'$

$\Delta = 04^{\circ}31'52''$   
 $R = 5000.00'$   
 $L = 395.41'$

$\Delta = 02^{\circ}46'18''$   
 $R = 5000.00'$   
 $L = 241.87'$

$\Delta = 25^{\circ}06'40''$   
 $R = 500.00'$   
 $L = 219.14'$

ROSELLE AVENUE

LOT 1  
 2-MAPS-7

R-1

PARCEL 1  
 43-PM-81

SECTION LINE

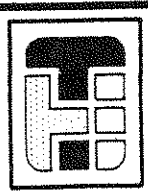
MERLE AVENUE

S.W. COR. OF N.W.  
 1/4 OF S.W. 1/4  
 SECTION 13

P.O.B.

BY: M/JM  
 DATE: 12/7/93  
 SHEET: 1 OF 1

VILLAGE I  
 REZONE R1



THOMPSON-HYSELL  
 ENGINEERS  
 1016 12TH ST. - MODESTO, CA. 95354  
 (209) 521-8986

LEGAL DESCRIPTION

VILLAGE I REZONE R3

EXHIBIT "B"

All that certain real property, situate, lying and being in the City of Modesto, County of Stanislaus, State of California, described as follows:

A portion of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly 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 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 Lot 1 of the "O. McHenry-Ranch", as shown on the map filed in Volume 2 of maps, Page 7, Stanislaus County Records; thence South 00°30'00" East along the east line of said Lot 1, a distance of 307.61 feet to the southeast corner of said Lot 1; thence South 89°52'22" West along the south line of said Lot 1, a distance of 1362.59 feet to the point of beginning.

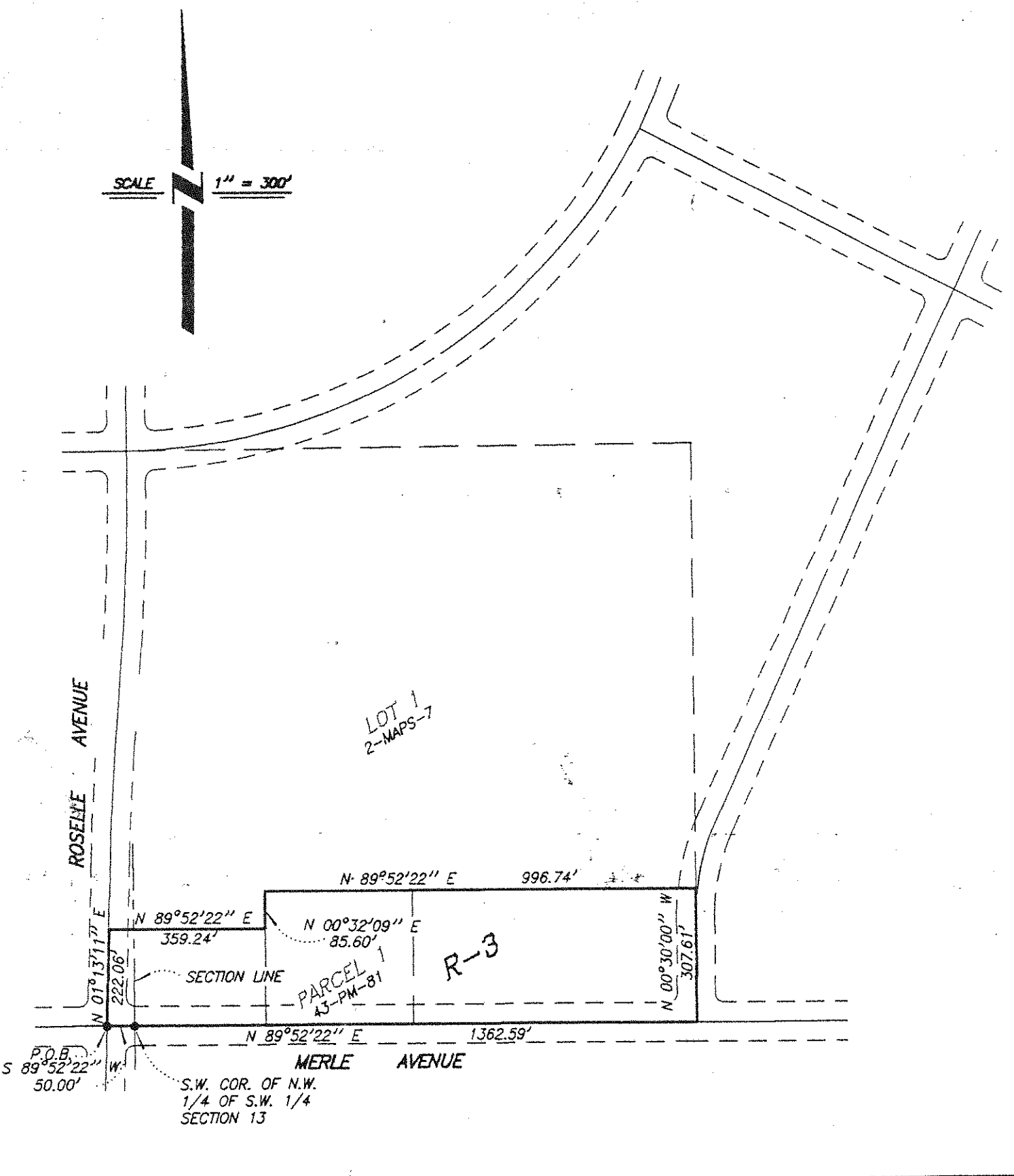
Contains 8.89 more or less Acres

Bill Hysell  
L.S. 4876

149409.610  
12/7/93



SCALE 1" = 300'

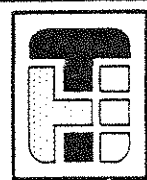


MJM

DATE: 12/7/93

SHEET: 1 OF 1

**VILLAGE I  
REZONE R3**



**THOMPSON-HYSELL  
ENGINEERS**

1016 12TH ST. - MODESTO, CA. 95354  
(209) 521-8986

Ord. No. 2873-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 December, 1993, Councilmember Cogdill moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: Friedman

ABSENT: Councilmembers: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, CITY CLERK

EFFECTIVE DATE: January 13, 1994

10 k

ORDINANCE NO. 2874 -C.S.

AN ORDINANCE AMENDING SECTION 11-3-8 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(381), PLANNED DEVELOPMENT ZONE, P-D(331), PLANNED DEVELOPMENT ZONE, P-D(332), AND MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(499), PROPERTY LOCATED ON THE NORTHEAST SIDE OF SISK ROAD, NORTH OF VINTAGE DRIVE, SOUTH OF AKEBY DRIVE AND WEST OF GAGOS DRIVE. (TARGET STORES)

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

SECTION 1. ZONING CHANGE. Section 11-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(381), Planned Development Zone, P-D(331), Planned Development Zone, P-D(332), and Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(499):

P-D(381) to P-D(499)

All that certain real property situate in a portion of the North half of Section 11, 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:

Parcel "D" as shown on map filed for record on October 17, 1978, in Book 28 of Parcel Maps, page 7, Stanislaus County Records, and being a portion of Section 11, Township 3 South, Range 8 East, Mount Diablo Base and Meridian.

Also including all of Vintage Drive immediately adjacent to the above described property.

P-D(331) to P-D(499)

All that certain real property situate in a portion of the North half of Section 11, 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:

COMMENCING at the most westerly corner of Parcel "D" as shown on map filed for record in Book 28 of Parcel Maps, page 7, Stanislaus County Records; thence North 89°53'51" West along the westerly extension of the north line of said Parcel "D" a distance of 57.64 feet to the centerline of a 60-foot wide Sisk Road; thence Northwesterly along said centerline of Sisk Road the following 3 courses: North 43°07'11" West 903.47 feet to a point on a nontangent curve from which a radial line bears North 46°52'23" East to the center, Northwesterly 489.05 feet along said nontangent curve, concave to the northeast, having a radius of 3000.22 feet and a central angle of 9°20'22", and North 33°47'07" West along a nontangent line a distance of 219.66 feet to the true Point of Beginning of this description; thence North 56°12'12" East 280.74 feet; thence Northeasterly 75.95 feet along a tangent curve, concave to the southeast, having a radius of 500.00 feet and a central angle of 8°42'12"; thence North 34°45'42" West along a nontangent line a distance of 54.44 feet to the north line of said Section 11 as shown on map of "Wickford Place, Unit No. 1" recorded in Volume 32 of Maps, page 53, Stanislaus County Records; thence South 89°24'45" West along said north line of Section 11 a distance of 420.38 feet to a point on a nontangent curve from which a radial line bears North 59°03'43" East to the center; thence Southeasterly 148.97 feet along said nontangent curve, being also said centerline of Sisk Road, concave to the northeast, having a radius of 3000.22 feet and a central angle of 2°50'42"; thence South 33°47'07" East along a nontangent line, being also said centerline of Sisk Road, a distance of 130.01 feet to the point of beginning.

P-D(332) to P-D(499)

All that certain real property situate in a portion of the North Half of Section 11, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the most westerly corner of Parcel "D" as shown on map filed for record in Book 28 of Parcel Maps, page 7, Stanislaus County Records; thence North 89°53'51" West along the westerly extension of the north line of said Parcel "D" a distance of 57.64 feet

to the centerline of a 60-foot wide Sisk Road; thence Northwesterly along said centerline of Sisk Road the following 3 courses: North 43°07'11" West 903.47 feet to a point on a nontangent curve from which a radial line bears North 46°52'23" East to the center, Northwesterly 489.05 feet along said nontangent curve, concave to the northeast, having a radius of 3000.22 feet and a central angle of 9°20'22", and North 33°47'07" West along a nontangent line a distance of 219.66 feet; thence North 56°12'12" East 280.74 feet; thence Northeasterly 75.95 feet along a tangent curve, concave to the southeast, having a radius of 500.00 feet and a central angle of 8°42'12"; thence South 33°09'07" East along a nontangent line a distance of 214.01 feet to a point on a nontangent curve from which a radial line bears North 56°13'02" East to the center; thence Southeasterly 431.33 feet along said nontangent curve, concave to the northeast, having a radius of 2646.00 feet and a central angle of 9°20'24"; thence South 43°07'11" East along a nontangent line 1236.17 feet to said north line of Parcel "D"; thence North 89°53'51" West along said north line of Parcel "D" a distance of 428.15 feet to the point of beginning.

R-3 to P-D(499)

All that certain real property situate in a portion of the North half of Section 11, 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:

COMMENCING at the most westerly corner of Parcel "D" as shown on map filed for record in Book 28 of Parcel Maps, page 7, Stanislaus County Records; thence South 89°53'51" East along the north line of said Parcel "D" a distance of 428.15 feet to the true Point of Beginning of this description; thence North 43°07'11" West 1236.17 feet to a point on a nontangent curve from which a radial line bears North 46°52'38" East; thence Northwesterly 431.33 feet along said nontangent curve, concave to the northeast, having a radius of 2646.00 feet and a central angle of 9°20'24"; thence North 33°09'07" West along a nontangent line a distance of 214.01 feet; thence North 34°45'42" West 54.44 feet to the north line of said Section 11 as shown on map of "Wickford Place, Unit No. 1" recorded in Volume 32 of Maps, page 53, Stanislaus County Records; thence North 89°24'45" East along said north line of Section 11 a distance of 356.73 feet to a point on the northerly extension of the most westerly line of "Vintage Faire

Village" as shown on map recorded in Volume 32 of Maps, page 33, Stanislaus County Records; thence Southeasterly along said most westerly line of "Vintage Faire Village" and northerly extension thereof the following 3 courses: South 33°47'26" East 73.10 feet, Southeasterly 382.43 feet along a tangent curve, concave to the northeast, having a radius of 2346.00 feet and a central angle of 9°20'24", and South 43°07'50" East 207.99 feet to a point on the centerline of Setrok Drive, said point being on a nontangent curve from which a radial line bears South 34°20'36" East to the center; thence Northeasterly 409.90 feet along said nontangent curve, being also said centerline of Setrok Drive, concave to southeast, having a radius of 900.00 feet and a central angle of 26°05'43" to a point on the centerline of Gagos Drive, said point being on a nontangent curve from which a radial line bears North 79°48'12" East to the center; thence Southeasterly along said centerline of Gagos Drive the following 3 courses: Southeasterly 533.95 feet along said nontangent curve, concave to the northeast, having a radius of 700.00 feet and a central angle of 43°42'17" to a point of reverse curve, Southeasterly 531.38 feet along said reverse curve, concave to the southwest, having a radius of 700.00 feet and a central angle of 43°29'39", and South 10°24'26" East 226.97 feet to a point on the easterly extension of said north line of Parcel "D"; thence North 89°53'51" West along said north line of Parcel "D" and the easterly extension thereof a distance of 488.40 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(499) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Commercial uses as allowed in the Highway Commercial C-3 Zone.

2. Off-street parking as shown on the approved plans.

SECTION 3. ZONING MAP. Section Map 11-3-8 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.

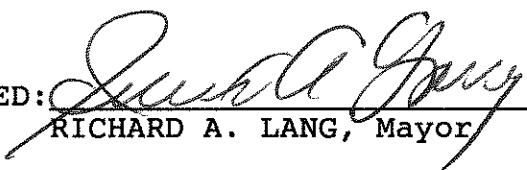
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 9th day of November, 1993, by Councilmember Friedman, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

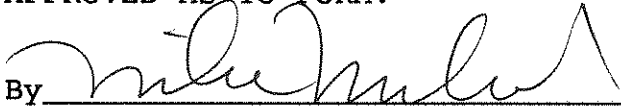
APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

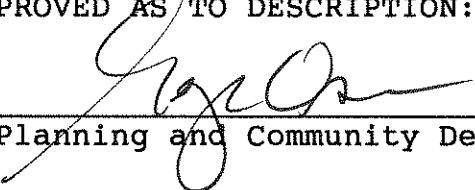
By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

Ord. No. 2874-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of November, 1993, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:

  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 16, 1993

ORDINANCE NO. 2875-C.S.

AN ORDINANCE ADDING CHAPTER 6 ENTITLED  
"COLLECTIONS OF PUBLIC UTILITIES CHARGES" TO TITLE  
XI OF THE MODESTO MUNICIPAL CODE.

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

SECTION 1. AMENDMENT OF CODE. Chapter 6 entitled "Collections  
of Public Utilities Charges" is hereby added to Title XI of the Modesto Municipal  
Code to read as follows:

**CHAPTER 6. COLLECTIONS OF PUBLIC UTILITIES CHARGES**

**SEC. 11-6.01. MANAGEMENT AND ADMINISTRATION OF FUNDS.**

The Finance Director or a designee shall be in control of collections of all moneys due the City for utility service charges including water, sewer, storm drain, and garbage services under the general direction of the City Manager. The Finance Director shall pay the same into the City Treasury and account for the same in the same manner as sums paid into the Treasury and accounts for other funds received in an official capacity.

**SEC. 11-6.02. DEPOSITS FOR UTILITY SERVICES.**

An advance deposit for utility services, as may be established from time to time by resolution duly adopted by the Council, shall be required for each service based solely on credit worthiness of the consumer; except that if the Finance Director is of the opinion that a larger deposit is required in order to protect the interests of the City, the Director may require an advance deposit in an amount not to exceed twice the amount of charges of a normal billing period. Said advance deposit shall not be required upon proof of credit worthiness satisfactory to the Finance Director.

Said advance deposit may be applied toward the nonpayment of the utility services charges upon delinquency and subsequent scheduling for disconnection of services for nonpayment, at the time of discontinuance of service or upon reaching credit worthiness satisfactory to the Finance Director. If said deposit is applied to a delinquent account, service shall not be resumed on such account until such time as the deposit is replaced to the satisfaction of the Finance Director.

**SEC. 11-6.03. PERSONS RESPONSIBLE FOR PAYMENT OF UTILITY SERVICES CHARGES.**

Owners of real property shall be responsible for utility services charges for said services used on their premises, although payments will be accepted from tenants. In case payments are not in accordance with this chapter, the services may be disconnected and shall not be restored until the delinquent charges, including any reconnection fee, shall have been paid; except where a new owner of record or a new tenant has taken up residence since the delinquent charges were incurred.

**SEC. 11-6.04. WATER SERVICE CHARGES.**

Charges for water service shall be charged to every premise connected to the municipal water system and shall commence upon expiration of construction water period or installation of a meter.

**SEC. 11-6.05. CHARGES FOR METERED WATER SERVICE.**

Charges for water delivered through a meter shall be paid to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Public Works and Transportation Director. Charges for metered service will be due and payable upon presentation of the bill, and no advance or partial payments of such charges will be accepted by the City without consent of the Finance Director.

**SEC. 11-6.06. CHARGES FOR UNMETERED WATER SERVICE.**

Charges for water delivered from an unmetered service shall be paid to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Public Works and Transportation Director. Charges for unmetered service will be due and payable upon presentation of the bill, and no partial payments of such charges will be accepted by the City without consent of the Finance Director.

**SEC. 11-6.07. WATER SERVICE CHARGES TO CHURCHES AND PARSONAGES.**

- (a) **Unmetered Basis.** Charges for water service to churches may be paid in accordance with this chapter. of the Code. Where a residence used as a parsonage is located on the same property as a church and the unmetered schedule is used, the charges for

said residence shall be five and 25/100ths dollars (\$5.25) bimonthly. The charge for the church shall then be computed by area, less thirty-five hundred (3,500) square feet.

- (b) **Metered Basis.** A church may request that water service be provided on a metered basis. In this event the metered rate contained in this chapter shall apply. If a meter is installed, service will be furnished only on a metered basis for a period of at least one (1) year after installation.

#### **SEC. 11-6.08. WATER CHARGES FOR USE OF FIRE HYDRANTS.**

Water used from a fire hydrant shall be metered when practicable, as determined by the Public Works and Transportation Director, with the meter to be provided by the City. Unmetered water shall be charged at the metered rate, based upon City estimates of the quantity of water use, and such estimates shall be conclusive. The charges shall be in accordance with a schedule approved by the Council from time to time by resolution.

#### **SEC. 11-6.09. WATER CHARGES FOR SPECIAL SITUATIONS.**

Anything to the contrary herein stated notwithstanding, the Council shall have the power to establish by agreement or resolution the rates to be charged for providing water service to government agencies, including school districts, private schools, and to any person outside the corporate limits of the City at rates different from those heretofore set forth and on a basis that is fair and equitable to all the parties concerned.

#### **SEC. 11-6.10. SEWER SERVICE CHARGES.**

Each person owning property within the sewer district shall pay a sewer service charge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Public Works and Transportation Director. In the case of common areas for multi-dwelling complexes, such as laundromats, offices, recreation rooms and pool areas each unit shall be charged as a dwelling unit. Charges for sewer service to properties shall commence upon completion or occupancy of a building, whichever date shall occur first.

On premises served with City water, the charge for sewer service shall be added to the charge for water service and payment of the total amount must be made in accordance with this chapter.

On premises not served with City water, the billing of services shall be made insofar as practicable in accordance with provisions of this chapter relating to charges for flat rate water service; or if not practicable, they shall be as determined by the Finance Director.

**SEC. 11-6.11. STORM DRAINAGE SEWER SURCHARGE.**

The City of Modesto is implementing activities to improve the environmental quality of stormwater by decreasing the amount of organic material, dirt, toxins and pesticides that enter the system. Each person owning property within the City limits shall pay a storm drainage sewer surcharge to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Public Works and Transportation Director. The surcharge is based on the size and intensity of use of property and shall go to pay the costs of improving the stormwater generated by the property. The surcharge shall be added to the charge for sewer service and payment of the total amount shall be made in accordance with this chapter.

The Council shall have the power to establish, by agreement or resolution, the rate or rates to be charged and the method of collecting the surface water runoff sewer surcharge for properties outside the City limits for those properties which discharge into the City's storm drain system.

**SEC. 11-6.12. GARBAGE SERVICE CHARGES.**

All places or premises within the City shall have sufficient containers to hold all garbage generated, produced or accumulated on the place or premises during a one-week period in accordance with Chapter 5 of Title V and shall be charged for said containers upon commencing billing for other municipal utility services including water, sewer, and storm drain or occupancy of premises if not connected to other municipal utility services.

**SEC. 11-6.13. CHARGES FOR GARBAGE SERVICE**

- (a) Charges to customers for garbage service shall be established by Council from time to time by resolution and on file in the office of the City Clerk and Public Works and Transportation Director.
- (b) The basic minimum rate in the schedule of charges adopted by the City Council shall provide for the collection of one (1) standard container of garbage per week per occupied premises by the collector.

- (c) Charges for industrial garbage service shall be as negotiated between the collector and the customer and shall not be subject to City review and mediation.
- (d) The Council may impose a separate solid waste recycling program charge. If such a charge is imposed, it shall be added to the charge for garbage service collected by the licensee and transmitted to the City. The method of accounting for the amount of such recycling program charges collected by the licensee and the time and manner of transmitting them to the City shall be as determined by the Finance Director.

For residential premises connected to the municipal water/sewer systems, the charges for garbage service shall be added to the charges for water/sewer and the total amount must be paid in accordance with this chapter.

For nonresidential and residential premises not connected to the municipal water/sewer systems, the licensee shall bill and collect all garbage service charges, including any recycling charge. Recycling charge shall be accounted for and transmitted to the City as determined by the Finance Director.

#### **SEC. 11-6.14. COLLECTION PROCEDURES.**

In addition to all other provisions and requirements of this chapter, the Council may, from time to time by resolution, establish additional rules and regulations concerning the collections of moneys that may become due the City for utility service charges including water, sewer, storm drain and garbage services. These provisions shall apply to all persons using said services in the City regardless of whether any person using said services shall have a contract for utility services with the City. Failure to comply with any provision, requirement, rule or regulation under this chapter shall be unlawful and may be punishable as an infraction.

- (a) Bills for unmetered utility services shall be issued on a monthly basis for utility services in the month immediately preceding the billing cycle in which they are issued. The utility bills are due and payable upon presentation; and if they are not paid at the end of the cycle in which they are billed, they shall be considered delinquent. If they are delinquent for more than ten (10) days and a delinquent notice pursuant to Sections 10009 and 10009.1 of the Public Utilities Code issued by the Finance Director has been delivered to the user or posted on the premises, a

delinquent charge shall be added to the regular service charges; and water/sewer service shall be subject to being disconnected. If the water/sewer service is disconnected because of nonpayment, the water/sewer service shall not be reconnected until the amount of the delinquent bill, including the delinquent charges and an additional charge for reconnection, is paid except where a new owner has acquired title or a new tenant has taken up residence since the delinquent bill was incurred. In case of a previous tenant leaving a delinquent bill, the City may require that subsequent service be furnished under the name of the owner of real property or his agent. The delinquent charge and reconnection charge shall be in accordance with a schedule approved by the Council from time to time by resolution.

- (b) Bills for metered utility services shall be issued for the month immediately preceding the date of the meter reading and shall be due and payable upon presentation. If the utility bills are not paid at the end of the cycle in which they are billed, they shall be considered delinquent, and the same procedure and charges as for unmetered service shall apply.
- (c) The utility service charges herein specified will be charged against vacant or untenanted buildings unless notice of the vacancy and a request for the discontinuance of service is made to the office of the Finance Director.
- (d) All unpaid accounts for utility services delivered at any premise shall be a lien against the real property.
- (e) Unmetered service charges shall receive a five (5) percent discount when paid one (1) year in advance; except that when unmetered charges are billed in conjunction with metered charges, no discount shall be applicable.
- (f) Senior and disabled citizens, upon qualification satisfactory to the Finance Director, shall receive a discount in accordance with a schedule set by Council from time to time by resolution for water, storm drain and garbage service charges.

#### **SEC. 11-6.15. MANAGEMENT AND ADMINISTRATION OF UNCOLLECTIBLE UTILITY SERVICE CHARGES.**

The Finance Director shall have the discretion to write-off utility service charges that the Finance Director deems uncollectible.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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

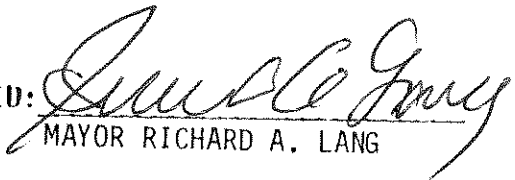
Ord. No. 2875-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of November, 1993, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Council Members: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Council Members: None  
ABSENT: Council Members: None

APPROVED:

  
MAYOR RICHARD A. LANG

ATTEST:   
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 16, 1993

*Clerk*

ORDINANCE NO. 2876-C.S.

AN ORDINANCE AMENDING SECTION 5-6.15 OF CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL CODE; REPEALING SECTIONS 5-6.02, 5-6.02.1, 5-6.03, 5-6.11, 5-6.14, AND 5-6.24 THEREOF; AND REPEALING SECTIONS 5-5.32, 5-5.34, AND 5-5.36 OF CHAPTER 5 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO UTILITY COLLECTIONS.

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

SECTION 1. AMENDMENT OF CODE. Section 5-6.15 of Chapter 6 of

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

**SEC. 5-6.15. ENFORCEMENT RESPONSIBILITIES.**

- (a) **Responsibility.** The City Manager shall ensure enforcement of this chapter by coordinating the actions of the Finance Director, the Public Works and Transportation Director, and any other City departments concerned in applying the City's Enforcement Response Plan. The Public Works and Transportation Director is hereby charged with the enforcement of all of the provisions of this chapter.
- (b) **Appeals.** In the event of a violation of any of the terms of this chapter, or any rule or regulation established thereunder, the Director shall notify in writing the person causing, allowing, or committing such violation, specifying the violation, and if applicable, the time after which (upon the failure of such person to prevent or rectify the violation) the Director will exercise his authority to disconnect the system from the municipal water system and/or the sewage system; provided that such time shall not be less than five (5) days after the deposit with postage paid of such notice in the United States Post Office at Modesto, California, addressed to the person to whom notice is given; provided, however, that in the event such violation results in a public hazard or menace, then the Director may enter upon the premises without notice and do such things and spend sums as may be necessary to abate such hazard, and the reasonable value of things done and the amounts expended in so doing shall be a charge upon the person so in violation. If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notice of the action by the Director file a written appeal to the City Manager.

The written appeal shall state all pertinent aspects of the matter, and shall include the hearing record if one was requested. Within thirty (30) days after the written appeal is received, the City Manager shall hold a hearing after due notice to the appellant. The City Manager may establish rules and regulations governing the hearing of such appeals. The City Manager shall make a final ruling on the appeal within ten (10) days after close of the hearing. The decision, action, or determination shall remain in effect during such period of review by the City Manager.

If the decision of the City Manager is unsatisfactory to the person appealing, he may file a written appeal to the City Council within ten (10) days after receipt of the decision.

The City Council will hear the appeal and act upon it pursuant to the procedures set forth in Title I.

SECTION 2. AMENDMENT OF CODE. Sections 5-6.02, 5-6.02.1, 5-6.03, 5-6.11, 5-6.14, and 5-6.24 of Chapter 6 of Title V of the Modesto Municipal Code are hereby repealed.

SECTION 3. AMENDMENT OF CODE. Sections 5-5.32, 5-5.34, and 5-5.36 of Chapter 5 of Title V of the Modesto Municipal Code are hereby repealed.

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.

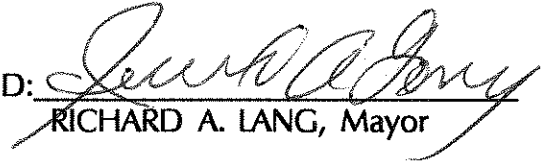
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 1993, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, 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. 2876-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of November, 19 93, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Richard A. Lang  
MAYOR RICHARD A. LANG

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 16, 1993

C. W. K.

ORDINANCE NO. 2877 -C.S.

AN ORDINANCE AMENDING SECTION 11-1.14 OF CHAPTER 1 OF TITLE XI OF THE MODESTO MUNICIPAL CODE, AND REPEALING SECTIONS 11-1.02, 11-1.07, 11-1.09, 11-1.10, 11-1.11, 11-1.12, AND 11-1.13 THEREOF RELATING TO UTILITY COLLECTIONS.

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

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

**SEC. 11-1.14. RULES AND REGULATIONS.**

In addition to all other provisions and requirements of this chapter, the Council may, from time to time by resolution, establish additional rules and regulations concerning the operation of the municipal water system, the use of water, and water conservation. These provisions shall apply to all persons using water in the City regardless of whether any person using water shall have a contract for water service with the City. Failure to comply with any provision, requirement, rule, or regulation under this Chapter shall be unlawful and may be punishable as an infraction.

- (a) Should the Public Works and Transportation Director, or his designee, determine that any water user has committed acts which violate the regulations of the Drought Contingency Plan, as provided by resolution, the water user and property owner shall be notified in the following manner:
  - (1) Shall be served with a Notice of Violation either personally, by mail, or by posting such notice at the person's business or place of residence. Such notice shall:
    - (aa) Identify the date, time, and circumstances of violation.
    - (ab) Notify that further violations may result in penalty fees being assessed.
  - (2) Should a water user violate the regulations of the Drought Contingency Plan after being served with a Notice of Violation, that water user and property owner shall be

served with a Notice of Intention to Impose a Penalty. Said notice shall:

- (aa) Identify the date, time, and circumstances of violation.
- (ab) State the amount of penalty to be imposed.
- (ac) Advise the water user or property owner of his or her appeal rights as provided herein.

The Notice of Intention to Impose a Penalty shall be served in the same manner as the Notice of Violation.

- (3) After a Notice of Intention to Impose a Penalty is served, a penalty shall be assessed to the utility account of the water user in an amount as set by Council resolution from time to time. Penalties will be assessed for violations occurring within a one-year time period and will be progressive in nature. The penalty may be collected in the same manner as any unpaid water service charges.
- (4) A water user or property owner shall have the right to appeal either the Notice of Violation or the imposition of the penalty assessed to his utility account. The water user or property owner must request an appeal hearing in writing within fifteen (15) days from the date of service of the Notice of Violation; or within fifteen (15) days of the service of the Notice of Intention to Impose a Penalty. The request for hearing shall be addressed to the Public Works and Transportation Director and shall be deemed served only when received by the City. Failure to properly serve the request for hearing within the fifteen-day period shall be deemed a waiver of the right to appeal the matter, and the penalty will be assessed against the customer's account.
- (5) The appeal hearing shall be held before the Public Works and Transportation Director, or his designee, who shall make a factual finding on the existence of a violation in this matter. The water user or property owner shall be allowed to present such witnesses and evidence as he or she may desire and may be represented by an attorney or other representative of his or her choosing. The hearing officer shall give written notice by mail to the water user of the date and time of the appeal hearing. Said hearing shall

not be held sooner than ten (10) days from receipt of the request for hearing and not longer than thirty (30) days. The decision of the hearing officer shall be final. If a violation is found the penalty shall be assessed to the customer's account.

- (6) The City Council hereby designates the Water Division personnel as the persons authorized to investigate violations and to serve any notices required by the provisions of this subsection.
- (b) All water services installed shall have a wheel valve where the service pipe enters the house and or structure.
- (c) In making plumbing connections, the consumer shall comply with the regulations of the State and County Department of Public Health. Such regulations prohibit (1) unprotected cross-connections between a public supply and any unapproved source of water and (2) water service to premises where there is a possibility of contaminated water backflowing into the public water system. In addition, approved double check valves or other protective devices shall be installed on water services when (1) another source of water, whether cross-connected or not, is in use or is available for use; or (2) contaminating liquid substances of any kind are used, produced or processed. The Public Works and Transportation Director shall determine the type, design and layout of backflow control devices required at each premises; and the devices shall be installed at the expense of the consumer. The control devices shall be inspected, tested and approved by the Public Works and Transportation Director as a condition of service to the premises.
- (d) Regulations of the California State Department of Public Health require the owner of any premises on or for which check valves or other protective devices are installed to inspect these devices for watertightness and reliability at least once per year. Double check valves and other protective devices may, in addition, be inspected and tested for watertightness by the City at any time. If the inspection cannot be made without undue difficulty because of an obstruction or other interference, the consumer will be notified and requested either to correct the condition or have the inspection made at his own expense and witnessed by the City. Any defects found in any backflow control device shall be corrected by the consumer within three (3) days. Failure to correct such defects is cause for discontinuance of water service.

- (e) No person shall supply water in any way for use outside of the premises to which the service is assigned or appurtenant except by permission from the Public Works and Transportation Director.
- (f) Access to service connections and water meters must be provided at all times.
- (g) All persons must keep the service pipes in good order at their own expense and may be held liable for damages which may result from their failure to do so. When leaky faucets or fixtures are discovered and not immediately repaired, the water service may be disconnected. Authorized employees of the City of Modesto shall be admitted at all reasonable hours to all parts of any premises supplied with water, except the interior of dwellings, but including the meter box, to see that the regulations contained in this chapter are observed and complied with.
- (h) It shall be unlawful for any person to interfere with the City service lines, valves or meters or to construct a bypass around a meter or service.
- (i) Independent fire sprinkler systems and private fire hydrant systems shall have an "idler assembly" installed in the service line to permit future installation of a check valve and a bypass meter assembly. If the Public Works and Transportation Director determines that an independent fire sprinkler system or private fire hydrant system is being used for other than fire prevention and suppression purposes, he may install a check valve and bypass assembly. The cost of such installation plus ten (10) percent shall be paid by the consumer.
- (j) When a water connection fee is paid for a particular parcel, it shall be credited to subsequent owners of that parcel. Refunds shall be made for duplicate payments. Additional fees will be required where there are zoning, use or density changes that will increase the fees.

SECTION 2. AMENDMENT OF CODE. Sections 11-1.02, 11-1.07, 11-1.09, 11-1.10, 11-1.11, 11-1.12, and 11-1.13 of Chapter 1 of Title XI 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 9th day of November, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

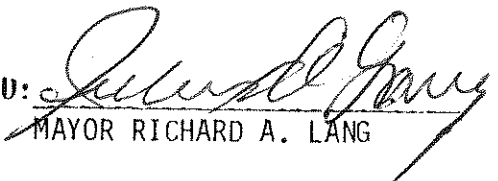
By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2877-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 16th day of November, 1993, Councilmember Dobbs moved its final adoption, which motion being duly seconded by Councilmember Bird, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Council Members: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Council Members: None  
ABSENT: Council Members: None

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
MORRINE COYLE, City Clerk

EFFECTIVE DATE: December 16, 1993

*Clerk*

ORDINANCE NO. 2878 -C.S.

AN ORDINANCE AMENDING SECTION 30-3-9 OF THE ZONING MAP TO REZONE FROM LIGHT INDUSTRIAL ZONE, M-1, TO PLANNED DEVELOPMENT ZONE, P-D(500), PROPERTY LOCATED ON THE SOUTH SIDE OF COLDWELL AVENUE WEST OF TULLY ROAD (U.S. RENTAL, INC.)

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

SECTION 1. ZONING CHANGE. Section 30-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Light Industrial Zone, M-1, to Planned Development Zone, P-D(500):

M-1 to P-D(500)

All that certain real property situate in a portion of Section 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel 3 as shown on Parcel Map filed May 7, 1990, in Book 42, Page 98 of Parcel Maps in the Office of the County Recorder.

Including the Southerly 30 feet of Coldwell Avenue immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(500) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. All was as allowed in the M-1, Light Industrial Zone.
2. Inclusion of a trailer-haul concrete mixing system with the U.S. Rental facilities.

SECTION 3. ZONING MAP. Section Map 30-3-9 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 16th day of November, 1993, 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:


By \_\_\_\_\_  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Planning and Community Development

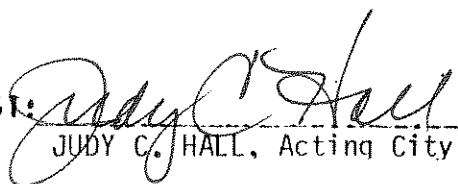
Ord. No. 2878-C.S.

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 November, 19 93, Councilmember Bird 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: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Friedman

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
JUDY C. HALL, Acting City Clerk

EFFECTIVE DATE: December 23, 1993

*Clerk*

ORDINANCE NO. 2879 -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, ROLLERS SKATES AND SIMILAR DEVICES.

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. 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. In granting such approval, the Council may impose such conditions, restrictions and requirements as it deems necessary or desirable in order to protect the public interest and promote the general welfare.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of November, 1993, by Councilmember Patterson, 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: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Friedman

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. 2879-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of December, 1993, 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: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Friedman

APPROVED:   
MAYOR RICHARD A. LANG

ATTEST:   
MORRINE COYLE, City Clerk

EFFECTIVE DATE: January 6, 1994

*Chick*

ORDINANCE NO. 2880 -C.S.

AN ORDINANCE AMENDING SECTION MAP 24-3-8 OF  
THE ZONING MAP OF THE CITY OF MODESTO  
PREZONING CERTAIN PROPERTY LOCATED THEREON.  
(SARJAK ENTERPRISES AND GERRIT OOSTERKAMP)

WHEREAS, a verified application for an amendment to  
Section 24-3-8 of the Zoning Map was filed by Sarjak Enterprises  
and Gerrit Oosterkamp on September 22, 1993, to prezone to Low  
Density Residential Zone, R-1, property located on the north side  
of Blue Gum Avenue and west of Poust Road hereinafter described,  
and

WHEREAS, after a public hearing held on November 1,  
1993, it was found and determined by the Planning Commission that  
prezoning of the property as requested is not required by public  
necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 93-48, adopted on  
November 1, 1993, the Planning Commission denied approval of the  
application of Sarjak Enterprises and Gerrit Oosterkamp to amend  
Section 24-3-8 of the Zoning Map to prezone the hereinafter  
described property to Low Density Residential Zone, R-1, and

WHEREAS, by letter which was received in the Office of  
the City Clerk on November 2, 1993, an appeal to the decision of  
the Planning Commission denying said prezone of property located  
on the north side of Blue Gum Avenue and west of Poust Road was  
filed by Richard Hagerty on behalf of Sarjak Enterprises and  
Redev, Inc., and

WHEREAS, said appeal was set for public hearing before

the City Council at its regular meeting place located in the Council Chambers in the City Hall, 801 11th Street, Modesto, California, at 7:30 p.m. on December 7, 1993, and

WHEREAS, after hearing evidence both oral and documentary, the Council of the City of Modesto at the meeting of December 7, 1993, found and determined that the appeal of Richard Hagerty on behalf of Sarjak Enterprises and Redev, Inc. to the decision of the Planning Commission denying said prezone of property to Low Density Residential Zone, R-1, should be granted, and the decision of the Planning Commission should be overruled,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on December 7, 1993, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the general plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. The land inventory for residential development within the City of Modesto is low. More residential land is needed for adequate housing opportunity.
2. The property south of MID Lateral No. 3 is appropriate for residential use and will not interfere with business park use of the remainder of the College West Neighborhood.

SECTION 2. CITY SERVICES. The City Council further finds and determines that the City of Modesto can provide complete City services to the subject property if and when a reorganization is approved.

SECTION 3. ZONING CHANGE. Section 24-3-8 of the Zoning Map is hereby amended to prezone the following described property to Low Density Residential Zone, R-1:

All that certain real property situated in a portion of the Northwest quarter of Section 24, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

Beginning at the Southeast corner of the Southwest quarter of the Northwest quarter of said Section 24; thence South 89° 25' 20" West, 1326.99 feet along the East-West quarter section line of said Section 24 and the current Modesto City Limits Line, to the West quarter corner of said Section 24; thence North 0° 07' 05" West, 972.20 feet along the West line of said Section 24, to the Northerly line of Modesto Irrigation District Lateral No. 3; thence North 71° 18' 49" East, 1069.49 feet along said Northerly line of M.I.D. Lateral No. 3 to the intersection with the Southerly right-of-way line of McDonald Avenue; thence North 0° 37' 39" West, 40.00 feet, to the Northerly right-of-way line of McDonald Avenue; thence North 89° 22' 21" East 312.92 feet, to the East quarter - quarter section line of the Northwest quarter of said Section 24, and the current Modesto City Limits Line; thence South 0° 08' 33" East, 1344.89 feet along said East quarter - quarter section line to the point of beginning.

SECTION 4. ZONING MAP. Section 24-3-8 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 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 7th day of December, 1993, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bird, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Dobbs, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: Cogdill

ABSENT: Councilmembers: Friedman

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By   
Department of Planning and  
Community Development


Ord. No. 2880-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 January, 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: February 10, 1994

ORDINANCE NO. 2881-C.S.

AN ORDINANCE ADDING SECTION 10-2.222.1 TO ARTICLE 2 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE, AND AMENDING SECTIONS 10-2.1004, 10-2.1304, 10-2.1404, AND 10-2.1504 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO HOMELESS SHELTERS.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.222.1 is hereby added to Article 2 of Chapter 2 of Title X of the Modesto Municipal Code to read as follows:

**SEC. 10-2.222.1. HOMELESS SHELTER.**

Any structure designed, constructed, intended, or occupied for temporary occupancy by homeless persons for dwelling, lodging, or sleeping purposes. Medical assistance, training, counseling, and personal services essential to enable homeless persons to make the transition to permanent shelter may be provided, with or without meals, as part of the operation of a homeless shelter.

SECTION 2. AMENDMENT OF CODE. Sections 10-2.1004, 10-2.1304, 10-2.1404, and 10-2.1504 of Chapter 2 of Title X of the Modesto Municipal Code are hereby amended to read as follows:

**SEC. 10-2.1004. CONDITIONAL USES. (C-1 Zone)**

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

- (a) Any conditional use in the P-O Zone which is not a permitted use in the C-I Zone.
- (b) Buildings, facilities or grounds operated by any governmental agency or public utility which are not a permitted use.
- (c) Club and private recreational facilities.
- (d) Radio or television transmitter.

- (e) Recreation services (limited to amusement machine centers, slot car racing, pool halls or other similar indoor uses).
- (f) Residential and related facilities (boarding house, lodging house, and homeless shelter).
- (g) School (elementary and secondary).
- (h) Stone monument store (retail sales only, no cutting or blasting other than lettering).
- (i) Windmill (accessory to a use permitted in the zone).

**SEC. 10-2.1304. CONDITIONAL USES. (C-M Zone)**

Subject to a conditional use permit from the Board, a dish-type satellite antenna not meeting the provisions of Section 10-2.1302(v) or 10-2.1303, and homeless shelters.

**SEC. 10-2.1404. CONDITIONAL USES. (M-1 Zone)**

Subject to a conditional use permit from the Board, a dish-type, satellite antenna not meeting the provisions of Section 10-2.1302(v) or 10-2.1303, and homeless shelters.

**SEC. 10-2.1504. CONDITIONAL USES. (M-2 Zone)**

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

- (a) Burning operations for lumber and wood products.
- (b) Junk handling, processing, storage.
- (c) Landfill, waste products disposal or transfer station.
- (d) Manufacture, fabrication, processing, packaging and treatment of:
  - (1) Explosives.
  - (2) Oil and grease products.
  - (3) Chemicals and chemical products.
- (e) Rock crushing.

- (f) Pulp and paper mill.
- (g) Reduction, processing and storage of offal, dead animals, bones or similar materials.
- (h) A dish-type satellite antenna not meeting the provisions of Section 10-2.1302(v) or 10-2.1303.
- (i) Septic tank, cesspool servicing.
- (j) Stockyard.
- (k) Tannery.
- (l) Vehicle salvage, wrecking.
- (m) Homeless shelters.

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 7th day of December, 1993, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bird, Cogdill, Dobbs, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Friedman

APPROVED:   
RICHARD A. LANG, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM: ✓

By   
MICHAEL D. MILICH, City Attorney

Ord. No. 2881-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 December, 1993, Councilmember Patterson 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: Bird, Cogdill, Dobbs, Friedman, Muratore, Patterson, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Richard A. Lang  
MAYOR RICHARD A. LANG

ATTEST: Morrine Coyle  
MORRINE COYLE, City Clerk

EFFECTIVE DATE: January 13, 1994

Check (16)

ORDINANCE NO. 2882 -C.S.

AN ORDINANCE AMENDING SECTION 4-6.217 OF ARTICLE 2 AND SECTION 4-6.307 OF ARTICLE 3 OF CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICABS.

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

SECTION 1. AMENDMENT OF CODE. Section 4-6.217 of Article 2 of Chapter 6 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-6.217. ANNUAL OPERATING STATEMENT.

Each person granted a certificate of public convenience and necessity to engage in the business of operating any taxicab within the City pursuant to the provisions of this chapter shall annually file with the Director of Parking and Traffic a detailed financial statement, including a balance sheet and profit and loss statement, for the operation of said taxicab business separate from any other business owned or operated by said person. Said financial statement shall cover the fiscal or calendar year used by said person for federal income tax purposes and shall be filed with the Director of Parking and Traffic on or before the filing date of said person's federal income tax return for said taxicab business. Alternatively, such person may satisfy the filing requirement by filing a copy of the filer's federal income tax return. Any person who fails to file said statement on or before said date shall pay a penalty of five dollars (\$5.00) a day for each calendar day, or part thereof, until said statement is filed.

SECTION 2. AMENDMENT OF CODE. Section 4-6.307 of Article 3 of Chapter 6 of Title IV of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 4-6.307. RATES.

No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than in accordance with the following rates:

- (a) Mileage Rates: Two and 50/100ths (\$2.50) dollars for the first one-eighth (1/8) mile or fraction thereof; twenty-five cents (\$0.25) for each additional one-eighth (1/8) mile or fraction thereof;
- (b) Waiting Time: Twenty-five \$(25.00) dollars for each hour of waiting time or fraction thereof;
- (c) Baggage: Fifty cents (\$0.50) for each piece of baggage in excess of fifty (50) pounds; and
- (d) Extra Passengers: No charge shall be made for extra passengers. This applies only to those passengers whose point of pickup and point of destination are the same.

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

At the close of the public hearing by the Council on December 21, 1993, for the purpose of considering the request of Dennis McDonald, owner of Red Top Taxi and Modesto Cap Companies, Mr. McDonald stated that he may not be able to stay in business unless the rate increases are effective immediately. Since Mr. McDonald provides a valuable service to the citizens of Modesto, the public peace, health and safety require that this ordinance become effective immediately.

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

**SECTION 5. PUBLICATION.** Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in


The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its adoption and the place 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 December, 1993, 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